

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

D27005
H/hu

_____AD3d_____

Argued - January 28, 2010

A. GAIL PRUDENTI, P.J.
MARK C. DILLON
RANDALL T. ENG
SHERI S. ROMAN, JJ.

2009-04874

DECISION & ORDER

Isaac Labin, et al., appellants, v New York University
Medical Center, et al., respondents, et al., defendants.

(Index No. 16256/08)

Solomon Rosengarten, Brooklyn, N.Y., for appellants.

Heidell, Pittoni, Murphy & Bach LLP, New York, N.Y. (Daniel S. Ratner of
counsel), for respondents.

In an action, inter alia, to recover damages for defamation, the plaintiffs appeal from a judgment of the Supreme Court, Kings County (Jackson, J.), entered April 2, 2009, which, upon an order of the same court dated March 3, 2009, in effect, converting the motion of the defendants New York University Medical Center and Daniel Rauch to dismiss the complaint insofar as asserted against them for failure to state a cause of action pursuant to CPLR 3211(a)(7) into a motion for summary judgment dismissing the complaint insofar as asserted against those defendants, and thereupon granting the motion, is in favor of the defendants New York University Medical Center and Daniel Rauch and against them dismissing the complaint insofar as asserted against those defendants.

ORDERED that the judgment is affirmed, with costs.

The defendants New York University Medical Center and Daniel Rauch made a prima facie showing of their entitlement to judgment as a matter of law (*see* Social Services Law §

April 20, 2010

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413[1][a]; § 419; *Goldberg v Edson*, 41 AD3d 428; *Rine v Chase*, 309 AD2d 796). In opposition, the plaintiffs failed to raise a triable issue of fact.

PRUDENTI, P.J., DILLON, ENG and ROMAN, 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