

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

D33305
O/prt

_____AD3d_____

Submitted - November 17, 2011

MARK C. DILLON, J.P.
RANDALL T. ENG
LEONARD B. AUSTIN
ROBERT J. MILLER, JJ.

2010-11623

DECISION & ORDER

In the Matter of Heather Barcia, appellant,
v Matthew Barcia, respondent.

(Docket No. O-2782-10)

Parola & Gross, LLP, Wantagh, N.Y. (Barry J. Gross of counsel), for appellant.

Adam H. Moser, Rockville Centre, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, the petitioner appeals from an order of the Family Court, Nassau County (Zimmerman, J.), dated November 16, 2010, which denied her motion pursuant to Family Court Act § 842(f) for an award of counsel fees in the sum of \$5,413.50.

ORDERED that the order is affirmed, with costs.

Contrary to the petitioner's contention, the Family Court did not err in denying her motion pursuant to Family Court Act § 842(f) for an award of counsel fees in the sum of \$5,413.50 on the ground that the respondent is the financially superior spouse (*see* Family Ct Act § 842[f]; *see also* *Matter of Amy Cohen L. v Howard N.L.*, 222 AD2d 677, 677; *Merola v Merola*, 146 AD2d 611, 612; *Matter of Leffingwell v Leffingwell*, 86 AD2d 929, 930; *cf.* Domestic Relations Law § 237[a]; Domestic Relations Law § 237[b]; § 238; Family Ct Act § 438[a]; §§ 536, 641; *Cohen v Cohen*, 73 AD3d 832, 834), or based on his failure to submit a statement of net worth and related papers as part of his opposition to the motion (*cf.* 22 NYCRR 202.16[a], [k][2], [4]; Domestic Relations Law §

December 20, 2011

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237[a], [b]; Domestic Relations Law § 236[A][2]; § 236[B][4][a]).

DILLON, J.P., ENG, AUSTIN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court