

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

D21423  
O/kmg

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Submitted - November 12, 2008

STEVEN W. FISHER, J.P.  
ROBERT A. LIFSON  
JOSEPH COVELLO  
RUTH C. BALKIN  
ARIEL E. BELEN, JJ.

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2008-03938  
2008-06064

DECISION & ORDER

Jineen Pavesi, et al., appellants, v  
C. Andrew Salzberg, etc., et al., respondents.

(Index No. 20002/07)

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Paul L. LaClair, New York, N.Y., for appellants.

Meiselman, Denlea, Packman, Carton & Eberz P.C., White Plains, N.Y. (Myra I. Packman and Kenneth C. Citarella of counsel), for respondents.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from (1) so much of an order of the Supreme Court, Suffolk County (Weber, J.), dated March 24, 2008, as granted the defendants' motion pursuant to CPLR 510(3) for a change of venue from Suffolk County to Westchester County, and (2) so much of an order of the same court dated May 27, 2008, as, upon reargument, adhered to the original determination.

ORDERED that the appeal from the order dated March 24, 2008, is dismissed, as that order was superseded by the order dated May 27, 2008, made upon reargument; and it is further,

ORDERED that the order dated May 27, 2008, is affirmed insofar as appealed from; and it is further,

ORDERED that one bill of costs is awarded to the respondents.

The plaintiffs placed the venue of this medical malpractice action in Suffolk County,

December 16, 2008

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as that was the county within which they resided. However, all of the alleged negligent acts occurred during the surgical and medical care rendered by the defendants to the plaintiff Jineen Pavesi, which took place in and around northern Westchester County. Accordingly, the Supreme Court providently exercised its discretion in granting the defendants' motion to change the venue of this action from Suffolk County to Westchester County for the convenience of material witnesses (*see* CPLR 510[3]; *Dwyer v Nobody Beats the Wiz, Inc.*, 23 AD3d 334; *Coscone-Riemma v Kelleher*, 287 AD2d 677).

FISHER, J.P., LIFSON, COVELLO, BALKIN and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court