

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

D34124
W/prt

_____AD3d_____

Submitted - January 30, 2012

DANIEL D. ANGIOLILLO, J.P.
JOHN M. LEVENTHAL
LEONARD B. AUSTIN
SHERI S. ROMAN, JJ.

2010-11868

DECISION & ORDER

Bridget Murray Dorsett, etc., appellant, v Kingsbrook
Jewish Medical Center, et al., respondents, et al.,
defendant.

(Index No. 28083/06)

Richard J. Jaegers (John V. Decolator, Garden City, N.Y., of counsel), for appellant.

Heidell, Pittoni, Murphy & Bach, LLP, New York, N.Y. (Daniel S. Ratner of
counsel), for respondents Kingsbrook Jewish Medical Center and Sabina Afridi.

Martin Clearwater & Bell LLP, New York, N.Y. (Stewart G. Milch, Sean F.X.
Dugan, and Olimpio A. Russo of counsel), for respondent Jayaprakash Modi.

In an action to recover damages for medical malpractice, the plaintiff appeals from an order of the Supreme Court, Kings County (Rosenberg, J.), dated October 4, 2010, which granted the motion of the defendants Kingsbrook Jewish Medical Center and Sabina Afridi and the separate motion of the defendant Jayaprakash Modi for summary judgment dismissing the complaint insofar as asserted against each of them.

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

The defendants Kingsbrook Medical Center and Sabina Afridi (hereinafter together the Kingsbrook defendants) and the defendant Jayaprakash Modi demonstrated their prima facie entitlement to judgment as a matter of law dismissing the complaint insofar as asserted against them.

March 6, 2012

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The expert affirmations of Dr. Daniel Sajewski and Dr. Mark Rosen, as well as the medical records of the plaintiff's decedent and the transcripts of the depositions of Modi and Afridi, established that there was no departure from good and accepted medical practice by Modi or the Kingsbrook defendants with respect to their treatment of the plaintiff's decedent, who was found with a very faded pulse, not breathing, and lying face down in vomit (*see Stukas v Streiter*, 83 AD3d 18; *Breland v Jamaica Hosp. Med. Ctr.*, 49 AD3d 789; *DiMitre v Monsour*, 302 AD2d 420). The plaintiff's submissions in opposition to the motions, including the conclusory affirmation of the plaintiff's expert, were insufficient to raise a triable issue of fact (*see Deutsch v Chaglassian*, 71 AD3d 718; *Dunn v Khan*, 62 AD3d 828; *DiMitre v Monsour*, 302 AD2d at 421).

Accordingly, the Supreme Court correctly granted Modi's motion for summary judgment dismissing the complaint insofar as asserted against him and the separate motion of the Kingsbrook defendants for summary judgment dismissing the complaint insofar as asserted against them.

ANGIOLILLO, J.P., LEVENTHAL, AUSTIN and ROMAN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court