

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

**328**

**CA 16-01543**

PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, TROUTMAN, AND SCUDDER, JJ.

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JAN C. SHINE, PLAINTIFF-RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

PAUL R. SHINE, DEFENDANT-APPELLANT-RESPONDENT.

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JAMES P. RENDA, BUFFALO, FOR DEFENDANT-APPELLANT-RESPONDENT.

SHAW & SHAW, P.C., HAMBURG (JAMES M. SHAW OF COUNSEL), FOR  
PLAINTIFF-RESPONDENT-APPELLANT.

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Appeal and cross appeal from a judgment of the Supreme Court, Erie County (James H. Dillon, J.), entered December 4, 2015. The judgment, among other things, adjudged that defendant is to pay spousal maintenance to plaintiff.

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

Memorandum: Defendant appeals and plaintiff cross-appeals from a judgment of divorce that, inter alia, directed defendant to pay maintenance and denied plaintiff's application for attorneys' fees and experts' fees. Contrary to the parties' contentions, the maintenance award is appropriate in its amount and duration. "Although the authority of this Court in determining issues of maintenance is as broad as that of the trial court" (*D'Amato v D'Amato*, 132 AD3d 1424, 1425), "[a]s a general rule, the amount and duration of maintenance are matters committed to the sound discretion of the trial court" (*Gately v Gately*, 113 AD3d 1093, 1093, *lv dismissed* 23 NY3d 1048 [internal quotation marks omitted]). We perceive no abuse of discretion here (*see id.*). Supreme Court "properly considered plaintiff's 'reasonable needs and predivorce standard of living in the context of the other enumerated statutory factors' set forth in the statute" (*Wilkins v Wilkins*, 129 AD3d 1617, 1618, quoting *Hartog v Hartog*, 85 NY2d 36, 52; *see Lazar v Lazar*, 124 AD3d 1242, 1243), and we decline to substitute our discretion for that of the court.

Contrary to plaintiff's further contention, the court did not abuse its discretion in denying her application for attorneys' fees and experts' fees. "Given plaintiff's substantial assets[,] the significant award of maintenance," and the significant amounts of money previously paid by defendant for plaintiff's attorneys and experts, we conclude that the court properly ordered plaintiff to pay her own costs and fees (*Atwal v Atwal* [appeal No. 2], 270 AD2d 799,

799, *lv denied* 95 NY2d 761; see *Gifford v Gifford*, 132 AD3d 1123, 1126; *Heymann v Heymann*, 102 AD3d 832, 835).

Entered: March 24, 2017

Frances E. Cafarell  
Clerk of the Court