

**Rohan v Turner Constr. Co.**

2017 NY Slip Op 31249(U)

April 17, 2017

Supreme Court, New York County

Docket Number: 154522/2012

Judge: Ellen M. Coin

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: ELLEN M. COIN, Justice

PART: 63

James Rohan and Rose Rohan

INDEX NO. 154522/2012

-v-

MOTION DATE: January 26, 2017

MOTION SEQ. NOs. 010 and 011

Turner Construction Company et al.

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause—Affidavits—Exhibits _____	No(s). <u>1</u>
Answering Affidavits—Exhibits _____	No(s). <u>2</u>
Replying Affidavits _____	No(s). <u>3</u>

Upon the foregoing papers, it is hereby ORDERED that so much of motion sequences 010 and 011 as seek to strike the above-captioned matter from the trial calendar for plaintiffs' failure to provide requested authorizations for medical and social security disability records related to a 1988 automobile accident is denied, and the balance of the motion is denied as moot. Movants have failed to show any medical connection between the injuries claimed in this action and the injury of broken legs that plaintiff James Rohan sustained in the automobile accident almost 30 years ago (*Noble v Ackerman*, 216 AD2d 140 [1st Dept 2015]; see also *Tomato v 209 East 84th Street Corp.*, 68 AD3d 527, 529 [1st Dept 2009]). A claim of loss of enjoyment of life by itself does not open doors to the discovery of medical records unlimited in time, scope and relevance, even in a case alleging total permanent disability (see *Diako v Yunga*, 48 NYS3d 403, 404 [1st Dept 2017]; see also *Gumbs v Flushing Town Center III, L.P.*, 114 AD3d 573, 574 [1st Dept 2014]).

This constitutes the Decision and Order of the Court.

Dated: 4/17/17

  
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 Ellen M. Coin, A.J.S.C.

Check One:.....  CASE DISPOSED  
 NON-FINAL DISPOSITION