

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 12-01488

PRESENT: CENTRA, J.P., FAHEY, CARNI, WHALEN, AND MARTOCHE, JJ.

GERALD SCHMITT, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

SANDRA SCHMITT, DEFENDANT-RESPONDENT.
(APPEAL NO. 2.)

KUSTELL LAW GROUP, LLP, BUFFALO (CARL B. KUSTELL OF COUNSEL), FOR
PLAINTIFF-APPELLANT.

MARY ANNE CONNELL, ATTORNEY FOR THE CHILD, BUFFALO.

Appeal from an order of the Supreme Court, Erie County (John F. O'Donnell, J.), entered May 11, 2012 in a divorce action. The order denied plaintiff's posttrial motion to set aside certain parts of a judgment entered February 22, 2012 and directed counsel for plaintiff to satisfy a judgment filed on January 17, 2012 with respect to attorney's fees of defendant from plaintiff's share of proceeds of the sale of the marital residence, which was held in the attorney trust account of plaintiff's attorney.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Same Memorandum as in *Schmitt v Schmitt* ([appeal No. 1] ___ AD3d ___ [June 14, 2013]).

Entered: June 14, 2013

Frances E. Cafarell
Clerk of the Court