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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER - COMPLIANCE PART

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MILISSA J. MARTIN,

Plaintiff,

-against-

PETER F. HARRINGTON and DANIELLE K. HARRINGTON,

Defendants.

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LEFKOWITZ, J.

DECISION & ORDER

Index No. 25834/09
Motion Date: Sept. 29, 2014

Seq. Nos. 4 & 6

The following papers numbered 1-61 were read on (1) motion by plaintiff for an order compelling defendants to appear and testify at court-ordered depositions, or, alternatively, striking defendants' answer; and (2) motion by defendants for an order, pursuant to CPLR 3103 (a), granting defendants a protective order from appearing for depositions, or, alternatively precluding plaintiff from attending defendants' depositions.

Order to Show Cause - Affirmation in Support of Nick Fiore, Esq. - Affidavit in Support of Plaintiff - Exhibit	1-4
Order to Show Cause - Affidavits in Support of Defendants - Exhibits A- X	5-28
Affidavit in Opposition and in Support of Cross Motion of Peter F. Harrington - Exhibits A-X	29-53
Affirmation in Opposition of Nick Fiore, Esq.-Affidavit in Opposition of Plaintiff-Exhibit A	54-56
Affidavits of Service	57-59
Complaint and Answer filed as Exhibits	60-61

Upon the foregoing papers and upon the proceedings held on September 8, 2014 and September 29, 2014, the motion is determined as follows:

Factual and Procedural Background

In this action, plaintiff alleges that defendants "installed and built" an asphalt driveway between December 17, 2004 and December 31, 2006, which encroached upon her property and have continued to knowingly encroach upon plaintiff's property. Plaintiff also alleges that

defendants installed an underground "electric fence" which also encroaches upon plaintiff's property. Plaintiff seeks to have the encroachments removed, as well as money damages, punitive damages and attorneys' fees.

Defendants allege in their answer, inter alia, that they resurfaced their existing gravel driveway with asphalt without altering the width or length of the driveway, and subsequently installed a perimeter electric fence. Defendants also allege therein that plaintiff demanded that defendants remove the encroaching portion of the driveway, and that defendants had not yet removed the portion of the driveway which plaintiff alleged encroached upon her property as plaintiff had not provided any documents to support her claim. Defendants denied the remaining allegations. Defendants also asserted various affirmative defenses, including the defense that no alleged act or omission was willful, malicious or reckless such that punitive damages are barred.

Plaintiff does not refute defendants' contention that in 2010, after plaintiff commenced the present action, defendants removed a portion of their driveway. Defendants' contend that plaintiff's counsel proposed by letter that if defendants retained the surveyor used by plaintiff to mark the property line/area of encroachment and promptly removed the encroaching area of the driveway, plaintiff would discontinue the action.[1] Defendants further contend that, at plaintiff's request, they retained plaintiff's surveyor to mark the property boundary and removed more of the driveway than that which plaintiff's surveyor found encroached upon plaintiff's property, in order to avoid future disputes with plaintiff. Defendants also contend that plaintiff approved the work before it began, watched while it was performed and approved the work after it was completed. Plaintiff, however, failed to discontinue the present action.

Defendants further contend that in June, 2013, plaintiff advised defendants she had retained a new surveyor, who had driven a survey nail into the driveway, and defendants' driveway still encroached on her property. Defendants also contend that they agreed to remove any portion that was still encroaching on plaintiff's property if the area was not too large and plaintiff marked it. According to defendants the area of alleged encroachment was now no larger than a slice of pizza. Defendant Peter Harrington, however, asserts that plaintiff would not speak to him in a rational way regarding the removal of the alleged area of encroachment, told him she had fired her attorney, and defendants decided they would need court intervention. Plaintiff disagrees with defendants' characterization of her conduct.

On June 26, 2013, defendants filed a 90-day notice demanding plaintiff resume prosecution of the action and file a note of issue within 90 days. Plaintiff's counsel of record then moved to be relieved as counsel. On July 25, 2013, a Consent to Change Attorney was filed with the court and plaintiff's current counsel was substituted in as counsel for plaintiff. Plaintiff's new counsel requested defendants' withdraw the 90-day notice and proceed with discovery. Plaintiff's counsel then requested a preliminary conference.

