

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

D18999  
G/kmg

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

Argued - March 31, 2008

REINALDO E. RIVERA, J.P.  
PETER B. SKELOS  
FRED T. SANTUCCI  
ARIEL E. BELEN, JJ.

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2007-04015

DECISION & ORDER

North Salem Psychiatric Services, P.C., et al.,  
appellants, v Medco Health Solutions, Inc.,  
respondent.

(Index No. 19911/06)

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Moritt Hock Hamroff & Horowitz LLP, Garden City, N.Y. (Robert L. Schonfeld of counsel), for appellants.

Riker Danzig Scherer Hyland & Perretti LLP, New York, N.Y. (Michael P. O'Mullan of counsel), for respondent.

In an action to recover damages for unjust enrichment, the plaintiff appeals from an order of the Supreme Court, Westchester County (Colabella, J.), entered April 2, 2007, which granted the defendant's motion pursuant to CPLR 3211(a)(1) and (7) to dismiss the amended verified complaint.

ORDERED that the order is affirmed, with costs.

Viewing the pertinent allegations of the amended verified complaint most liberally in favor of the plaintiffs (*see Leon v Martinez*, 84 NY2d 83, 87-88), we find that they do not state a cause of action (*see Doria v Masucci*, 230 AD2d 764, 765). Although the plaintiffs seek to recover on a theory of unjust enrichment, their cause of action does not contain the necessary allegation that the defendant unjustly received something of value at the expense of the plaintiffs (*see McGrath v Hilding*, 41 NY2d 625, 629; *Paramount Film Distrib. Corp. v State of New York*, 30 NY2d 415, 421,

April 22, 2008

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NORTH SALEM PSYCHIATRIC SERVICES, P.C.  
v MEDCO HEALTH SOLUTIONS, INC.

*cert denied* 414 US 829; *Stucklen v Kabro Assoc.*, 18 AD3d 461, 462-463; *Stone v Solarbrite, Inc.*, 128 AD2d 696).

RIVERA, J.P., SKELOS, SANTUCCI and BELEN, 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