

State of New York Court of Appeals

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No. 106 SSM 7
Deborah Keller-Goldman,
Respondent,
v.
Jacob Goldman,
Appellant.

Submitted by Mark M. Holtzer, for appellant.
Submitted by Martin E. Friedlander, for respondent.

* * * * *

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. Like the Appellate Division, and in light of the significant downward departure from the support contemplated under the Child Support Standards Act, we cannot say that Supreme Court erred when, prior to incorporating the parties' agreement into the judgment, it interpreted the disputed provision, in the context of the larger agreement and the parties' respective financial circumstances, in a manner that ensured adequate support to each unemancipated child, as the parties clearly intended (see Domestic Relations Law § 240[1-b][h]). Chief Judge DiFiore and Judges Rivera, Fahey, Wilson and Feinman concur. Judge Stein dissents in an opinion in which Judge Garcia concurs.

Decided June 12, 2018

Keller-Goldman v Goldman

SSM No. 7

STEIN, J. (dissenting):

The parties' Stipulation of Settlement and Agreement "is a contract subject to the principles of contract construction and interpretation" (Matter of Meccico v Meccico, 76 NY2d 822, 823-824 [1990]). I agree with the dissenting Justices of the Appellate Division that the clear and unambiguous language of the parties' Agreement entitles defendant to a

credit against his child support obligations in the amount that he pays for a child's room and board at an educational institution (149 AD3d 422, 426-427 [Andrias, J., dissenting]). In my view, Supreme Court's conclusion that the children would be inadequately supported if the Agreement was enforced as written was wholly speculative and public policy concerns did not, on these facts, justify the court's exercise of its discretion under Domestic Relations Law § 240 (1-b) (h). Moreover, Supreme Court improperly altered one isolated provision of the parties' heavily-negotiated Agreement without giving adequate consideration to the overall settlement as set forth therein. Thus, I would reverse and remit for further proceedings.