

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

D32520  
G/kmb

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Submitted - September 20, 2011

WILLIAM F. MASTRO, J.P.  
ANITA R. FLORIO  
RANDALL T. ENG  
SANDRA L. SGROI, JJ.

2010-11467

DECISION & ORDER

Carol Rickles, appellant, v Michael Rickles,  
respondent.

(Index No. 2372/06)

Assaf & Siegal PLLC, Albany, N.Y. (Michael D. Assaf and Marissa C. McDonald of counsel), for appellant.

Newman & Denney P.C., New York, N.Y. (Louis I. Newman of counsel), for respondent.

Theresa M. Daniele, White Plains, N.Y., attorney for the child.

In a matrimonial action in which the parties were divorced by judgment dated December 24, 2008, the plaintiff appeals, as limited by her brief, from so much of an order of the Supreme Court, Westchester County (Tolbert, J.), entered October 14, 2010, as denied that branch of her motion which was to vacate the judgment, which incorporated, but did not merge, certain oral stipulations of settlement between the parties, and directed a hearing to determine the alternative branch of her motion which was to enforce certain provisions of the judgment.

ORDERED that the appeal from so much of the order as directed a hearing to determine the alternative branch of the plaintiff's motion which was to enforce certain provisions of the judgment is dismissed; and it is further,

ORDERED that the order is affirmed insofar as reviewed; and it is further,

ORDERED that one bill of costs is awarded to the defendant.

October 11, 2011

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The order appealed from did not decide the alternative branch of the plaintiff's motion which was to enforce certain provisions of the judgment of divorce but, instead, directed a hearing to determine that branch of the motion. Accordingly, no appeal lies as of right from that portion of the order (*see* CPLR 5701[a][2]; *Westchester Med. Ctr. v Allstate Ins. Co.*, 80 AD3d 695), and we decline to grant leave to appeal.

Contrary to the plaintiff's contention, the oral stipulations of settlement read into the record and later incorporated into the judgment of divorce were not invalid on the ground that there were no subsequent written agreements (*see Ostolski v Solounias*, 55 AD3d 889; *Wilson v Wilson*, 35 AD3d 595, 596; *Rubinfeld v Rubinfeld*, 279 AD2d 153, 156). Accordingly, the Supreme Court properly denied that branch of the plaintiff's motion which was to vacate the judgment.

MASTRO, J.P., FLORIO, ENG and SGROI, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court