

Callen v Baer

2025 NY Slip Op 34024(U)

February 14, 2025

Supreme Court, Queens County

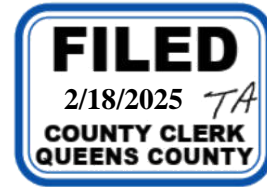
Docket Number: Index No. 715323/2019

Judge: Tracy Catapano-Fox

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This opinion is uncorrected and not selected for official publication.

Short Form Order
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS



-----X
MICHELLE CALLEN and WILLIAM CALLEN,

Index No. 715323/2019

Plaintiffs,

Part MDP

Motion Date: January 8, 2025

-against-

Calendar No. 9

Sequence No. 3

ASHER BAER, M.D., MICHAEL SHERMAN, M.D.,
ATIF H. FAROOQI, D.O., SHANNON LANCASTER,
M.D., HANNA CZARKOWSKA, M.D., EBONY
BROMFIELD, P.A., CHRISTOPHER CARLEO, M.D.,
FADI Z. EL-BABA, M.D., VLADIMIR STAMORAN,
M.D., TEHMINA HAQUE, M.D., BRIAN WRIGHT,
M.D., RISHI MEHTA, M.D., and LAMAH
MASSASATI, M.D.,

Defendants.

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The following papers numbered EF-182 to EF-277 read on this motion by defendants ASHER BAER, M.D., CHRISTOPHER CARLEO, M.D., BRIAN WRIGHT, M.D., and EBONY BROMFIELD, P.A. for summary judgment and dismissal of plaintiffs' Complaint pursuant to CPLR §3212.

Papers
Numbered

Notice of Motion, Affirmation, Exhibits.....	EF182-EF213
Affirmation in Opposition, Exhibits.....	EF255-EF258
Reply Affirmation.....	EF277

Upon the foregoing papers, it is ordered that this motion is determined as follows:

Defendants Asher Baer, M.D., Christopher Carleo, M.D., Brian Wright, M.D., and Ebony Bromfield, P.A.'s motion for summary judgment and dismissal of plaintiffs' Complaint pursuant to CPLR §3212 is granted as to Dr. Carleo and Dr. Wright and plaintiffs' claim for lack of informed consent and lack of supervision, but denied as to plaintiffs' claim for medical malpractice against

Dr. Baer and PA Bromfield. Plaintiffs commenced this medical malpractice action arising out of plaintiff Michelle Callen's admission to the emergency room of Stony Brook University Hospital (hereinafter referred to as "SBUH") on March 9, 2017, and subsequent admission from March 10, 2017 through March 17, 2017. Plaintiffs filed the Summons and Complaint on September 5, 2019 and issue was joined by moving defendant Dr. Wright via the filing of the Verified Answer on September 25, 2019.

Defendants argue they are entitled to summary judgment and present the pleadings, plaintiff Michelle Callen's medical records, the parties' deposition testimony, and the expert affirmations of Dr. Robert Meyer and Dr. Floyd Warren in support of their motion. Defendants argue Dr. Baer, Dr. Wright, Dr. Carleo and PA Bromfield performed proper examinations and evaluations of plaintiff Michelle Callen in the emergency room, and none of their actions or inactions proximately caused plaintiff's injuries, including blindness. They further argue plaintiffs' claim of lack of informed consent and negligent supervision should be dismissed as meritless based upon the evidence.

Defendants present the affirmation of Dr. Meyer in support of their motion. Dr. Meyer affirmed to be a physician licensed to practice law in New York who is board certified in emergency medicine. He affirmed to be fully familiar with the applicable standards of care based upon his education, training and experience, and reviewed the pleadings, parties' deposition testimony and medical records in rendering opinions. Dr. Meyer opined within a reasonable degree of medical certainty that defendants adhered to standards of care and none of their actions or inactions proximately caused plaintiff Michelle Callen's injuries.

