

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

D29437
O/prt

_____AD3d_____

Argued - November 15, 2010

REINALDO E. RIVERA, J.P.
THOMAS A. DICKERSON
PLUMMER E. LOTT
SHERI S. ROMAN, JJ.

2009-09856
2009-09858

DECISION & ORDER

Alexis Llorente, etc., et al., appellants, v
City of New York, et al., respondents.

(Index No. 24122/03)

Steven Greenfield, West Hampton Dunes, N.Y. (Sheila F. Pepper of counsel), for appellants.

Barry, McTiernan & Moore, New York, N.Y. (Laurel A. Wedinger of counsel), for respondents City of New York and Administration for Children's Services.

Wilson, Elser, Moskowitz, Delman & Dicker, LLP, Stamford, Connecticut (Anthony B. Corleto and James D. Kothe of counsel), for respondent Little Flower Children's Services.

In an action to recover damages for personal injuries, etc., the plaintiffs appeal from (1) an order of the Supreme Court, Queens County (Kerrigan, J.), dated September 10, 2009, which denied their motion to reject a Referee's report (Florio, R.), dated July 16, 2009, and, thereupon, confirmed the report, and (2) an order of the same court dated September 17, 2009, which granted the motion of the defendants City of New York and Administration for Children's Services, and the separate motion of the defendant Little Flower Children's Services, for a protective order.

ORDERED that the orders are affirmed, with one bill of costs to the respondents appearing separately and filing separate briefs.

December 21, 2010

Page 1.

LLORENTE v CITY OF NEW YORK

Records kept pursuant to Social Services Law § 372 are confidential and subject to the provisions of CPLR article 31 (*see* Social Services Law § 372[3]; *Wheeler v Commissioner of Soc. Servs. of City of N.Y.*, 233 AD2d 4, 12-13). CPLR 3101(a) requires “full disclosure of all matter material and necessary in the prosecution or defense of an action” (CPLR 3101[a]). However, “[i]t may be that in a particular case [the] burden should require [the party seeking disclosure] to show that disclosure would not be detrimental to the best interests of the children affected” (*Sam v Sanders*, 55 NY2d 1008, 1010).

Here, the Supreme Court properly exercised its discretion in confirming the Referee’s report on the issue of disclosure (*see Di Mascio v General Elec. Co.*, 307 AD2d 600, 601; *see generally Matter of JK&E Partnership v Chase Manhattan Bank*, 276 AD2d 554, 555), and properly granted the motion of the defendants City of New York and Administration for Children’s Services, and the separate motion of the defendant Little Flower Children’s Services, for a protective order (*see Tornheim v Blue & White Food Prods. Corp.*, 73 AD3d 745; *Baez v Sugrue*, 300 AD2d 519, 521; *Sam v Sanders*, 80 AD2d 758, *affd* 55 NY2d 1008).

The plaintiffs’ remaining contentions are without merit.

RIVERA, J.P., DICKERSON, LOTT and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court