

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

D15874  
Y/gts

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - June 5, 2007

HOWARD MILLER, J.P.  
WILLIAM F. MASTRO  
ROBERT A. LIFSON  
EDWARD D. CARNI, JJ.

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2006-10000

DECISION & ORDER

Richard W. Desmond, appellant, v For-Med  
Medical Group, P.C., etc., respondent.

(Index No. 1558/99)

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Ciarelli & Dempsey, Riverhead, N.Y. (John L. Ciarelli of counsel), for appellant.

Emanuel R. Gold, Forest Hills, N.Y., for respondent.

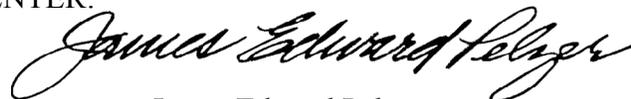
In an action, inter alia, to recover damages for conversion, the plaintiff appeals from an order of the Supreme Court, Queens County (Kohm, J.), dated August 4, 2006, which denied his motion, inter alia, to vacate a stipulation of settlement dated May 30, 2002.

ORDERED that the order is affirmed, with costs.

Contrary to the plaintiff's contention, the Supreme Court properly denied his motion, inter alia, to vacate a stipulation of settlement dated May 30, 2002 (*see Pretterhofer v Pretterhofer*, 37 AD3d 446). There is no evidence that the defendant engaged in, among other things, any fraud as to the stipulation (*id.*). To the contrary, the confusion and delay in this case appears to have arisen from the plaintiff's failure to have taken a clear and consistent position concerning the money at issue, and failure to provide the defendant with relevant information concerning the same.

MILLER, J.P., MASTRO, LIFSON and CARNI, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

July 31, 2007

DESMOND v FOR-MED MEDICAL GROUP, P.C.