

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

D22595
T/prt

_____AD3d_____

Argued - February 13, 2009

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
RANDALL T. ENG
JOHN M. LEVENTHAL, JJ.

2008-06214

DECISION & ORDER

Antonette T. McFarlane, respondent, v
County of Suffolk, et al., appellants.

(Index No. 14409/06)

Christine Malafi, County Attorney, Hauppauge, N.Y. (Christopher A. Jeffreys of counsel), for appellants.

Ewall & Ewall, Huntington, N.Y. (Lisa Arden of counsel), for respondent.

In an action, inter alia, to recover damages for assault and battery, false arrest, and false imprisonment, the defendants appeal from an order of the Supreme Court, Suffolk County (Rebolini, J.), dated June 16, 2008, which denied their motion to compel the plaintiff to fully respond to their notice for discovery and inspection by furnishing authorizations for certain medical records.

ORDERED that the order is affirmed, with costs.

Contrary to the defendants' contention, the Supreme Court did not improvidently exercise its broad discretion in denying their motion to compel the plaintiff to furnish the requested authorizations for certain medical records (*see generally Gilman & Ciocia, Inc. v Walsh*, 45 AD3d 531; *Walsh v Liberty Mut. Ins. Co.*, 289 AD2d 842). The court properly determined that the records sought by the defendants were totally unrelated to the plaintiff's claims and the injuries sued upon,

March 24, 2009

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so the plaintiff did not waive the physician-patient privilege with regard to those records (*see generally Wojtusiak v Elardo*, 43 AD3d 436; *Sadicario v Stylebuilt Accessories*, 250 AD2d 830; *Zappi v Pedigree Ski Shop*, 244 AD2d 331).

MASTRO, J.P., COVELLO, ENG and LEVENTHAL, 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