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[1] Annexed as Exhibit F to defendants' opposition/motion papers is a letter dated April 13, 2010 from John A. Risi, Esq., plaintiff's counsel at the time, which contains the proposal.

On November 21, 2013, a preliminary conference was held and counsel for plaintiff and defendant Peter Harrington appeared. The parties then executed a Preliminary Conference Stipulation, which directed the depositions of all parties be completed on or before May 15, 2014. Thereafter, this court "so ordered" the Preliminary Conference Stipulation. Defendant Peter Harrington, however, contends that he did not consent to depositions and advised plaintiff's counsel that defendants had already removed the alleged encroachment and the case had been settled. Thereafter, plaintiff then served interrogatories and a document demand.

Defendants then moved to dismiss the action based upon plaintiff's failure to comply with the 90-day notice, and plaintiff's cross-moved for sanctions. By Decision and Order dated March 31, 2014, the court (Wood, J.) denied both the motion and cross motion. The court determined that plaintiff's counsel had presented a justifiable excuse for the delay in prosecuting the action based upon the fact he was the new incoming attorney and that the law office failure was not willful or deliberate.

On May 20, 2014, a compliance conference was held and attended by plaintiff's counsel and defendant Peter Harrington. Defendant Peter Harrington contends that, at the conference, he advised the Court Attorney-Referee that depositions would serve no purpose except to harass defendants since the case had been settled and they had offered to conclusively settle the case. Plaintiff's counsel contends that Peter Harrington advised the court that neither defendant would appear for a deposition. By Compliance Conference Referee Report & Order of the same date, this court directed defendants to respond to plaintiff's discovery and inspection demands and interrogatories on or before June 14, 2014. The order further stated that depositions would be scheduled at the next compliance conference.

By letter dated May 21, 2014, defendants proposed another settlement. Therein, defendants proposed to retain the original surveyor of both the parties' properties at their sole cost and that if the surveyor determined that the driveway was still encroaching, defendants would remove it and plaintiff would discontinue the action, and if the surveyor determined that the driveway did not encroach, plaintiff would discontinue the action. Plaintiff did not immediately respond to the settlement offer.

Thereafter, defendants served plaintiff with responses to the document demand. Defendants, however, did not provide copies of their mortgage, title insurance policy or certain other documents on the ground that the material sought was irrelevant. Plaintiff contends that defendants failed to provide any evidence of a survey defendants may have done regarding the boundary line between the parties' property.

On June 17, 2014, at the next compliance conference, plaintiff's counsel rejected defendants' latest settlement proposal. Plaintiff's counsel advised the Court Attorney-Referee that plaintiff believed the defendants should retain their own surveyor, but she wanted to reserve her right to challenge the surveyor's findings. Defendant Peter Harrington advised the court that

plaintiff's sole motive in seeking depositions was to harass defendants, and asked for a briefing schedule for a motion seeking a protective order. Briefing schedules were then issued to both plaintiff and defendants.

Plaintiff's Motion and the Parties' Contentions

Plaintiff now moves for an order compelling defendants to appear and testify at depositions. Plaintiff's counsel contends that since defendant Peter Harrington has stated that defendants had the boundary line marked and defendants have not produced any evidence of a survey, depositions are necessary to memorialize the sworn testimony as to what, if anything, defendants did to ascertain the boundary line, and to answer questions probative of the issues of liability and damages. Plaintiff further contends that depositions are necessary to determine what, if any, efforts were taken to determine the boundary line between the parties' properties, and to provide disclosure as to the invisible fence. Plaintiff argues that striking defendants' answer is an appropriate remedy for defendants' willful refusal to appear for depositions and to respond to plaintiff's interrogatories, as well as defendants' failure to provide information as to the survey Peter Harrington asserted was done and with respect to the invisible fence.

Defendants oppose the motion. Peter Harrington filed a sworn affidavit in response to plaintiff's motion. Therein he avers the following: The parties are neighbors in a clustered home development and defendants' driveway has bordered plaintiff's property since the homes were built in the early 1980's. Defendants resurfaced the existing driveway in July, 2001, and plaintiff never alleged the driveway encroached upon her property until 2008, when she initiated a border dispute with another neighbor and obtained a survey from John J. Muldoon. The Muldoon survey alleges a triangular encroachment approximately 10 feet long by 1 to 2 feet wide. Plaintiff advised defendants that their driveway was on her property, but refused to provide a copy of the survey and told defendants to get their own survey. Mr. Harrington avers that they had no reason to believe their driveway encroached on plaintiff's property since they had simply resurfaced the existing driveway constructed by the developer.

