

**SHORT FORM ORDER**

**SUPREME COURT - STATE OF NEW YORK  
COUNTY OF NASSAU**

Present:

**Hon. Thomas Feinman**  
Justice

\_\_\_\_\_  
DAHLIA KOROPSHINSKY,

Plaintiff,

- against -

PAYMAN SIMONI, M.D., KEVIN TEHRANI, M.D.  
and ARISTOCRAT PLASTIC SURGERY,

Defendants.  
\_\_\_\_\_

TRIAL/IAS PART 15  
NASSAU COUNTY

INDEX NO. 12835/08

MOTION SUBMISSION  
DATE: 5/20/10

MOTION SEQUENCE  
NO. 1

The following papers read on this motion:

- Notice of Motion and Affidavits.....   X
- Affirmation in Opposition.....   X
- Reply Affirmation.....   X

The defendants, Kevin Tehrani, M.D. and Aristocrat Plastic Surgery, move for an order pursuant to CPLR §3212 granting defendants summary judgment and severing the moving defendants from the caption. The plaintiff submits opposition. The defendants submit a reply affirmation.

The plaintiff initiated this medical malpractice action to recover for injuries sustained on November 2, 2006. The plaintiff claims that the moving defendants were negligent in performing a facial TCA (Trichloroacetic Acid) peel on November 2, 2006 causing permanent facial scarring.

The defendants have demonstrated upon the submission of the deposition transcripts, portions of the medical records and the defendants' expert affidavit that the moving defendants, in their care and treatment of the plaintiff, comported with the standards of plastic surgical practice, did not deviate from good and accepted medical practice, and did not contribute to the injuries sustained by plaintiff in connection with this matter.

The plaintiff, in opposition, failed to raise a triable issue of fact to warrant denial of the defendants' summary judgment motion. The plaintiff failed to submit a physician's affidavit of merit attesting to a departure from accepted practice, and that such departure was a competent producing cause of the injury. (*Thompson v. Orner*, 36 AD3d 791). In the absence of merit by a physician, the moving defendants' motion for summary judgment must be granted. (*Martinelli v. Hessekiel*, 132 AD2d 691). In any event, plaintiff has not demonstrated that the moving defendants are vicariously liable for defendant, Payman Simoni, M.D.'s, alleged negligence.

In light of the foregoing, the moving defendants' motion is granted and therefore, it is hereby

ORDERED that the plaintiff's complaint, and any and all cross-claims, as and against the defendants, Kevin Tehrani, M.D. and Aristocrat Plastic Surgery, is hereby dismissed, and it is hereby further

ORDERED that the caption in the above matter shall read as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

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DAHLIA KOROPSHINSKY,

Plaintiff,

INDEX NO. 12835/08

- against -

PAYMAN SIMONI, M.D.

Defendant.

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ENTER



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J.S.C.

Dated: July 12, 2010

cc: Gold, Stewart, Kravatz & Benes, LLP  
Vardaro & Helwig  
Law Offices of Santangelo, Benevenuto & Slattery

**ENTERED**

**JUL 14 2010**

**NASSAU COUNTY  
COUNTY CLERK'S OFFICE**