Dr. Meyer reviewed the medical records and noted Dr. Baer began working the emergency room as an attending physician at midnight on March 10, 2017. He noted plaintiff Michelle Callen was placed in the clinical decision unit to determine whether she should be admitted to the hospital. Dr. Baer examined plaintiff Michelle Callen and performed a fundoscopic examination and ocular ultrasound which were unremarkable, and an MRI and ophthalmology evaluation was requested. Dr. Meyer noted plaintiff Michelle Callen's CT scan and MRI findings were unremarkable, and she was placed in the clinical decision unit for close monitoring pending neurology and ophthalmology consultations, further radiological imaging, and other serial exams. He noted PA Bromfield examined plaintiff Michelle Callen, and noted she had a history of Crohn's disease and presented to the emergency room because of visual disturbance in her left eye. PA Bromfield noted plaintiff Michelle Callen denied any visual changes in her right eye, chest pain, shortness of breath, headaches, dizziness or weakness. Dr. Meyer noted that after the neurology consultation, the ophthalmology department was contacted and plaintiff Michelle Callen was given two options: to have an ophthalmology exam in the emergency room and again at the eye clinic later that afternoon, or a one-time more comprehensive eye examination in the ophthalmology clinic. He noted the records show plaintiff Michelle Callen opted to go home and return to the clinic in the

morning, and was directed to return to the emergency room if her symptoms worsened.

Dr. Meyer noted the medical records showed Dr. Carleo first examined plaintiff Michelle Callen when she returned to the emergency department after she fainted in the eye clinic. Dr. Carleo performed several blood tests and her blood pressure was recorded thirteen times on March 10, 2017. The notes further show plaintiff Michelle Callen's blood pressure improved upon receiving a blood transfusion with two units of PRBCs. After Dr. Carleo transferred care to Dr. Wright, repeat blood values were ordered, and he admitted plaintiff Michelle Callen to the hospital after noting her hemoglobin levels did not increase appropriately. Dr. Meyer noted moving defendants had no further involvement with plaintiff Michelle Callen's care and treatment after her admission.

Dr. Meyer opined Dr. Baer and PA Bromfield acted within the applicable standard of care in treating plaintiff Michelle Callen, and plaintiffs' allegations are meritless. He opined it was inconsequential to plaintiff Michelle Callen's care and treatment whether her prior medical history was documented as Crohn's disease or ulcerative colitis. Dr. Meyer opined irrespective of plaintiff Michelle Callen's gastroenterological complaints, neither a GI workup or consult was indicated in the emergency department, as it was already known she had irritable bowel syndrome. Dr. Meyer opined it was necessary to first rule out a stroke based upon plaintiff Michelle Callen's complaints.

Dr. Meyer opined the emergency department properly pursued a course of treatment to rule out a stroke, a central cause of vision loss. He opined the implementation and execution of this plan within three hours of plaintiff Michelle Callen's presentation, demonstrated extraordinary care and was an appropriate workup for a suspected stroke. Dr. Meyer opined there is no merit to plaintiffs' allegations that Dr. Baer and PA Bromfield failed to transfuse plaintiff Michelle Callen with blood products during her initial emergency department presentation, failed to take appropriate action to normal plaintiff's abnormal blood values, and failed to order repeat lab data, including blood values. He opined the standard of care did not require a transfusion of packed red blood cells in a patient such as plaintiff Michelle Callen, with a hemoglobin level of 8.7g/dL. Dr. Meyer opined the standard of care also did not require an ophthalmology consult, or any other consultation, before a neurology consultation was completed because Dr. Baer and PA Bromfield needed to rule out the worst-case scenario, a stroke.

Dr. Meyer opined plaintiff Michelle Callen's decision to go home and return to the eye clinic most likely resulted in a more expedited and thorough ophthalmology evaluation. He opined plaintiffs' allegation that plaintiff Michelle Callen was not in a condition to be discharged in the early morning hours of March 10, 2017 is without merit, as she was in stable condition because a stroke was ruled out and she was appropriately referred for an ophthalmologic evaluation at the eye clinic. Dr. Meyer opined plaintiffs' allegations that Dr. Baer and PA Bromfield failed to perform a complete ophthalmologic examination and failed to administer steroid medication are

unsupported by the evidence. He opined Dr. Baer appropriately performed a fundoscopic examination and an ocular ultrasound, which were unremarkable. Dr. Meyer further opined administration of steroid medication for treatment of an ocular condition is a specialist's recommendation and not within the scope of emergency medicine. Dr. Meyer further opined there were no deviations regarding the management of plaintiff Michelle Callen's hydration, as there were no objective findings that she was dehydrated during her initial emergency department presentation and no evidence of tachycardia. He further opined there is no merit to the allegation that Dr. Baer and PA Bromfield failed to monitor and normalize plaintiff Michelle Callen's abnormal blood pressure, as blood pressure management was not indicated based upon her unremarkable neurological exam and other normal vital signs. Dr. Meyer further opined plaintiffs' claims that Dr. Baer and PA Bromfield failed to supervise the staff and failed to obtain informed consent are without merit, as the emergency team performed a proper and expeditious workup and none of their treatment was invasive or disrupted the integrity of plaintiff Michelle Callen's body.

