

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

D30149
Y/prt

_____AD3d_____

Submitted - January 20, 2011

A. GAIL PRUDENTI, P.J.
REINALDO E. RIVERA
PLUMMER E. LOTT
ROBERT J. MILLER, JJ.

2009-10264

DECISION & ORDER

Carol M. Jendras, respondent, v Douglas M. Jendras,
appellant.

(Index No. 975/04)

Stevan A. Nosonowitz, Pleasant Valley, N.Y., for appellant.

In an action for a divorce and ancillary relief, the defendant appeals, as limited by his brief, from so much of an order of the Supreme Court, Putnam County (O'Rourke, J.), dated September 29, 2009, as, after a hearing, directed him to pay maintenance to the plaintiff in the sum of \$50,000 annually for a period of four years.

ORDERED that on the Court's own motion, the notice of appeal is deemed to be an application for leave to appeal, and leave to appeal is granted (*see* CPLR 5701[c]); and it is further,

ORDERED that the order is modified, on the facts and in the exercise of discretion, by reducing the award of maintenance to the plaintiff from the sum of \$50,000 annually for a period of four years to the sum of \$25,000 annually, with the duration of the award of maintenance to be four years or until the death of either party or the plaintiff's remarriage, whichever shall occur sooner; as so modified, the order is affirmed insofar as appealed from, without costs or disbursements.

The amount and duration of an award of maintenance "is a matter committed to the sound discretion of the trial court, and every case must be determined on its own unique facts" (*Giokas v Giokas*, 73 AD3d 688, 688, quoting *Wortman v Wortman*, 11 AD3d 604, 606). Under the circumstances of this case, the Supreme Court's award of maintenance to the plaintiff in the sum of \$50,000 annually for a period of four years was excessive. In light of, inter alia, the property and

March 22, 2011

Page 1.

JENDRAS v JENDRAS

income of the respective parties and the reasonable needs of the plaintiff, we find that an award in the sum of \$25,000 annually for a maximum period of four years is appropriate (*see* Domestic Relations Law § 236[B][6][a]; *Haines v Haines*, 44 AD3d 901). Further, the order should have included a provision that the award of maintenance will terminate upon the death of either party or the plaintiff's remarriage, whichever shall occur sooner (*see* Domestic Relations Law § 236[B][1][a]; *McLoughlin v McLoughlin*, 63 AD3d 1017, 1018; *Haines v Haines*, 44 AD3d at 903).

PRUDENTI, P.J., RIVERA, LOTT and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court