

Soumayah v Minelli

2008 NY Slip Op 31860(U)

June 30, 2008

Supreme Court, New York County

Docket Number: 0113894/2004

Judge: Barbara Kapnick

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SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: HON. BARBARA R. KAPNICK

PART 12

Index Number : 113894/2004

SOUMAYAH, M'HAMMED

VS.

MINNELLI, LIZA

SEQUENCE NUMBER : 004

ORDER OF PROTECTION

INDEX NO.

113894/04

MOTION DATE

MOTION SEQ. NO.

MOTION CAL. NO.

this motion to/for

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits

Replying Affidavits

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

FILED

JUN 31 2008

COUNTY CLERK'S OFFICE
NEW YORK

**MOTION IS DECIDED IN ACCORDANCE WITH
ACCOMPANYING MEMORANDUM DECISION**

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

Dated: 6/30/08

BARBARA R. KAPNICK

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST

REFERENCE

J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : IA PART 12

-----X
M'HAMMED SOUMAYAH,

Plaintiff,

DECISION/ORDER
Index No. 113894/04
Motion Seq. No. 004

- against -

LIZA MINELLI and LMM PRODUCTIONS, INC.,
Defendants.

-----X
BARBARA R. KAPNICK, J.:

FILED

JUL 01 2008

**COUNTY CLERKS OFFICE
NEW YORK**

Defendant Liza Minelli moves for an order pursuant to CPLR § 3103 granting a protective order in her favor (i) denying and vacating plaintiff's "Demand for Medical Reports and Authorizations" dated February 6, 2008; and (ii) denying plaintiff's request for a videotaped deposition of her.

That portion of the motion relating to the February 6, 2008 Demand for medical records is withdrawn without prejudice in accordance with the Order of this Court dated June 4, 2008.

As to that portion of the motion relating to videotaping of the deposition of Ms. Minelli, defendant seeks this protective order to safeguard Ms. Minelli against unwanted publicity and harassment by plaintiff. While plaintiff claims that the videotaped deposition will be subject to the Confidentiality Agreement executed by the parties in this action, defendant argues that she is a lifelong resident of New York and will certainly make herself available for the trial of this action.

"CPLR § 3113(b) and 22 NYCRR 202.12 and 202.15 freely permit a party taking a deposition to record it on videotape. There is no requirement to show special need..." *Jones v Maples*, 257 AD2d 53, 55-56 (1st Dep't 1999).

"However, CPLR 3103(a)¹ gives the courts wide discretion to preclude or appropriately limit the use of any particular disclosure device where it determines that the use of that device would cause unreasonable annoyance or embarrassment. (underlining supplied)." *Id* at 56.

Before precluding the use of a particular discovery device, "even where the potential for abuse of discovery is present, the court should consider whether that device is of particular value under the circumstances." *Jones v Maples, supra* at 56.


After reading all the papers submitted and hearing oral argument on the record on June 25, 2008, this Court determines that the videotaping of defendant's deposition is not of particular value under the circumstances presented herein and is not necessary for the prosecution of this action, and may, rather, result in "unreasonable annoyance" and "embarrassment" to the defendant.

¹ CPLR § 3103(a) provides that "[t]he court may at any time on its own initiative, or on motion of any party or of any person from whom discovery is sought, make a protective order denying, limiting, conditioning or regulating the use of any disclosure device. Such order shall be designed to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts."

Accordingly, that portion of the motion seeking a protective order denying plaintiff's request to videotape the deposition of defendant Minelli is granted.

This constitutes the decision and order of this Court.

Dated: June 30, 2008



BARBARA R. KAPNICK
J.S.C.
BARBARA R. KAPNICK
J.S.C.

FILED
JUN 30 2008
COUNTY CLERK'S OFFICE
NEW YORK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MUHAMMAD SOUMAYAH
v.

LIZA MINNELLI & LMM PROD.
INC.

INDIVIDUAL ASSIGNMENT PART 12

~~STIPULATION~~ ORDER

INDEX NO. 113894/1001

MOTION CALENDAR NO.

DATE 6/4/08

ORDERED

IT IS HEREBY STIPULATED AND AGREED by and between the below-named attorney(s) as follows:

MOTION FOR MEDICAL RECORDS - PLAINTIFF WITHDRAWING
MEDICAL FOR MS MINNELLI WITHDRAWN W/O PREJUDICE
MOTION FOR VIDEOTAPING Briefing schedule

OPPOSITION 6/11/08
REPLY 6/18/08
MOTION HEARD 6/25/08 3:00

DEPOSITION OF SOUMAYAH to be HELD July 11, 2008
DEPOSITION OF MINNELLI to be HELD within ^{at Greenberg Traurig} _{at 10AM}
sixty (60) days of the date of this order ~~at 10AM~~
to be scheduled on 6/25/08.

Date: 6/4/08

Attorney for Plaintiff

Attorney for Defendant

So Ordered.

Attorney for Defendant

ENTER 

BARBARA R. KAPNICK
J.S.C.