In opposition to plaintiff's motion, Mr. Harrington further avers that after plaintiff commenced the present action, her first attorney provided a copy of the Muldoon survey and defendants agreed to remove the contested portion of the driveway plus an additional portion of the driveway to eliminate future claims by plaintiff. Mr. Harrington further avers as follows: Defendants asked plaintiff to mark the driveway to ensure the removal would satisfy her, but plaintiff refused. Thereafter, plaintiff placed a large rock in the driveway and alleged that the area of the driveway where the rock was located encroached upon her property. After Mr. Harrington removed the rock, plaintiff placed another rock in defendants' driveway and defendants called the police, who were unable to persuade plaintiff to remove the rock. Plaintiff claimed that the rock was her way of marking the encroachment. The rock remained on the driveway for six weeks until defendants removed a portion of the driveway, which defendants had marked with duct tape and included more than the contested portion of the driveway. As noted earlier and not contested by plaintiff, defendants removed a portion of their driveway using plaintiff's paving contractor and

surveyor pursuant to settlement negotiations with plaintiff's first counsel. Defendants paid approximately $5,500 for the work. Plaintiff does not dispute that she photographed the contractors as they marked the driveway for removal, photographed the driveway after removal and watched the work. Plaintiff, however, disputes that she approved the work after it was done. Despite the settlement agreement, plaintiff failed to discontinue the present action.

Mr. Harrington avers that three years later, in 2013, plaintiff confronted Mrs. Harrington and stated that another surveyor had determined that defendants' driveway still encroached upon her property and the new surveyor had driven another survey nail into the driveway. He also avers that the driveway nail was several inches from the outer edge of the driveway and on defendants' side of the property line previously marked by Muldoon. Plaintiff refused to provide defendants with a copy of the new survey and told defendant to obtain their own survey. Mr. Harrington avers that he offered to remove the additional area of the driveway that allegedly encroached if plaintiff marked the driveway, but plaintiff refused.

With respect to plaintiff's discovery demands, Mr. Harrington avers that plaintiff served 20 interrogatories and a document demand requesting copies of defendants' mortgage and other irrelevant material. After defendants' further settlement proposal was rejected, defendants contend that they provided a response to the document demand, with the exception of irrelevant documents such as their mortgage and title insurance policy.

As to the demanded depositions, defendants contend that the validity of plaintiff's case rests upon the property line and deposition testimony is irrelevant. Defendants further assert that plaintiff's claim for punitive damages is baseless in light of the steps defendants have taken to resolve the matter and remove any encroachment. Accordingly, defendants contend that a protective order should be issued denying depositions of the defendants. Alternatively, defendants seek leave to amend their answer to allege a counterclaim for promissory estoppel.

Defendants' Motion and the Parties' Contentions

Defendants move for a protective order from appearing for depositions, or, in the alternative, an order precluding plaintiff from attending defendants' depositions.[2] In support of the motion, defendants each submitted affidavits.

Danielle Harrington avers that defendants and plaintiff had been neighbors since 1998 and had a good relationship until approximately 2008, after plaintiff's dispute with another neighbor. Mrs. Harrington further avers that after she advised plaintiff to stop harassing certain neighbors, plaintiff became threatening and vindictive toward Mrs. Harrington and her children. According to

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[2] Although Peter Harrington in his affidavit in opposition to plaintiff's motion and support of defendants' motion asserts that defendants' cross motion seeks to enforce the parties' settlement, as well as for a protective order, defendants withdrew the cross motion and filed a Proposed Order to Show Cause seeking only a protective order.