Dr. Meyer also opined plaintiffs' claims against Dr. Carleo and Dr. Wright are meritless, as they quickly ordered blood work and blood testing and began transfusions, and there is no support for the allegation they did not view the situation as an emergency. He opined Dr. Carleo and Dr. Wright performed the plan from the ophthalmological clinic within the standard of care. Dr. Meyer opined plaintiffs' claims that Dr. Carleo and Dr. Wright failed to monitor and improperly documented plaintiff Michelle Callen's rectal bleeding episodes are without merit, as Dr. Carleo ordered blood transfusions and her blood values were rechecked, resulting in the decision to admit her to the hospital. He further opined even if plaintiff Michelle Callen had been immediately admitted to the hospital, her course and prognosis would not have been different. Dr. Meyer further opined a GI workup or consult was not indicated, and the ophthalmologic consult did not order steroids. Dr. Meyer further opined a neuro-ophthalmologic consult was not required, as plaintiff Michelle Callen received a complete ophthalmology examination in the eye clinic, and was being treated in the emergency department in accordance with the ophthalmology recommendations. He further opined that Dr. Carleo and Dr. Wright are not vicariously liable for any other care and treatment rendered to plaintiff Michelle Callen at SBUH. Based upon the above, Dr. Meyer opined none of the moving defendants departed from the applicable standard of care, and none of their actions or inactions proximately caused plaintiff Michelle Callen's injuries.

Defendants also presented the affirmation of Dr. Warren in support of their motion. Dr. Warren affirmed to be a physician licensed to practice medicine in New York who is board certified by the American Board of Ophthalmology. He affirmed to be fully familiar with the pathogenesis and clinical features of ischemic optic neuropathies. Dr. Warren relied upon his education, training and experience, as well as a review of the pleadings, parties' deposition testimony and medical records in rendering opinions. Dr. Warren opined within a reasonable degree of medical certainty that plaintiff Michelle Callen's injuries, including bilateral vision loss, were not caused by any alleged departures by defendants. He opined plaintiff Michelle Callen's

ischemic optic neuropathy initially developed from a hemorrhage that began prior to her presentment at SBUH emergency department on the evening of March 9th. Dr. Warren further opined there was nothing that could be done by defendants during either emergency department presentation that would have restored plaintiff Michelle Callen's vision loss up to that point. He opined defendants provided adequate and appropriate treatment while in the emergency department, as there is no evidence she sustained additional vision loss. Dr. Warren opined within a reasonable degree of medical certainty that no act or omission by moving defendants caused the advancement of plaintiff Michelle Callen's bilateral optic neuropathy or other claimed injuries. Based upon the above, defendants argue summary judgment is warranted.

Plaintiffs oppose defendants' motion, arguing there are issues of fact in dispute that demonstrate defendants' common departures from accepted medical practice by failing to treat plaintiff Michelle Callen's sudden loss of vision as an ophthalmologic emergency. They rely on the exhibits attached to defendants' motion and submit expert affirmations in support of their opposition. Plaintiffs argue defendants failed to appropriately treat plaintiff Michelle Callen within the standard of care, and their departures led to hypoxia, metabolic stress, and eventually cell death and optic nerve damage.

Plaintiffs' expert affirmed to be a licensed physician in New York, who is board certified in Ophthalmology. The expert reviewed plaintiff Michelle Callen's medical records and defendants' summary motion with expert affirmation in rendering opinions in this case. Plaintiffs' expert noted plaintiff Michelle Callen woke on March 9, 2017 at 9:30pm with a visual change in her left eye, a new and first time occurrence for the 54 year old woman. The expert noted she presented to the SBUH emergency room at 10:42pm, and was treated by various emergency room staff. Plaintiffs' expert noted a discussion took place at 4am on March 10, 2017 between the on-call ophthalmology resident Dr. Marie Panganiban, emergency department staff Dr. Baer and PA Bromfield and co-defendant Dr. El-Baba. The expert noted co-defendant Dr. Haque was the on-call weekend ophthalmologist during plaintiff Michelle Callen's admission to SBUH. Plaintiffs' expert further noted defendant Dr. Baer and PA Bromfield worked the midnight shift in the emergency room.

