

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

D17287
O/hu

_____AD3d_____

Submitted - November 26, 2007

HOWARD MILLER, J.P.
STEPHEN G. CRANE
MARK C. DILLON
RUTH C. BALKIN, JJ.

2007-00754

DECISION & ORDER

Patricia L. Antoine, etc., appellant, v New York
City Health and Hospitals Corporation, et al.,
respondents, et al., defendants.

(Index No. 16984/05)

Maduegbuna Cooper, LLP, New York, N.Y. (Samuel O. Maduegbuna of counsel),
for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner and
Ronald E. Sternberg of counsel), for respondents.

In an action, inter alia, to recover damages for wrongful death, the plaintiff appeals from an order of the Supreme Court, Kings County (Jackson, J.), dated December 6, 2006, which granted the motion of the defendants New York City Health and Hospitals Corporation, John G. Kral, Sheilla Philemond, Alireza Sadeghi, Daron Geldwert, and Aisha White, to dismiss the first, second, and fourth causes of action insofar as asserted against them pursuant to CPLR 3211(a)(5) as time-barred.

ORDERED that the order is affirmed, with costs.

The Supreme Court correctly granted the respondents' motion to dismiss, as time-barred, the causes of action alleging the decedent's conscious pain and suffering and lack of informed consent insofar as asserted against them. Those causes of action were interposed after expiration of the applicable 1-year-and-90-day statute of limitations of Unconsolidated Law § 7401(2) (*see Pietrowski v City of New York*, 166 AD2d 423, 423-424; *Bacalokonstantis v Nichols*, 141 AD2d 482,

December 18, 2007

Page 1.

ANTOINE v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION

483-484; *see also* General Municipal Law § 50-k[1][e]; McKinney's Unconsolidated Laws of NY § 7401[6]; *DeGradi v Coney Is. Med. Group*, 172 AD2d 582, 583).

The plaintiff's remaining contentions are without merit.

MILLER, J.P., CRANE, DILLON and BALKIN, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court