

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

D26557
C/mv

_____AD3d_____

Argued - March 2, 2010

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
HOWARD MILLER
RANDALL T. ENG, JJ.

2008-11092

DECISION & ORDER

Peggy Grant, appellant, v County of Nassau, et al.,
respondents.

(Index No. 10566/99)

Thomas F. Liotti, Garden City, N.Y. (Lucia Maria Ciaravino of counsel), for
appellant.

John Ciampoli, County Attorney, Mineola, N.Y. (Karen Hutson of counsel), for
respondents.

In an action to recover damages for medical malpractice, the plaintiff appeals, as limited by her brief, from so much of an order of the Supreme Court, Nassau County (McCarty, J.), dated October 1, 2008, as granted the defendants' motion for summary judgment dismissing the complaint.

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

The defendants met their burden of establishing the absence of any departure from good and accepted medical practice (*see Arkin v Resnick*, 68 AD3d 692) and, in any event, established that there was no injury. In opposition, the plaintiff argued that the defendants were liable under the doctrine of *res ipsa loquitur* (*see generally Antoniato v Long Is. Jewish Med. Ctr.*, 58 AD3d 652, 654; *DiGiacomo v Cabrini Med. Ctr.*, 21 AD3d 1052, 1054-1055), but failed to raise a triable issue of fact as to whether the plaintiff sustained the alleged injury. Accordingly, the Supreme

Court properly granted the defendants' motion for summary judgment dismissing the complaint.

RIVERA, J.P., FLORIO, MILLER and ENG, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court