

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

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_____AD3d_____

Argued - May 18, 2010

MARK C. DILLON, J.P.
HOWARD MILLER
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2009-06405

DECISION & ORDER

Marianela Duran, appellant, v New York City
Health & Hospitals Corporation, respondent.

(Index No. 21507/04)

Arnold E. DiJoseph, P.C., New York, N.Y. (Arnold E. DiJoseph III of counsel),
for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Stephen J. McGrath,
Mark Sullivan, and Ellen Ravitch of counsel), for respondent.

In an action to recover damages for medical malpractice, the plaintiff appeals from a judgment of the Supreme Court, Kings County (Dabiri, J.), entered May 5, 2009, which, upon an order of the same court dated March 6, 2009, inter alia, granting the defendant's motion pursuant to CPLR 3216 to dismiss the complaint, and denying that branch of the plaintiff's cross motion which was to extend the time to file the note of issue and certificate of readiness, dismissed the complaint.

ORDERED that the judgment is affirmed, with costs.

The Supreme Court providently exercised its discretion in granting the defendant's motion pursuant to CPLR 3216 to dismiss the complaint, and in denying that branch of the plaintiff's cross motion which was to extend the time to file the note of issue and certificate of readiness (*see Rodriguez v Five Towns Nissan*, 69 AD3d 833; *Davis v Cardiovascular Consultants of Long Island, P.C.*, 65 AD3d 1076).

June 15, 2010

Page 1.

DURAN v NEW YORK CITY HEALTH & HOSPITALS CORPORATION

The plaintiff's remaining contentions are without merit.

DILLON, J.P., MILLER, CHAMBERS and LOTT, 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