

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

D16596  
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Argued - September 20, 2007

STEPHEN G. CRANE, J.P.  
ANITA R. FLORIO  
ROBERT A. LIFSON  
EDWARD D. CARNI, JJ.

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2006-11198

DECISION & ORDER

Jordan Michael Sanchez, etc., respondent,  
v North Shore University Hospital,  
et al., appellants, et al., defendants.

(Index No. 18575/04)

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Heidell, Pittoni, Murphy & Bach, LLP, New York, N.Y. (Daniel S. Ratner and  
Daryl Paxson of counsel), for appellants.

Fitzgerald & Fitzgerald, P.C., Yonkers, N.Y. (John E. Fitzgerald, John M. Daly,  
Eugene S.R. Pagano, and Mitchell L. Gittin of counsel), for respondent.

In an action to recover damages for medical malpractice and lack of informed consent, the defendants North Shore University Hospital and Benjamin Goldman appeal from an order of the Supreme Court, Queens County (Satterfield, J.), entered October 31, 2006, which denied their motion for summary judgment dismissing the complaint insofar as asserted against them.

ORDERED that the order is modified, on the law, by deleting the provision thereof denying that branch of the appellants' motion which was for summary judgment dismissing the cause of action to recover damages for lack of informed consent insofar as asserted against them and substituting therefor a provision granting that branch of the motion; as so modified; the order is affirmed, without costs or disbursements.

October 16, 2007

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The Supreme Court correctly determined that there are issues of fact as to the medical malpractice cause of action. However, with regard to the cause of action alleging lack of informed consent, the plaintiff failed to rebut the movants' prima facie showing of entitlement to judgment as a matter of law.

CRANE, J.P., FLORIO, LIFSON and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court