

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12257
A/mv

_____AD3d_____

Argued - September 12, 2006

STEPHEN G. CRANE, J.P.
DAVID S. RITTER
REINALDO E. RIVERA
ROBERT J. LUNN, JJ.

2005-09274

DECISION & ORDER

In the Matter of Ugo A. Ireh, appellant, v Nassau
University Medical Center, et al., respondents.

(Index No. 11206/05)

David M. Lira, Garden City, N.Y., for appellant.

Nixon Peabody LLP, Garden City, N.Y. (Richard T. Yarmel, Michael S. Cohen, and
Patrick B. Fife of counsel), for respondents.

In a proceeding pursuant to CPLR article 78, inter alia, to review a determination of the Nassau University Medical Center, dated June 21, 2005, not to renew the petitioner's contract for a fifth-year surgical residency position, the petitioner appeals from an order and judgment (one paper) of the Supreme Court, Nassau County (McCarty, J.), dated August 16, 2005, which granted the motion of Nassau University Medical Center and Nassau Health Care Corporation, in effect, to dismiss the proceeding for failure to exhaust administrative remedies, and dismissed the proceeding.

ORDERED that the order and judgment is affirmed, with costs.

A resident physician seeking to have his contract to a hospital residency program renewed cannot circumvent the grievance process of Public Health Law § 2801-b (*see Indemini v Beth Israel Med. Ctr.*, 4 NY3d 63, 68-69; *Gelbard v Genesee Hosp.*, 87 NY2d 691, 696). Accordingly, the Supreme Court properly granted the respondents' motion, in effect, to dismiss the

October 10, 2006

Page 1.

MATTER OF IREH v NASSAU UNIVERSITY MEDICAL CENTER

proceeding because the petitioner failed to exhaust his administrative remedies (*see Matter of Podolsky v Daniels*, 21 AD3d 559, 560; *Matter of Hammond v Village of Elmsford*, 8 AD3d 484, 485).

CRANE, J.P., RITTER, RIVERA and LUNN, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court