

**SUPREME COURT - STATE OF NEW YORK  
IAS PART WESTCHESTER COUNTY**

**FILED AND ENTERED  
ON 2-6-2009  
WESTCHESTER  
COUNTY CLERK**

To commence the statutory time period of appeals as of right (CPLR 5513[a]), you are advised to serve a copy of this order, with notice of entry, upon all parties.

**PRESENT: HON. JOAN B. LEFKOWITZ**

**Justice**

Index No.: 4159/90

Motion Date: 1/30/09

-----X  
PAUL SCHAFFER, as the Court Appointed Testator  
of the Estate of Edith Schaffer, Individually,

Plaintiff,

- against -

STONY LODGE HOSPITAL, EMILE PINCUS, M.D.,  
PHELPS MEMORIAL HOSPITAL, DR. NARAIN  
BATHEJA and DR. JOSEPH CARBONE,

Defendants.  
-----X

The following papers numbered 1 to 13 read on this motion by defendant Batheja to set aside verdict.

	<u>Papers Numbered</u>
Notice of Motion/Order to Show Cause-Affidavits_____	<u>1-2</u>
Answering Affidavits_____	<u>3</u>
Replying Affidavits_____	<u>4</u>
Affidavits_____	
Filed Papers_____	
Pleadings-Exhibits-Stipulations-Minutes_____	<u>5-13</u>
Briefs: Plaintiffs/Petitioner's___Def. Resp._____	

Upon the foregoing papers it is ORDERED that the motion is denied as the issue of negligence was for the jury to determine and the damages awarded were not excessive.

DATED: February 2, 2009  
White Plains, NY

ENTERED: \_\_\_\_\_

*Joan B. Lefkowitz*  
**JOAN B. LEFKOWITZ, J.S.C.**

To:

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