

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

D34932
G/kmb

_____AD3d_____

Submitted - April 12, 2012

REINALDO E. RIVERA, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
ROBERT J. MILLER, JJ.

2010-02829

DECISION & ORDER

In the Matter of Stephen Sawyer, petitioner-respondent,
v Theresa Yuan, respondent; Nancy S. Erickson, etc.,
nonparty-appellant.

(Docket Nos. V-1636-05, V-17041-09)

Nancy S. Erickson, Brooklyn, N.Y., nonparty-appellant pro se.

Preston Stutman & Partners, P.C., New York, N.Y. (Robert M. Preston of counsel),
for petitioner-respondent.

John C. Macklin, New Hyde Park, N.Y., attorney for the child.

In a child custody proceeding pursuant to Family Court Act article 6, Nancy S. Erickson, the attorney for the mother, appeals from so much of an order of the Family Court, Queens County (Ebrahimoff, Ct. Atty. Ref.), dated March 19, 2010, as denied the motion of her assignor, the mother's former attorney, for an award of counsel fees.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The Family Court providently exercised its discretion in denying the motion for an award of counsel fees (*see O'Brien v O'Brien*, 66 NY2d 576, 590; *Matter of Pane v Pane*, 26 AD3d 386). Considering the financial circumstances of both parties, and the circumstances of the case as a whole, the motion for an award of counsel fees was properly denied (*see DeCabrera v Cabrera-Rosete*, 70 NY2d 879, 881-882; *Prichep v Prichep*, 52 AD3d 61, 64; *Matter of Sullivan v Sullivan*, 40 AD3d 865, 867).

May 15, 2012

Page 1.

MATTER OF SAWYER v YUAN

RIVERA, J.P., CHAMBERS, ROMAN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court