

203 A.D.2d 318, 612 N.Y.S.2d 922 (Mem)

Frank DeSalvo, Appellant,  
v.  
Elizabeth DeSalvo, Respondent.

Supreme Court, Appellate Division,  
Second Department, New York  
(April 11, 1994)

CITE TITLE AS: DeSalvo v DeSalvo

In an action for a divorce and ancillary relief, the plaintiff appeals from so much of an order of the Supreme Court, Kings County (Schneier, J.), dated May 20, 1992, as (1) denied his motion, *inter alia*, to dismiss “the issues brought before the court by the order dated January 29, 1985, and the order to show cause dated August 27, 1984, seeking performance of the parties' separation agreement dated March

5, 1979,” on the ground that the court lacked subject matter jurisdiction of the separation agreement, and (2) denied his separate motion, *inter alia*, to direct the defendant to elect “between her inconsistent remedies, one of which seeks to set aside a separation agreement and the other of which seeks to specifically enforce said agreement”.

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

Under the circumstances presented here, the Supreme Court correctly denied the plaintiff's motions.

Thompson, J. P., Rosenblatt, Ritter and Santucci, JJ., concur. \*319

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