

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

D33088
C/kmb

_____AD3d_____

Submitted - November 1, 2011

MARK C. DILLON, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
ARIEL E. BELEN, JJ.

2010-08891

DECISION & ORDER

Richard Shroba, respondent, v Regina Shroba,
defendant; Daniel D. Molinoff, nonparty-appellant.

(Index No. 318/09)

Daniel D. Molinoff, Larchmont, N.Y., nonparty-appellant pro se.

In an action for a divorce and ancillary relief, nonparty Daniel D. Molinoff, the former attorney for the defendant, appeals from an order of the Supreme Court, Westchester County (Tolbert, J.), entered August 3, 2010, which denied that branch of his motion which was for an award of an interim attorney's fee to be paid by the plaintiff.

ORDERED that the order is affirmed, without costs or disbursements.

The parties were married on December 1, 2007. Less than one year later, the wife moved out of the marital residence. No children were born of the marriage. In January 2009, the husband, represented by retained counsel, commenced this action. The Supreme Court assigned the nonparty-appellant (hereinafter the appellant) to represent the wife pro bono, without compensation from her "without prejudice to [a] motion by counsel for compensation pursuant to [CPLR 1102(d), Domestic Relations Law § 237, [and] Judiciary Law § 35], or as otherwise provided by law." In February 2010, the appellant moved, inter alia, for an award of an interim attorney's fee to be paid by the husband. In April 2010, the Supreme Court granted the wife's request for the assignment of new counsel to represent her in this action. The husband also retained a new attorney. In July 2010, the parties executed a settlement agreement. Thereafter, in an order entered August 3, 2010, the Supreme Court denied that branch of the appellant's motion which was for an award of an interim attorney's fee. We affirm.

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Considering the equities and other circumstances of this case, the Supreme Court did not improvidently exercise its discretion in denying that branch of the appellant's motion which was for an award of an interim attorney's fee (*see Ahmed v Ahmed*, 88 AD3d 629; *Moccia v Moccia*, 82 AD3d 1064, 1064-1065; *Prichep v Prichep*, 52 AD3d 61).

DILLON, J.P., BALKIN, LEVENTHAL and BELEN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court