

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

D26142
G/prt

_____AD3d_____

Argued - January 8, 2010

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
SANDRA L. SGROI, JJ.

2008-10471

DECISION & ORDER

Randy Plotkin, plaintiff, Lisa Plotkin, appellant,
v Robert V. Moriarty, etc., et al., defendants;
Bruce G. Clark, nonparty-respondent.

(Index No. 13928/98)

John Ray, Miller Place, N.Y., for appellant.

Peter L. Gale, Port Washington, N.Y., for nonparty-respondent.

In an action, inter alia, to recover damages for medical malpractice, etc., the plaintiff Lisa Dieter, f/k/a Lisa Plotkin, appeals, as limited by her brief, from so much of an order of the Supreme Court, Queens County (Dollard, J.), entered September 9, 2008, as granted the motion of nonparty Bruce G. Clark for an order authorizing him to disburse the proceeds of a settlement in this action.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The Supreme Court properly granted the motion of nonparty Bruce G. Clark for an order authorizing him to disburse the proceeds of a settlement in this action in a specific manner. Contrary to the appellant's contention, she validly waived any interest in the settlement proceeds of a prior related negligence action (*see generally Golfo v Kycia Assoc., Inc.*, 45 AD3d 531, 532-533), and, therefore, is precluded from having a credit therefor applied to the proceeds of the subject medical malpractice settlement.

RIVERA, J.P., LEVENTHAL, HALL and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

February 9, 2010

PLOTKIN v MORIARTY