

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

D33868  
Y/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - January 17, 2012

PETER B. SKELOS, J.P.  
RUTH C. BALKIN  
SHERI S. ROMAN  
SANDRA L. SGROI, JJ.

2011-04091

DECISION & ORDER

Douglas C. Manditch, appellant, v  
Devon Manditch, respondent.

(Index No. 12235/07)

Vincent F. Stempel, Garden City, N.Y. (Glenn S. Koopersmith of counsel), for appellant.

Castrovinci, Blydenburgh & Mady, Smithtown, N.Y. (Philip J. Castrovinci and Ruth Sovronsky of counsel), for respondent.

In an action for a divorce and ancillary relief, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Quinn, J.), dated March 18, 2011, which denied his motion to disqualify the defendant's counsel.

ORDERED that the order is reversed, on the facts and in the exercise of discretion, with costs, and the plaintiff's motion to disqualify the defendant's counsel is granted.

The plaintiff in this matrimonial action sought to disqualify the law firm representing the defendant from continuing to represent the defendant after a former Justice presiding over the case became a non-equity partner at that law firm. The Supreme Court denied the plaintiff's motion, and he appeals.

While "[t]he disqualification of an attorney is a matter that rests within the sound discretion of the Supreme Court" (*Falk v Gallo*, 73 AD3d 685), under the facts of this case, including that the law firm representing the defendant did not comply with the notice requirements

February 7, 2012

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of the Rules of Professional Conduct (22 NYCRR 1200.0) rule 1.12(d), the Supreme Court improvidently exercised its discretion in denying the plaintiff's motion (*see Matter of Essex Equity Holdings USA, LLC [Lehman Bros. Inc.]*, 29 Misc 3d 371).

SKELOS, J.P., BALKIN, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court