Mrs. Harrington, plaintiff would scream at her without provocation, bolt out of her house when Mrs. Harrington was outside and yell, and lunge at Mrs. Harrington. Mrs. Harrington avers that she is concerned that plaintiff will physically attack her or her children. She further avers that plaintiff verbally assaulted her, growled at her and her children from the edge of her property, and dumped dog feces onto defendants' property under the basketball hoop which is located on the property line. Mrs. Harrington avers that her children stopped playing in the driveway and yard because they were afraid of plaintiff. For the last several year, defendants have attempted to ignore plaintiff, do not have eye contact with her, do not engage her in conversation, and avoid being outside when plaintiff is outside. Mrs. Harrington contends that depositions will serve no purpose other than to further harass defendants, and requests that plaintiff be prohibited from attending.

Peter Harrington submitted an affidavit in support of the motion which essentially reasserts the allegations and arguments set forth in his affidavit in opposition of plaintiff's motion. In addition, he avers that the court has broad discretion to issue a protective order to deny, limit, condition or regulate the use of any discovery device, including depositions, to prevent, inter alia, unreasonable annoyance, expense and prejudice. Mr. Harrington contends that the factual allegations of Mrs. Harrington establish the need for a protective order. Moreover, he asserts that a protective order should be granted since, as acknowledge by plaintiff's counsel, the "true boundary line" is the central issue in this action and neither defendants have any material facts with respect to the location of the boundary line. He further contends that other issues on which plaintiff seeks to depose defendants are irrelevant, including why Mr. Muldoon, plaintiff's surveyor, required defendants to pay cash and to confirm that defendants hired him. To the extent that plaintiff seeks to depose defendants with respect to whether they intentionally trespassed, Mr. Harrington contends that such depositions will not elicit any evidence to support this theory in view of the sworn affidavits of defendants and the exhibits submitted on this motion. He further notes that the alleged encroachment is now the size of a slice of pizza, defendants have made multiple settlement offers and settled the action in 2010, but plaintiff refused to honor the settlement.

Plaintiff opposes defendants' motion. Plaintiff contends that the history of the case mandates defendants' depositions insofar as defendants initially refused to acknowledge that their driveway encroached on plaintiff's property and forced plaintiff to commence the present action. Plaintiff contends that even if defendants now acknowledge the "true boundary line" between the parties' property, they should still be answerable in damages for having trespassed on plaintiff's property and for their refusal to remove the driveway, which caused plaintiff to seek relief by the commencement of the present action. Plaintiff, therefore, argues that depositions are necessary "to determine their reasons and bona fides in trespassing upon plaintiff's land ... ." Plaintiff also contends that since defendants still claim they did not encroach plaintiff's property and refuse to acknowledge that plaintiff's surveys and markings of the boundary line are correct, yet cut back their driveway, defendants have information as to liability and damages. Plaintiff asserts that defendants' depositions are necessary so they can be questioned as to their state of mind in trespassing and maintaining a continuing trespass, as well as regarding their grounds for refusing to admit the accuracy of plaintiff's surveys and markings and as to any efforts they made to ascertain the boundary line. Plaintiff contends that the defendants' failure to admit the accuracy of

plaintiff's surveys and markings is relevant to plaintiff's demand for damages. Plaintiff also contends that depositions of defendants are necessary with respect to the invisible fence which they installed and plaintiff alleges also encroaches on her property.

Plaintiff further contends that defendants' grounds for a protective order, namely plaintiff's display of "aggressive, threatening behavior" and the claim that defendants do not possess "material facts with respect to the true boundary line ...," are spurious. Accordingly, plaintiff contends that defendants have failed to meet their burden of establishing the factual showing entitling them to a protective order. Plaintiff's counsel further accuses defendants of "recent fabrication" to support their refusal to appear for depositions.

Additionally, plaintiff asserts that defendants' depositions are appropriate since plaintiff is presumptively entitled to the depositions and defendants failed to respond to plaintiff's interrogatories, which plaintiff admits she has not pursued, and defendants responses to plaintiff's document demands were inadequate.

