

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

D28457
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_____AD3d_____

Argued - February 16, 2010

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON
SHERI S. ROMAN, JJ.

2009-05042

DECISION & ORDER

Thomas J. Festa, appellant, v Tami E. Festa,
respondent.

(Index No. 1414/06)

Kantrowitz, Goldhamer & Graifman, P.C., Chestnut Ridge, N.Y. (William T. Schiffman of counsel), for appellant.

Miano & Colangelo, LLP, Harrison, N.Y. (Joseph R. Miano of counsel), for respondent.

In an action for a divorce and ancillary relief, the plaintiff appeals from an order of the Supreme Court, Rockland County (Berliner, J.), dated April 21, 2009, which, inter alia, granted those branches of the defendant's motion pursuant to CPLR 4506 which were to preclude him from presenting certain evidence at trial and granted those branches of the motion of nonparty Kenneth Svensson which were, among other things, to preclude him from, inter alia, disseminating or publishing certain evidence.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

As this action has been settled, any determination by this Court will not directly affect the rights of the parties (*see Barrett Foods Corp. v New York City Bd. of Educ.*, 144 AD2d 410, 411). Since the matter does not warrant invoking the exception to the mootness doctrine (*see Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714), we dismiss the appeal as academic.

RIVERA, J.P., ANGIOLILLO, DICKERSON and ROMAN, JJ., concur.

ENTER:



Matthew G. Kiernan
Clerk of the Court

September 28, 2010

FESTA v FESTA