

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

D13277
Y/cb

_____AD3d_____

Submitted - November 29, 2006

STEPHEN G. CRANE, J.P.
FRED T. SANTUCCI
WILLIAM F. MASTRO
ROBERT A. LIFSON, JJ.

2006-04647

DECISION & ORDER

Jessica Rojas-Onofre, etc., et al., appellants, v
Lutheran Medical Center, et al., respondents, et al.,
defendant.

(Index No. 542/02)

Sciretta & Venterina, LLP, Staten Island, N.Y. (Marilyn Venterina of counsel), for appellants.

Aaronson, Rappaport, Feinstein & Deutsch, LLP, New York, N.Y. (Steven C. Mandell of counsel), for respondent Lutheran Medical Center.

Amabile & Erman, P.C., Staten Island, N.Y. (Irene P. Ziegler of counsel), for respondent Jamal Albdewi.

McAloon & Friedman, P.C., New York, N.Y. (Timothy J. O'Shaughnessy of counsel), for respondent Panayot G. Filipov.

In an action, inter alia, to recover damages for medical malpractice, etc., the plaintiffs appeal from an order of the Supreme Court, Kings County (Levine, J.), dated March 31, 2006, which granted the respective motions of the defendants Lutheran Medical Center, Jamal Albdewi, and Panayot G. Filipov, to compel them to provide authorizations for the school records of the infant plaintiff's siblings.

December 26, 2006

Page 1.

ROJAS-ONOFRE v LUTHERAN MEDICAL CENTER

ORDERED that the order is modified, on the law, by deleting the provision thereof granting the motions to compel the plaintiffs to provide authorizations for the school records of the infant plaintiff's siblings, and substituting therefor a provision granting the motions only to the extent of directing the plaintiffs to provide a copy of the school records of the infant plaintiff's siblings to the Supreme Court, Kings County, for an in camera review by that court and a redaction of any privileged matter prior to disclosure to the defendants Lutheran Medical Center, Jamal Albdeawi, and Panayot G. Filipov, and thereafter compelling the plaintiffs to provide authorizations for the records as redacted by the Supreme Court, Kings County, and otherwise denying the motions; as so modified, the order is affirmed insofar as appealed from, without costs or disbursements.

The movants sufficiently demonstrated that the school records of the infant plaintiff's nonparty siblings are relevant and material to their defense of this action (*see Montgomery v Taylor*, 275 AD2d 698; *Anderson v Seigel*, 255 AD2d 409, 410; *Davis v Elandem Realty Co.*, 226 AD2d 419; *Wepy v Shen*, 175 AD2d 124, 125; *Baldwin v Franklin Gen. Hosp.*, 151 AD2d 532, 533). However, since the records may contain some privileged material, they should be reviewed in camera by the Supreme Court and privileged material, if any, should be redacted before giving the movants access to the records (*see Anderson v Seigel, supra; Davis v Elandem Realty Co., supra; Baldwin v Franklin Gen. Hosp., supra*).

CRANE, J.P., SANTUCCI, MASTRO and LIFSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court