Plaintiff contends that defendants' affidavits submitted on the present motion are self-serving and inadequate to support that branch of their motion seeking to exclude plaintiff from their depositions since plaintiff has controverted the facts alleged by defendants. Plaintiff submitted her affidavit wherein she avers that the accusations by defendants are false and asserts that their relationship broke down due to the encroachment upon her property and defendants' failure to remove the encroachment. Moreover, plaintiff asserts that even if the incidents alleged by defendants had occurred, Mrs. Harrington admitted in her affidavit that the incidents ceased some time ago, thus she should not be barred from attending defendants' depositions. Plaintiff further asserts that defendants have failed to meet their burden of proof that her conduct nullifies her right as a party to attend defendants' depositions. Plaintiff further notes that defendants have failed to support their motion with objective evidence, such as police reports, photographs or independent witnesses' affidavits. Plaintiff asserts that she has a right to appear at the depositions and is not waiving that right. As to the rock placed in defendants' driveway, plaintiff notes that the rock was in the area of the driveway which encroached her property and was eventually removed by defendants. Plaintiff further contends that defendants' depositions are necessary to clarify defendants' allegations, which she controverts, that she agreed that defendants' driveway after the "re-cut" no longer encroached her property,. She also seeks to "probe" defendants' false material statements. Plaintiff asserts that defendants' discovery responses have not disclosed witnesses to the alleged conversation, thus requiring defendants' depositions.

Plaintiff's counsel argues that plaintiff's presence at the depositions is necessary should problems develop such that motions or objections can be made at that time. Plaintiff's counsel also notes that conclusory allegations of intimidation are insufficient to preclude the attendance of a party at a deposition. Finally, plaintiff's counsel contends that defendants cannot now be relieved of their stipulation to the Preliminary Conference Order, which directed the party depositions.

Analysis

CPLR 3101(a) requires "full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof." The phrase "material and necessary" is "to be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity. The test is one of usefulness and reason" (*Allen v Crowell-Collier Publishing Co.*, 21 NY2d 403, 406 [1968]; *Foster v Herbert Slepoy Corp.*, 74 AD3d 1139 [2d Dept 2010]). Although the discovery provisions of the CPLR are to be liberally construed, "a party does not have the right to uncontrolled and unfettered disclosure" (*Foster*, 74 AD3d at 1140; *Gilman & Ciocia, Inc. v Walsh*, 45 AD3d 531 [2d Dept 2007]). The party seeking disclosure has the burden to demonstrate that the method of discovery sought will result in the disclosure of relevant evidence or is reasonably calculated to lead to the discovery of information bearing on the claims (*Foster*, 74 AD3d at 1140). The court has broad discretion to supervise discovery and to determine whether information sought is material and necessary in light of the issues in the matter (*Mironer v City of New York*, 79 AD3d 1106, 1108 [2d Dept 2010]; *Auerbach v Klein*, 30 AD3d 451, 452 [2d Dept 2006]). CPLR 3103(a), however, provides the Court may issue a protective order "denying, limiting, conditioning or regulating the use of any disclosure device" to "prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts."

To determine whether discovery at issue here, namely defendants' depositions, is material and necessary, the court must first assess the elements of the causes of action and affirmative defenses. In the present action, plaintiff alleges three causes of action for trespass. The essential elements of a cause of action for trespass are the intentional entry onto the land of another without justification or permission (*see Korsinsky v Rose*, __ AD3d __, 2014 WL 4627730 [2d Dept Sept. 17, 2014]; *Marone v Kally*, 109 AD3d 880 [2d Dept 2013]). "Intent is defined as intending the act which produces the unlawful intrusion, where the intrusion is an immediate or inevitable consequence of that act" (*Volunteer Fire Assn. of Tappan, Inc. v County of Rockland*, 101 AD3d 853, 855 [2d Dept 2012]). The mistaken belief that a party had a right to enter the property does not negate the element of intent (*Marone v Kally*, 109 AD3d 883; *State of New York v Johnson*, 45 AD3d 1016, 1019 [3d Dept 2007]). Once a plaintiff demonstrates that defendant trespassed, defendant has the burden to show that there was a lawful right to enter plaintiff's property or plaintiff had granted permission (*State of New York v Johnson*, 45 AD3d 2007]). A party is liable for any damages they caused to another's property by reason of the trespass (*Marone v Kally*, 109 AD3d at 833). Punitive damages, however, will only be awarded where it is alleged and proved that the trespassing party acted with "actual malice involving intentional wrongdoing, or that conduct amounted to a wanton, willful, or reckless disregard of right of possession" (*Litwin v Town of Huntington*, 248 AD2d 261, 362 [2d Dept 1998]; *see Marone v Kally*, 109 AD2d at 833).

