

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D26310  
G/kmg

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Submitted - January 28, 2010

A. GAIL PRUDENTI, P.J.  
MARK C. DILLON  
RANDALL T. ENG  
SHERI S. ROMAN, JJ.

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2009-04132

DECISION & ORDER

Jody Monroe, respondent, v David L. Monroe,  
appellant.

(Index No. 5183/06)

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Larkin, Axelrod, Ingrassia & Tetenbaum, LLP, Newburgh, N.Y. (William J. Larkin III of counsel), for appellant.

Levinson, Reineke & Ornstein, P.C., Central Valley, N.Y. (Justin E. Kimple of counsel), for respondent.

In an action for a divorce and ancillary relief, the defendant appeals, as limited by his brief, from so much of a judgment of the Supreme Court, Orange County (Kiedaisch, J.), dated May 27, 2009, as, upon an order of the same court dated March 25, 2009, awarded the plaintiff bi-weekly durational maintenance in the sum of \$1,200.

ORDERED that on the Court's own motion, the notice of appeal from the order dated March 25, 2009, is deemed a premature notice of appeal from the judgment (*see* CPLR 5520[c]); and it is further,

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

"The amount and duration of maintenance is a matter committed to the sound discretion of the trial court and every case must be determined on its unique facts" (*DeVries v DeVries*, 35 AD3d 794, 796; *see Raynor v Raynor*, 68 AD3d 835; *Zaretsky v Zaretsky*, 66 AD3d 885, 888; *Wasserman v Wasserman*, 66 AD3d 880; *Brooks v Brooks*, 55 AD3d 520, 521). Considering the relevant factors, including the long duration of the marriage, the plaintiff's role as

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a stay-at-home mother during most of the marriage, her extended absence from the workforce, her lack of formal advanced education and employment skills, the substantial disparity in the parties' income, and their pre-divorce standard of living, the Supreme Court providently exercised its discretion in awarding the plaintiff bi-weekly durational maintenance in the sum of \$1,200 (*see* Domestic Relations Law § 236[B][6][a]; *Raynor v Raynor*, 68 AD3d at 835; *Zaretsky v Zaretsky*, 66 AD3d at 888-889; *Wasserman v Wasserman*, 66 AD3d at 883; *Bogannam v Bogannam*, 60 AD3d 985, 986).

PRUDENTI, P.J., DILLON, ENG and ROMAN, JJ., concur.

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2009-04132

DECISION & ORDER ON MOTION

Jody Monroe, respondent, v David L. Monroe,  
appellant.

(Index No. 5183/06)

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Motion by the respondent to dismiss an appeal from an order of the Supreme Court, Orange County, dated March 25, 2009, on the ground that the order was superseded by a judgment from which no appeal was taken. By decision and order on motion of this Court, dated January 4, 2010, the motion was referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, the papers filed in opposition thereto, and upon the submission of the appeal, it is

ORDERED that the motion is denied.

PRUDENTI, P.J., DILLON, ENG and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court