

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

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_____AD3d_____

Submitted - November 29, 2006

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

2006-01778

DECISION & ORDER

Jacob Goldberg, etc., et al., appellants,
v Frederick Bierman, et al., respondents.

(Index No. 16720/05)

Godosky & Gentile, P.C., New York, N.Y. (Anthony P. Gentile, Brian J. Isaac, and Julie T. Mark of counsel), for appellants.

Martin Clearwater & Bell, LLP, New York, N.Y. (Claudia J. Charles, Anthony M. Sola, and Thomas J. Kroczyński of counsel), for respondents Frederick Bierman, Steven Ritz, and North Shore University Hospital.

Santangelo, Benvenuto & Slattery (James W. Tuffin, Manhasset, N.Y. [Gabriel Mignella] of counsel), for respondents Mary Ellen Renna, Pediatric Health Associates, P.C., Kerry Fierstein, Brian Goldstein, and Maria Santiago.

Kopff, Nardelli & Dopf, LLP, New York, N.Y. (Martin B. Adams of counsel), for respondents Nassau Radiologic Group and Joseph Zito.

In an action to recover damages for medical malpractice and lack of informed consent, etc., the plaintiffs appeal from an order of the Supreme Court, Queens County (Agate, J.), dated December 22, 2005, which granted the defendants' respective motions pursuant to CPLR 510 and 511 to transfer the venue of the action from Queens County to Nassau County.

ORDERED that the order is affirmed, with one bill of costs payable to the respondents appearing separately and filing separate briefs.

December 26, 2006

Page 1.

GOLDBERG v BIERMAN

The Supreme Court properly determined that the defendants sufficiently established that they were residents of Nassau County rather than Queens County (*see* CPLR 503[a], [d]), and that the alleged malpractice occurred in Nassau County. The plaintiffs failed to adequately rebut this showing in their opposition papers. Accordingly, the Supreme Court correctly granted the defendants' respective motions to transfer the venue of the action to Nassau County (*see* CPLR 510[1]; *Magrone v Herzog*, 304 AD2d 801; *Pasley v St. Agnes Hosp.*, 244 AD2d 469).

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

ENTER:

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

James Edward Pelzer
Clerk of the Court