Plaintiffs' expert noted Dr. Baer testified he was never informed of any bleeding complaints or possible issues related to loss by plaintiff Michelle Callen or Dr. Farooqi, but admitted he did not read or review any notes from the prior shift. The expert further noted both Dr. Baer and PA Bromfield contend the emergency room was not equipped to conduct the ophthalmologic evaluation recommended by neurology. Plaintiffs' expert further noted Dr. Baer and PA Bromfield claim plaintiff Michelle Callen was given the option to be seen by the ophthalmology resident, Dr. Panganiban, in the emergency department for a limited examination, and then receive a complete exam in the eye clinic, or forego the limited exam and go to the eye clinic four hours later, and plaintiff opted to wait and go to the eye clinic at 8:30am. The expert

notes plaintiff Michelle Callen refutes the account and testified she only received the option to wait in the hospital before going to the clinic at 8:30am or waiting at home and then going to the clinic, and she opted to go home.

Plaintiffs' expert ophthalmologist opined Dr. Baer and PA Bromfield departed from accepted medical standards by failing to timely exchange crucial information regarding plaintiff Michelle Callen's medical condition, and their delays in obtaining proper treatment proximately caused, permitted and allowed plaintiff's visual defects to worsen, as well as a loss of significant opportunity for restoration of her initial left eye deficiency and substantial factor in causing damage to her right eye. The expert opined neither Dr. Baer or PA Bromfield conveyed the full scope of plaintiff Michelle Callen's complaints or symptoms when speaking with ophthalmologist Dr. Panganiban, who in turn failed to inform Dr. El-Baba of plaintiff's complaint of blood in stool. The expert opined plaintiff Michelle Callen's presenting complaints during Dr. Baer and PA Bromfield's shift, specifically the correlation of acute visual defect and new onset of rectal bleeding, would have rendered ischemic optic neuropathy as a primary consideration within the differential diagnosis. The expert further opined proper blood pressure management and hemodynamic and vascular support would have been indicated and employed by emergency department staff until such time as a full clinic evaluation was undertaken.

Plaintiffs' expert agreed with Dr. Warren's opinion that there was a relationship between plaintiff Michelle Callen's left eye vision defect and the blood loss anemia, but disagreed she was beyond salvage or restoration at the time of onset. The expert instead opined defendants' departures substantially deprived plaintiff Michelle Callen of the chance to arrest the loss of vision in her left eye and salvage the vision in her right eye, noting plaintiff had no complaints about her right eye during her initial presentment to SBUH and at the eye clinic. Plaintiffs' expert opined Dr. Warren's opinion is unreliable because plaintiff Michelle Callen did not have any ophthalmologic testing while in the emergency department and up until her presentment to the eye clinic.

Plaintiffs also presented the affirmation of a physician licensed to practice medicine in New York who is board certified in Internal Medicine. The expert reviewed plaintiff Michelle Callen's medical records, the pleadings, and the parties' deposition testimony in rendering opinions, as well as professional education, training and experience. He noted Dr. Baer and PA Bromfield stated the emergency department was not equipped to conduct the ophthalmologic evaluation recommended by neurology. The expert opined that at no time were resuscitation efforts undertaken to address plaintiff Michelle Callen's severe anemia or hypotension, nor was she restricted to laying down to promote better perfusion to the brain and optic nerves. Plaintiffs' expert opined Dr. Baer and PA Bromfield made representations to ophthalmologists that plaintiff Michelle Callen was hemodynamically stable, only complained of left eye vision loss, and failed to mention her bleeding issues or complaints. The expert notes Dr. Baer and PA Bromfield claim

plaintiff Michelle Callen was given the option to be seen by ophthalmologist Dr. Panganiban in the emergency department for a limited examination and then a complete exam in the eye clinic, or forego the limited exam and go to the eye clinic at 8:30am for a complete examination, and she chose to go home and later go to the eye clinic. The expert noted upon plaintiff Michelle Callen's transfer from the eye clinic to the emergency department, she received a blood transfusion under the care of Dr. Carleo and another blood transfusion under the care of Dr. Wright.

