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

D34486
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_____AD3d_____ Submitted - March 13, 2012

PETER B. SKELOS, J.P.
MARK C. DILLON
RANDALL T. ENG
LEONARD B. AUSTIN, JJ.

2011-04513 DECISION & ORDER

In the Matter of Raymond Jacobi, respondent,
v Elani Jacobi, appellant.

(Docket No. F-23399-07)

Elani Jacobi, Flushing, N.Y., appellant pro se.

In a support proceeding pursuant to Family Court Act article 4, the wife appeals from an order of the Family Court, Queens County (Hunt, J.), dated March 31, 2011, which denied her objections to an order of the same court (Friederwitzer, S.M.), dated September 10, 2010, awarding the husband $100 per week in spousal support.

ORDERED that the matter is remitted to the Family Court, Queens County (Friederwitzer, S.M.), for the Support Magistrate to report on what items of documentary evidence were submitted at the hearing, and what documentary evidence she considered in fashioning her award, and the appeal is held in abeyance in the interim. The Family Court, Queens County, is to file its report with all convenient speed.

Pursuant to Family Court Act § 412, "[a] married person is chargeable with the support of his or her spouse and, if possessed of sufficient means or able to earn such means, may be required to pay for his or her support a fair and reasonable sum, as the court may determine, having due regard to the circumstances of the respective parties." "This requires 'a delicate balancing of each party's needs and means'" (*Matter of Nisita v Nisita*, 81 AD3d 832, 832, quoting *Matter of Shreffler v Shreffler*, 283 AD2d 679, 680). Here, we are unable to determine whether the Support Magistrate properly balanced each party's needs and means in awarding the husband spousal support because it is unclear from both the hearing record and the Support Magistrate's findings of fact what items of documentary evidence were actually submitted at the hearing which commenced

in 2009, and what documentary evidence she considered in fashioning her award. Under these circumstances, in order to facilitate meaningful appellate review, we remit this matter to the Family Court, Queens County, for the Support Magistrate to provide this information, and hold the appeal in abeyance pending receipt of the Support Magistrate's report.

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

ENTER:

Aprilanne Agostino
Clerk of the Court