

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

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Submitted - October 17, 2007

STEPHEN G. CRANE, J.P.
DAVID S. RITTER
STEVEN W. FISHER
JOSEPH COVELLO
THOMAS A. DICKERSON, JJ.

2007-03642

DECISION & ORDER

Theresa Cupo, respondent, v Benjamin
Zola, etc., et al., appellants.

(Index No. 46692/03)

Lippman Krasnow & Kelton LLP, New York, N.Y. (Michael S. Kelton, Denise Buda,
and David T. Verschell of counsel), for appellants.

Goldfarb & Gerzog, New York, N.Y. (Ira Gerzog of counsel), for respondent.

In an action, inter alia, to recover damages for assault and battery, the defendants appeal, as limited by their brief, from so much of an order of the Supreme Court, Kings County (Bunyan, J.), dated March 28, 2007, as granted the plaintiff's cross motion pursuant to CPLR 3103(a) for a protective order prohibiting them from videotaping the plaintiff's deposition.

ORDERED that the order is reversed insofar as appealed from, on the facts and in the exercise of discretion, with costs, and the motion is denied.

Under the peculiar circumstances of this case, the Supreme Court improvidently exercised its discretion in granting the plaintiff's cross motion pursuant to CPLR 3103(a) for a protective order prohibiting the defendants from videotaping her deposition.

CRANE, J.P., RITTER, FISHER, COVELLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 20, 2007

CUPO v ZOLA