

294 A.D.2d 493, 742 N.Y.S.2d 845, 2002 N.Y. Slip Op. 04240
(Cite as: **294 A.D.2d 493**)

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Supreme Court, Appellate Division,
Second Department, New York.

Therese A. VIOLA, respondent,
v.
Salvatore VIOLA, appellant.

May 20, 2002.

Feldman and Feldman, Hauppauge, N.Y. (**Steven A. Feldman** of counsel), for appellant.

Butler, Fitzgerald & Potter, New York, N.Y. (**David K. Fiveson** of counsel), for respondent.

***493** In an action for a divorce and ancillary relief, the defendant husband appeals, as limited by his brief, from so much of an order of the Supreme Court, Suffolk County (Sgroi, J.), dated June 27, 2001, as directed him to pay pendente lite maintenance and child support, and the carrying charges on the marital residence.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The purpose of pendente lite relief is to ensure that a needy spouse is provided with funds for his or her support and reasonable needs pending trial, and it is not to determine the correct ultimate distribution (see *Albanese v. Albanese*, 234 A.D.2d 489, 490, 651 N.Y.S.2d 605). Pendente lite awards are to be determined with due ***494** regard for the pre-separation standard of living (see *Polito v. Polito*, 168 A.D.2d 440, 441, 562 N.Y.S.2d 561). A speedy trial is the proper remedy to rectify any alleged inequities in the order of pendente lite relief (see *Albanese v. Albanese, supra; Gold v. Gold*, 212 A.D.2d 503, 622 N.Y.S.2d 113). Typically, pendente lite awards are not modified unless the payments are so prohibitive that the nonmoving spouse is prevented from meeting his or her own financial obligations (see

Albanese v. Albanese, supra; Gold v. Gold, supra). In actions such as this, where there are wide discrepancies in the facts presented by each party's affidavit, the appropriate remedy is a speedy trial at which the facts may be examined in far greater detail and a more accurate appraisal of the circumstances of the parties may be obtained (see *Felton v. Felton*, 175 A.D.2d 794, 572 N.Y.S.2d 926). Since the defendant commenced new employment not long before the plaintiff moved for pendente lite relief and the amount he will earn is contested by both parties, this court will not disturb the order of the Supreme Court.

SANTUCCI, J.P., ALTMAN, TOWNES and CRANE, JJ., concur.

N.Y.A.D. 2 Dept. 2002.

Viola v. Viola

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