

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

D18821
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_____AD3d_____

Argued - March 14, 2008

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RANDALL T. ENG
JOHN M. LEVENTHAL, JJ.

2006-02589

DECISION & ORDER

Lillian Arias, etc. respondent, v New York
City Health and Hospitals Corporation (Kings
County Hospital Center), appellant.

(Index No. 10016/05)

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo,
Dona B. Morris, and David Bohrer of counsel), for appellant.

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

In an action to recover damages for medical malpractice, the defendant appeals from
an order of the Supreme Court, Kings County (Jackson, J.), dated February 15, 2006, which granted
the plaintiff's motion pursuant to General Municipal Law § 50-e(5) to deem her notice of claim timely
served nunc pro tunc.

ORDERED that the appeal is dismissed, without costs or disbursements.

The order dated February 15, 2006, was superseded by a subsequent order of the same
court dated April 25, 2007, made upon renewal (*see Arias v New York City Health and Hosps. Corp.*,
_____AD3d_____ [Appellate Division Docket No. 2007-03375, decided herewith]).

SKELOS, J.P., COVELLO, ENG and LEVENTHAL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

April 15, 2008

ARIAS v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION
(KINGS COUNTY HOSPITAL CENTER)