

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

D36639
C/kmb

_____AD3d_____

Submitted - October 2, 2012

REINALDO E. RIVERA, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2011-10934
2011-10939

DECISION & ORDER

Craig Gottlieb, appellant, v Carolina Gottlieb,
respondent.

(Index No. 31092/09)

Craig Gottlieb, Douglaston, N.Y., appellant pro se.

Ursula A. Gangemi, P.C., Brooklyn, N.Y., for respondent.

In an action for a divorce and ancillary relief, the plaintiff appeals (1) from an order of the Supreme Court, Queens County (Raffaele, J.), dated October 6, 2011, which denied his motion to modify a prior order of the same court dated June 17, 2010, directing visitation with the parties' child to be supervised by Diane Hessman, LCSW, and (2), as limited by his brief, from so much of an order of the same court dated October 7, 2011, as granted that branch of the defendant's motion which was for an award of an attorney's fee to the extent of awarding her an attorney's fee in the sum of \$10,000.

ORDERED that the order dated October 6, 2011, is affirmed, without costs or disbursements; and it is further,

ORDERED that the order dated October 7, 2011, is reversed insofar as appealed from, on the law, without costs or disbursements, and that branch of the defendant's motion which was for an award of an attorney's fee is denied in its entirety.

The court rules imposing certain requirements upon attorneys who represent clients in domestic relations matters (*see* 22 NYCRR part 1400) were designed to address abuses in the practice of matrimonial law and to protect the public (*see Hovanec v Hovanec*, 79 AD3d 816, 817).

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Substantial compliance with those rules is required, and such a showing must be made on a prima facie basis as part of the moving party's papers (*see* 22 NYCRR 1400.2, 1400.3; *Hovanec v Hovanec*, 79 AD3d at 817; *Gahagan v Gahagan*, 51 AD3d 863, 864). Here, counsel for the defendant failed to establish, prima facie, substantial compliance with 22 NYCRR 1400.2 and 1400.3 (*see Hovanec v Hovanec*, 79 AD3d at 817; *Bentz v Bentz*, 71 AD3d 931, 932). Accordingly, the Supreme Court should have denied that branch of the defendant's motion which was for an award of an attorney's fee.

The Supreme Court properly denied the plaintiff's motion to modify a prior order directing visitation with the child to be supervised by Diane Hessman, LCSW (*cf. Matter of D'Angelo v Lopez*, 94 AD3d 1261, 1262).

RIVERA, J.P., BALKIN, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court