

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

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CA 08-01485

PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, CARNI, AND GREEN, JJ.

LILLIAN SOFIEN, PLAINTIFF,
AND JUDITH DIANE NOEL, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

CHARLES PHILIP NOEL, DEFENDANT-RESPONDENT.

RICE, REID, BRODERICK & WATTENGEL, NIAGARA FALLS (PAUL H. REID, JR.,
OF COUNSEL), FOR PLAINTIFF-APPELLANT.

LIPSITZ GREEN SCIME CAMBRIA LLP, BUFFALO (BRIDGET M. O'CONNELL OF
COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Niagara County (Ralph A. Boniello, III, J.), entered January 25, 2008. The order denied the request of plaintiff Judith Diane Noel for maintenance.

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

Memorandum: Contrary to the contention of Judith Diane Noel (plaintiff), Supreme Court did not abuse its discretion in adopting the report and decision of the Matrimonial Referee declining to award her maintenance (*see generally Holmes v Holmes*, 25 AD3d 931, 932). The Matrimonial Referee properly determined, after considering the pre-divorce standard of living as well as the other factors set forth in Domestic Relations Law § 236 (B) (6) (a), that an award of maintenance to plaintiff was not warranted (*see Boardman v Boardman*, 300 AD2d 1110).

Entered: March 20, 2009

JoAnn M. Wahl
Clerk of the Court