

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

D22260  
G/hu

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

Submitted - December 8, 2008

REINALDO E. RIVERA, J.P.  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON  
CHERYL E. CHAMBERS, JJ.

---

2008-03586

DECISION & ORDER

Robert Bennett, et al., appellants, v Elena Stybel,  
et al., defendants, Brunswick Hospital Center,  
Inc., respondent.

(Index No. 4180/05)

---

Seidner, Rosenfeld & Guttentag, LLP, Babylon, N.Y. (Larry Rosenfeld of counsel),  
for appellants.

Lewis Johs Avallone Aviles, LLP, Melville, N.Y. (Michael G. Kruzynski of counsel),  
for respondent.

In an action, inter alia, to recover damages for medical malpractice, etc., the plaintiffs appeal from an order of the Supreme Court, Suffolk County (Pitts, J.), dated March 5, 2008, which denied that branch of their motion pursuant to CPLR 3126 which was to compel disclosure of all incident reports prepared by the defendant Brunswick Hospital Center, Inc., relating to the incident in issue which occurred on August 28, 2004, and granted the cross motion of the defendant Brunswick Hospital Center, Inc., for a protective order.

ORDERED that the order is affirmed, with costs.

The documents in question are privileged pursuant to Public Health Law §§ 2805-j and 2805-m (*see Klingner v Mashioff*, 50 AD3d 746; *see also Logue v Velez*, 92 NY2d 13, 17-18; *LaPierre v Jewish Bd. of Family & Children Servs., Inc.*, 47 AD3d 896). Accordingly, the Supreme Court properly denied that branch of the plaintiffs' motion pursuant to CPLR 3126 which was to compel disclosure of the subject documents, and properly granted the cross motion of the defendant Brunswick Hospital Center, Inc., for a protective order.

February 24, 2009

Page 1.

BENNETT v STYBEL

The plaintiffs' remaining contention is without merit.

RIVERA, J.P., ANGIOLILLO, DICKERSON and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court