On the present record and in their answer, defendants do not controvert plaintiff's allegation that they knowingly and intentionally paved their driveway and installed the invisible fence, which plaintiff contends encroaches upon her property. Accordingly, if the driveway and invisible fence are located on plaintiff's property, then defendants will be liable for any damages

caused to plaintiff's property due to the trespass. Notably, defendants do not assert the affirmative defense that plaintiff gave them permission to place the driveway and invisible fence on her property. Therefore, defendants' state of mind is irrelevant. The only issues remaining in the action is whether a portion of the driveway and the invisible fence were and are still located on plaintiff's property, and the amount of any damages sustained by plaintiff's property. Defendants contend that they have no information as to the actual location of the boundary line which separates the parties' property, and have alleged in their answer and averred in their affidavits that they believed the driveway was installed on their property insofar as they merely repaved an existing gravel driveway. There is, therefore, no likelihood that the depositions of defendants will lead to evidence and information which is material and necessary as to the location of the boundary line. Rather, the location of the boundary line is an issue that necessarily needs to be addressed by the parties' experts.

Similarly, it cannot be said that defendants' deposition would lead to evidence and information material and necessary to plaintiff's alleged damages. The actual damages to plaintiff's property as a result of the alleged trespass is not within the knowledge of defendants. Moreover, as noted earlier, plaintiff erroneously contends that the deposition of defendants are necessary to establish that the trespass was intentional. Defendants have admitted in their answer and their affidavits on this motion that they intentionally repaved their existing driveway and installed the invisible fence. Discovery as to defendants' "intention" to trespass is not necessary. Notably, even if defendants mistakenly placed their driveway and invisible fence upon plaintiff's property, their liability for trespass is established since they only needed to intend the act which resulted in the trespass.

Moreover, although plaintiff asserts that defendants' depositions are necessary with respect to punitive damages, plaintiff failed to allege in the complaint that defendants' conduct of repaving the driveway and installing the invisible fence was done with actual malice or amounted to a wanton, willful, or reckless disregard of plaintiff's right of possession. Rather, plaintiff only alleges in the complaint that defendants' conduct was intentional and, as discussed earlier, no discovery is necessary as to this allegation since defendants have admitted that they intentionally repaved the driveway and installed the invisible fence.

To the extent that plaintiff contends that defendants' depositions are necessary due to their failure to answer plaintiff's interrogatories and their insufficient response to document demands, plaintiff's remedy is to seek court intervention with respect to those discovery demands. Although plaintiff, in part, now seeks to strike defendants answer based upon their failure to respond to plaintiff's interrogatories, the issue of the interrogatories was not discussed at the pre-motion conference nor was it part of the relief included in the briefing schedule. Accordingly, on the present motion, plaintiff sought that relief in violation of the DCM Protocol, which requires a pre-motion conference. In any event, plaintiff is not entitled to any relief with respect to plaintiff's alleged failure to respond to plaintiff's interrogatories on the present motion insofar as plaintiff failed to annex the interrogatories as an exhibit to the present motion. Any disputes with respect to defendants' responses, or lack thereof, to plaintiff's interrogatories and document demands should be raised at the next compliance conference.

Finally, the fact that the parties entered into a Preliminary Conference Stipulation, which was so ordered by the court, wherein the parties stipulated as to a deadline for party depositions, does not bar this court from determining whether defendants' depositions are necessary. It is within this court's discretion to direct appropriate discovery despite any stipulation by the parties.

Accordingly, it is

ORDERED that plaintiff's motion seeking to compel defendants' depositions or striking their answer is denied; and it is further

ORDERED that defendants' motion is granted to the extent that defendants are granted a protective order as to their depositions and are not required to appear for depositions; and it is further

ORDERED that this court need not reach the remaining branches of defendants' motion in view of the foregoing determinations; and it is further

ORDERED that counsel shall appear for a conference in the Compliance Part, Courtroom 800, on November 6, 2014 at 9:30 A.M.

ORDERED that defendants shall serve a copy of this order with notice of entry on plaintiff within 10 days of entry.

This constitutes the decision and order of this court.

Dated: White Plains, New York
October 20, 2014

HON. JOAN B. LEFKOWITZ, J.S.C.

TO:

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