

## Attorney Sanctioned Twice In Same Action

BY LAZAR EMANUEL

Attorney David Michaels of Spencertown has managed to have sanctions imposed against him for the second time in the same matrimonial action. *Ruzzio v. Ruzzio*, App. Div. 3rd Dept., 88123A and 88123B (Oct. 25, 2001).

A sanction of \$950 for counsel fees was first imposed by the Supreme Court Columbia County on Michaels' client after Michaels brought a motion which the court found "frivolous and entirely without merit." The motion was to reconsider an earlier order of the court referring issues of child custody and visitation to Family Court.

After the motion was denied and the matter was referred to Family Court, Michaels applied for an order to show cause to restrain plaintiff from vacationing in California with the children. The Family Court found that Michaels and his client had "engaged in disingenuous conduct and utilized false allegations" to obtain the order and ordered Michaels to pay \$500 to the Lawyers' Fund for Client Protection. Defendant and Michaels appealed.

The Appellate Division affirmed and levied an additional \$500 against Michaels and \$500 against his client. The court said: "Defendant's contentions are...part of a continuing effort to delay the divorce action and harass plaintiff...These amounts are appropriate in light of defendant's frivolous conduct in this protracted litigation, counsel's ill-advised facilitation of defendant's prosecution of these appeals, and the fact that neither defendant nor his counsel has been deterred by the penalties imposed in the past..." Attorney Michaels was ordered to pay his sanction to the Lawyers' Fund for Client Protection.