Plaintiffs' expert opined it is inexcusable for Dr. Baer and PA Bromfield to knowingly not review any medical records and rely solely upon the outgoing physician's verbal report at the time of transfer. The expert opined plaintiff Michelle Callen was gravely injured because Dr. Baer and PA Bromfield failed to confirm a full and accurate history, and Dr. Baer departed from the standard of care in failing to follow up with a personal assessment of plaintiff Michelle Callen at her bedside, elicit a full medical history and thoroughly review her medical records. Plaintiffs' expert opined Dr. Baer and PA Bromfield departed from the standard of care by failing to call for a GI consultation, and this failure was a substantial factor in delaying the recognition and correction of the rectal bleeding that was directly informing the blood loss anemia/hypotension.

Plaintiffs' expert opined it was inexcusable for Dr. Baer and PA Bromfield to downgrade plaintiff Michelle Callen's medical condition to a transient ischemic attack without the benefit of resulted lab work and without complete consultations. The expert opined when an acute neurological deficit occurs in the context of blood loss, basic emergency medical training mandates considering acute blood loss as a potential cause of the deficit.

Plaintiffs' expert opined it was inconceivable for Dr. Carleo as emergency medicine physician to consider discharging plaintiff Michelle Callen, and the proper course of action required advocating for admission, an immediate blood transfusion, and consultation with GI or surgical specialists to determine the source of bleeding. The expert opined neither Dr. Carleo nor Dr. Wright followed the recommendations of the eye clinic ophthalmologists to salvage plaintiff Michelle Callen's vision. The expert further opined Dr. Carleo and Dr. Wright departed from the standard of care in failing to properly treat plaintiff Michelle Callen, and their departures were the proximate cause of her injuries and ultimate blindness. Based upon the above, plaintiffs argue summary judgment is not warranted.

Pursuant to CPLR §3212, a motion for summary judgment "shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party." (*Smith v. City of New York*, 210 A.D.3d 53, 68 [2d Dept. 2022].) The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact. (*Morejon v. New York City Tr. Auth.*, 216 A.D.3d 134, 136 [2d Dept. 2023].) If there is any doubt as to the existence

of a triable issue of fact, the motion must be denied. (*Id.*) The failure to make such a prima facie showing requires a denial of the motion, regardless of the sufficiency of the opposition papers. (*Winegrad v. N.Y. Univ. Med. Ctr.*, 64 N.Y.2d 851, 853 [1985]; *see also Antonyuk v. Brightwater Towers Condo Homeowners' Assn., Inc.*, 147 A.D.3d 711, 712 [2d Dept. 2017].) In determining a motion for summary judgment, evidence must be viewed in the light most favorable to the nonmoving party, and all reasonable inferences must be resolved in favor of the nonmoving party. (*Matter of New York City Asbestos Litig.*, 33 N.Y.3d 20, 25 [2019].) Additionally, the court's function in determining a motion for summary judgment is not to resolve issues of fact or determine matters of credibility, but merely to determine whether such issues exist. (*Reyes v. S. Nicolina & Sons Realty Corp.*, 212 A.D.3d 851, 852-853 [2d Dept. 2023].) Once the moving party has demonstrated a prima facie entitlement to summary judgment, the burden then shifts to the non-moving party to demonstrate the existence of material issues of fact. (*See generally Coscia v. Mosca*, 203 A.D.3d 695 [2d Dept. 2022].)

In moving for summary judgment in a medical malpractice action, the defendant must establish a prima facie case that there was no departure from good and accepted medical practice or that the plaintiff was not injured thereby, and the plaintiff in opposition must submit evidentiary facts or materials to demonstrate the existence of a triable issue of fact. (*Stukas v. Streiter*, 83 A.D.3d 18, 24 [2d Dept. 2011].) In presenting opposition to raise a triable issue of fact, the plaintiff is required to provide an affidavit of merit by a medical expert, and the failure to submit an affidavit by a medical expert competent to attest to the meritorious nature of the plaintiff's claims requires dismissal of the Complaint. (*Id.* at 28.) Summary judgment is not appropriate in a medical malpractice action where the parties adduce conflicting medical expert opinions. (*Buch v. Tenner*, 204 A.D.3d 635, 638 [2d Dept. 2022].)

