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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 4
Gretchen Rivera, & c., et al.,
Appellants,
v.
Paul G. Kleinman, M.D., et al.,
Respondents.

Tania M. Pagan, for appellants.
Gina B. DiFolco, for respondents Wilson and Kleinman.
William D. Buckley, for respondents Bello, Curo and St.
Barnabas Hospital.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
with costs.

Infant plaintiff was born in October 1995 with cerebral
palsy and spastic quadriplegia. In March 2003, defendant doctor
operated on the infant's right and left hips, which had both

dislocated as a consequence of her maladies. These surgeries, performed two weeks apart, entailed cutting and repositioning the bones that join at the hip and fixing them with a plate (with side screws) and a hip screw. This hardware was to be removed later, after the bones healed. In August 2005, plaintiff mother, on the infant's behalf and individually, sued the doctor and defendant hospital for medical malpractice with respect to the March 2003 surgeries. She ultimately focused on a claim that the doctor had improperly positioned the screw implanted in the infant's left hip, causing pain and suffering. This screw eventually broke through the infant's skin and was taken out during emergency surgery in December 2006. Supreme Court granted the doctor's motion and the hospital's cross motion seeking summary judgment to dismiss the complaint. The Appellate Division affirmed (67 AD3d 482 [2nd Dept 2009]), and so do we. In response to defendants' prima facie showing of entitlement to summary judgment, plaintiffs' expert did not raise an issue of fact as to any departure from good and accepted practice in the doctor's treatment of the infant (including the two surgeries); and did not demonstrate any causal connection between the doctor's alleged departures from good and accepted practice in placing the hip screw in the infant's left hip and the injuries claimed to have been suffered on account of the hardware's delayed removal.

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Order affirmed, with costs, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided February 15, 2011