180 A.D.3d 435
Supreme Court, Appellate Division,
First Department, New York.

Eric ADJMI, Plaintiff–
Respondent–Appellant,
v.
Vanessa TAWIL, Defendant–
Appellant–Respondent.

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ENTERED: FEBRUARY 6, 2020

Synopsis

Background: In child support proceeding, the Supreme Court, New York County, Laura E. Drager, J., entered judgment directing father to pay $7,000 monthly in child support and educational expenses and, subsequently, awarded attorney fees to mother. Mother and father appealed separately.

Holdings: The Supreme Court, Appellate Division, held that:

[1] no standard of living for child was established, for purposes of determining how much child support was necessary to meet child's actual needs;

[2] father's wealth did not warrant doubling of his child support obligation;

[3] requiring father to pay child's tuition at religious day school was warranted; and

[4] failure by mother's attorney to comply with procedures applying to attorneys in domestic relations matters precluded award of attorney fees.

Affirmed in part and reversed in part.

West Headnotes (4)

[1] **Child Support** Factors Relating to Child

No standard of living for child was established, for purposes of determining how much child support from father was necessary to meet child's actual needs, where father and mother separated while mother was still pregnant with child.

[2] **Child Support** Financial resources in general

Father's wealth alone was insufficient to warrant doubling amount of his child support obligation.

[3] **Child Support** Religious school

Child support order requiring father to pay 100% of child's tuition at religious day school from preschool through 12th grade was warranted, where two of mother's children and three of father's children attended day schools of same religion, father actively supported religious education, and father could afford tuition. N.Y. Dom. Rel. Law § 240(1-b)(c)(7).

1 Cases that cite this headnote

[4] **Attorneys and Legal Services** Persons Entitled

Failure by mother's attorney to comply with procedures applying to attorneys in domestic relations matters precluded award to mother of attorney fees arising out of matrimonial and child support proceedings, where although attorney represented mother for over a year, attorney did not execute retainer agreement until shortly before trial, and attorney never sent mother an itemized bill. N.Y. Comp. Codes R. & Regs. tit. 22, § 1400.1 et seq.

Attorneys and Law Firms

****591** Ezra Sutton, P.A., New York (Ezra Sutton of counsel), for appellant-respondent.

Rower LLC, New York (**Alyssa** A. **Rower** of counsel), for respondent-appellant.

Acosta, P.J., Richter, Kapnick, Mazzarelli, Moulton, JJ.

Opinion

***436** Judgment, Supreme Court, New York County (Laura E. Drager, J.), to the extent appealed from as limited by the briefs, directing plaintiff husband to pay $7,000 monthly in child support and the parties' child's tuition at a Jewish day school from preschool through 12th grade, unanimously affirmed, without costs. Order, same court and Justice, entered January 22, 2019, to the extent it awarded defendant wife counsel fees, unanimously reversed, on the law, and the order vacated to that extent, and appeal therefrom otherwise dismissed, without costs, as subsumed in the appeal from the judgment.

[1] **[2]** The trial record demonstrates that the child support award amply provides for the child's actual needs (*see Matter of Vladlena B. v. Mathias G.,* 52 A.D.3d 431, 861 N.Y.S.2d 331 [1st Dept. 2008]). As the parties separated while defendant was still pregnant, "it cannot be said that a standard of living was established for the child" (*Michael J.D. v. Carolina E.P.,* 138 A.D.3d 151, 157, 25 N.Y.S.3d 196 [1st Dept. 2016]). Contrary to defendant's contention, plaintiff's wealth alone is insufficient to warrant doubling the child support award (*see id.* at 157–158, 25 N.Y.S.3d 196; *Vladlena B.,* 52 A.D.3d at 431, 861 N.Y.S.2d 331).

[3] The trial court providently exercised its discretion in directing plaintiff to pay 100% of the child's tuition at a Jewish day school from preschool through 12th grade (*see* Domestic Relations Law § 240[1–b][c][7]). The evidence establishes that two of defendant's children and three of plaintiff's children attended Jewish day schools and that plaintiff actively supported religious education and could afford the tuition (*see Friedman v. Friedman,* 216 A.D.2d 204, 205, 629 N.Y.S.2d 221 [1st Dept. 1995] [private religious school appropriate where "religion has been an integral part of the family lifestyle"]).

[4] The award of counsel fees to defendant is precluded by her attorney's failure to comply with the rules pertaining to domestic relations matters (22 NYCRR part 1400) (****592** *Montoya v. Montoya,* 143 A.D.3d 865, 865–866, 40 N.Y.S.3d 151 [2d Dept. 2016]; *Julien v. Machson,* 245 A.D.2d 122, 666 N.Y.S.2d 147 [1st Dept. 1997]). Defendant was represented in these matrimonial proceedings by her father, a patent lawyer, for more than a year. However, she did not execute a retainer agreement until shortly before the trial, and she testified that her father had never sent her an itemized bill (*see* 22 NYCRR 1400.3).

All Citations

180 A.D.3d 435, 118 N.Y.S.3d 590, 2020 N.Y. Slip Op. 00911