Defendants established a prima facie entitlement to summary judgment through the production of the documentary evidence and affirmations of Dr. Meyer and Dr. Warren that they rendered care and treatment within the standard of care and did not proximately cause plaintiff Michelle Callen's injuries. (*See Ortiz v. Wyckoff Hgts. Med. Ctr.*, 149 A.D.3d 1093 [2d Dept. 2017].) Defendants demonstrated through Dr. Meyer and Dr. Warren's affirmations that Dr. Baer and PA Bromfield rendered appropriate care and treatment for plaintiff Michelle Callen during her initial presentment to the emergency department by obtaining a sufficiently complete history and formulating a plan that properly sought to hemodynamically support her. Defendants further neither a GI workup or consult was indicated in the emergency department, as it was already known she had irritable bowel syndrome. Dr. Meyer demonstrated defendants did not depart from the standard of care, as it was necessary to first rule out a stroke based upon plaintiff Michelle Callen's complaints. Dr. Meyer further demonstrated the emergency department properly pursued a course of treatment to rule out a stroke, a central cause of vision loss. Defendants demonstrated plaintiff Michelle Callen was given a choice and opted to go home and return to the eye clinic in the morning for a full ophthalmological workup. Defendants further demonstrated through the

documentary evidence and the expert affirmations that Dr. Carleo and Dr. Wright provide appropriate care in implementing a care plan in consultation with the ophthalmology team upon her return to the emergency department from the eye clinic. They also demonstrated through Dr. Meyer and Dr. Warren's affirmations that they appropriately addressed plaintiff Michelle Callen's blood levels by providing transfusions and admitting her to the hospital, and none of defendants' actions or inactions proximately caused plaintiffs' injuries, including blindness. Defendants further demonstrated plaintiffs' claim of lack of informed consent and negligent supervision should be dismissed as unsupported by the evidence.

Plaintiffs failed to raise triable issues of fact with regard to Dr. Carleo and Dr. Wright, as their experts failed to sufficiently articulate departures from the standard of care that proximately caused plaintiffs' injuries. Plaintiffs' experts' opinions were conclusory and vague with regard to Dr. Carleo and Dr. Wright, as they failed to address the medical records that showed they followed the consultation recommendations, ordered blood transfusions for plaintiff Michelle Callen, and appropriately admitted her to the hospital. They also failed to demonstrate how any alleged departures by Dr. Carleo and Dr. Wright proximately caused plaintiff Michelle Callen's subsequent vision loss. As their opinions were conclusory and unsupported by the evidence, summary judgment is appropriate as to Dr. Carleo and Dr. Wright. Plaintiffs also failed to raise any triable issues of fact with regard to their claims of lack of informed consent and negligent supervision.

However, plaintiffs raised a triable issue of material fact with regard to whether Dr. Baer and PA Bromfield departed from the standard of care in failing to recognize and address plaintiff Michelle Callen's rectal bleeding and failing to order a prompt gastrointestinal consult while in the emergency department during her initial presentment, and whether these departures proximately caused plaintiff's injuries. Plaintiffs' experts demonstrated issues of fact as to whether Dr. Baer and PA Bromfield's departures proximately caused plaintiff Michelle Callen's injuries, as the experts opined the delays in examining and treating plaintiffs' blood loss and rectal condition, including ordering a GI consult, proximately caused plaintiff's injuries, including the loss of chance for restoration of left eye vision and plaintiff Michelle Callen's vision loss in both eyes. As plaintiffs' experts sufficiently rebutted defendant expert Dr. Meyer's opinions, there are issues of fact in dispute that warrant a jury determination. (*See Mehtvin v. Ravi*, 180 A.D.3d 661, 664 [2d Dept. 2020][holding that summary judgment is not appropriate in a medical malpractice action where the parties adduce conflicting medical expert opinions, as issues of credibility are properly left to a jury for its resolution].)

Accordingly, defendants Asher Baer, M.D., Christopher Carleo, M.D., Brian Wright, M.D., and Ebony Bromfield, P.A.'s motion for summary judgment and dismissal of plaintiffs' Complaint pursuant to CPLR §3212 is granted as to Dr. Carleo and Dr. Wright and plaintiffs' claim for lack of informed consent and negligent supervision, but denied as to plaintiffs' claim for

medical malpractice against Dr. Baer and PA Bromfield, and it is

ORDERED that plaintiffs' Complaint is dismissed as to Christopher Carleo, M.D. and Brian Wright, M.D., and it is further

ORDERED that plaintiffs' causes of action for lack of informed consent and negligent supervision are dismissed, and it is further

ORDERED that the parties shall appear on Wednesday, March 5, 2025 at 9:30am in Courtroom 48 for a pretrial conference.

Dated: February 14, 2025

Tracy Catapano-Fox

Hon. Tracy Catapano-Fox, J.S.C.

