

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: July 19, 2012

513991

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AVIDEH SADAGHIANI,  
Respondent,

v

MEMORANDUM AND ORDER

RAMIN GHAYOORI,  
Appellant.

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Calendar Date: May 22, 2012

Before: Mercure, J.P., Rose, Lahtinen, Stein and McCarthy, JJ.

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Friedman & Molinsek, PC, Delmar (Michael P. Friedman of counsel), for appellant.

Nestler & Gibson, PLLC, Albany (Roy K. Nestler of counsel), for respondent.

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Rose, J.

Appeal from an amended order of the Supreme Court (Teresi, J.), entered May 19, 2011 in Albany County, upon remittal, ordering, among other things, defendant to pay certain child support.

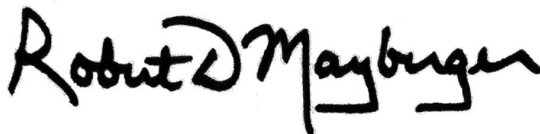
On a prior appeal in this divorce action, we, among other things, remitted the matter to Supreme Court to state the basis for its application of the full statutory percentage to the parties' total combined parental income over the statutory cap of \$130,000 (83 AD3d 1309 [2011]). Upon remittal, Supreme Court issued an amended order setting forth the factors it considered. Defendant now appeals from that order.

Defendant contends that Supreme Court again failed to justify its determination to apply the child support percentage to the total combined income. We disagree. Where, as here, combined parental income exceeds \$130,000, the court must determine the parties' child support obligations for that excess amount by considering the so-called "paragraph (f)" factors (see Domestic Relations Law § 240 [1-b] [c] [3]; [f]; Smith v Smith, 1 AD3d 870, 872 [2003]). The amended order explains the basis of Supreme Court's determination and, in our view, reflects a careful consideration of the parties' circumstances (see Matter of Cassano v Cassano, 85 NY2d 649, 655 [1995]). Although defendant also claims that Supreme Court relied on incomes that are not supported in the record, we previously affirmed the amounts of both parties' incomes and need not revisit those issues (83 AD3d at 1311-1312). Accordingly, we will not disturb Supreme Court's exercise of its discretion in applying the full statutory percentage to the total combined parental income (see Holterman v Holterman, 3 NY3d 1, 14 [2004]; Matter of Marcklinger v Liebert, 88 AD3d 1114, 1116 [2011]; Smith v Smith, 1 AD3d at 872).

Mercure, J.P., Lahtinen, Stein and McCarthy, JJ., concur.

ORDERED that the amended order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court