

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

128

CA 13-01128

PRESENT: SCUDDER, P.J., FAHEY, LINDLEY, AND SCONIERS, JJ.

AMY GELIA, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

DAVID GELIA, DEFENDANT-APPELLANT.

JOHN P. PIERI, BUFFALO, FOR DEFENDANT-APPELLANT.

PALMER, MURPHY & TRIPI, BUFFALO (THOMAS A. PALMER OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (John F. O'Donnell, J.), entered November 16, 2012 in a divorce action. The order directed defendant to pay attorney's and accountant's fees of plaintiff.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Defendant appeals from an order directing him to pay counsel fees in the amount of \$20,475 and accountant's fees in the amount of \$11,115 as his share of such fees incurred by plaintiff in this matrimonial action. We reject defendant's contention that those awards are excessive. "The award of reasonable . . . fees is a matter within the sound discretion of the trial court" (*Morrissey v Morrissey*, 259 AD2d 472, 473; see Domestic Relations Law § 237 [a]). Supreme Court properly considered the parties' submissions in light of all the circumstances of the case, including the parties' relative financial circumstances and the merits of their positions during settlement negotiations, and we conclude that the awards are reasonable and do not constitute an abuse or improvident exercise of the court's discretion (see *Decker v Decker*, 91 AD3d 1291, 1291-1292; *Blake v Blake* [appeal No. 1], 83 AD3d 1509, 1509).

Entered: February 14, 2014

Frances E. Cafarell
Clerk of the Court