

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

D23032  
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Submitted - March 12, 2009

WILLIAM F. MASTRO, J.P.  
MARK C. DILLON  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS, JJ.

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2008-01424

DECISION & ORDER

Desiree Laguna, appellant, v Mario's Express  
Service, Inc., et al., respondents.

(Index No. 20478/06)

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Sullivan Papain Block McGrath & Cannavo, P.C., New York, N.Y. (Stephen C.  
Glasser and Jeffrey Bromfeld of counsel), for appellant.

Brand Glick & Brand, P.C., Garden City, N.Y., for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals, as limited by her brief, from so much of an order of the Supreme Court, Kings County (Bayne, J.), dated November 21, 2007, as granted the defendants' motion for renewal and reargument of their prior oral application for access to the plaintiff's medical records "beyond a 3 year period," which was denied by order of the same court (Ambrosio, J.) dated June 28, 2007, and upon renewal and reargument granted the defendants access to "the complete medical records relating the plaintiffs' initial diagnosis & follow up treatment to present for cerebral palsy."

ORDERED that the order dated November 21, 2007, is reversed insofar as appealed from, on the facts and in the exercise of discretion, with costs, and the motion is denied.

The evidence submitted by the defendants upon their motion for renewal and reargument was insufficient to justify a new determination. The defendants failed to establish that the additional disclosure was material and necessary to the defense of the action (*see Cynthia B. v New Rochelle Hosp. Med Ctr*, 60 NY2d 452, 465, 457; *Chevrin v Macura*, 28 AD3d 600; *DeStrange v Lind*, 277 AD2d 344), nor did they demonstrate that "access to earlier medical records would result

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in the discovery of admissible or relevant evidence” (*DeStrange v Lind*, 277 AD2d at 345).

The appellant’s remaining contentions either need not be reached in light of our determination or are not properly before this Court.

MASTRO, J.P., DILLON, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court