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

No. 214 SSM 40
Ana Velazquez,
Appellant,
v.
St. Barnabas Hospital,
Respondent.

Submitted by Abdul K. Hassan, for appellant.
Submitted by William D. Buckley, for respondent.

MEMORANDUM:

The order of the Appellate Division should be modified, without costs, by denying defendant's motion to enforce the settlement agreement and remitting the case to Supreme Court for further proceedings and, as so modified, affirmed.

The parties do not dispute that they agreed to settle the action for a specific amount; however, details regarding

conditions of the settlement, including a disputed confidentiality agreement, were never recorded or memorialized. No agreement was made in open court or filed with the county clerk. Accordingly, it is not binding upon the parties (see CPLR 2104; Matter of Dolgin Eldert Corp., 31 NY2d 1, 9-11 [1972]; Andre-Long v Verizon Corp., 31 AD3d 353, 354 [2d Dept 2006]).

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On review of submissions pursuant to section 500.11 of the Rules, order modified, without costs, by denying defendant's motion to enforce the settlement agreement and remitting the case to Supreme Court, Bronx County, for further proceedings and, as so modified, affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided December 17, 2009