

Degraw v Custom Courier Solutions, Inc.
2018 NY Slip Op 33615(U)
November 21, 2018
Supreme Court, Tompkins County
Docket Number: EF2016-0205
Judge: Gerald A. Keene
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At a Motion Term of the Supreme Court held on submission in and for the State of New York, County of Tompkins at the Courthouse in Ithaca, New York on the 30th day of August, 2018.

PRESENT: HON. GERALD A. KEENE
Justice Presiding

STATE OF NEW YORK
SUPREME COURT COUNTY OF TOMPKINS

DONALD DEGRAW, Individually and as Parent and Natural Guardian and Administrator of the Estate of ROSALYN DEGRAW, Decedent,
Plaintiff,

Index No.: EF2016-0205
RJI No.: 2018-0017-C

vs.

ORDER

CUSTOM COURIER SOLUTIONS, INC., CAYUGA MEDICAL CENTER AT ITHACA, INC., CAYUGA MEDICAL CENTER FOUNDATION, PENSKE TRUCK LEASING CO., L.P., PENSKE TRUCK LEASING CORPORATION, PENSKE LOGISTICS, INC., and ERIC T. LABORE,
Defendants.

Judge Assigned:
Hon. Gerald A. Keene

The defendants Cayuga Medical Center at Ithaca, Inc. and Cayuga Medical Center Foundation (the "moving defendants"), having moved for an Order compelling the plaintiff to comply fully with the demand for discovery and/or inspection served by the moving defendants, pursuant to CPLR §§ 3124 and 3126; and the co-defendants, Custom Courier Solutions, Inc., Penske Truck Leasing Co., LP, Penske Truck Leasing Corporation, Penske Logistics, Inc. and Eric

T. Labore (the “cross-moving defendants”), having cross-moved for an Order to compel the plaintiff to comply with the cross-moving defendants’ notice to produce as well as all their other outstanding discovery demands, pursuant to CPLR §§ 3124 and 3126; and the plaintiff, Donald DeGraw, Individually, and as Parent and Natural Guardian and Administrator of the Estate of Rosalyn DeGraw, Decedent (the “plaintiff”) having opposed the motion and cross-motion; and the moving defendants having submitted in support of their motion a Notice of Motion dated July 19, 2018, and the Affirmation of Justin L. Salkin, Esq., dated July 19, 2018 and the Exhibits annexed thereto; and the cross-moving defendants having submitted in support of their cross-motion and in support of the moving defendants’ motion a Notice of Cross-Motion dated July 24, 2018, and the Affirmation of Kelly J. Pare, Esq., dated July 24, 2018 and the Exhibits annexed thereto; and the plaintiff having submitted in opposition to the motion and cross-motion the Affirmation of Jason A. Richman, Esq., dated August 23, 2018; and the moving defendants having submitted in further support of their motion the Reply Affirmation of Justin L. Salkin, Esq., dated August 28, 2018 and the Exhibits annexed thereto; and the cross-moving defendants having submitted in further support of their cross-motion the Reply Affirmation of Kelly J. Pare, Esq., dated August 28, 2018; and the Motions having come on regularly to be heard at a Motion Term held by submission on August 30, 2018; and the Court having duly deliberated upon and considered the motion, cross-motion, and opposition of the plaintiff, it is hereby,

ORDERED AND ADJUDGED, that the motion filed by the moving defendants is

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granted, and that the cross-motion filed by the cross-moving defendants is granted, both to the extent that if the plaintiff fails, within thirty days of execution of this Order, to provide any or all of the below listed authorizations, documents, and items to the moving defendants or cross-moving defendants, or items otherwise fail to comply with the terms of this Order, then the plaintiff's complaint shall be dismissed with prejudice, and without the necessity of further motion practice; and it is further,

ORDERED AND ADJUDGED, that the plaintiff shall provide the moving defendants and cross-moving defendants with the following authorizations, documents and items pertinent to Rosalyn DeGraw (the "decedent"):

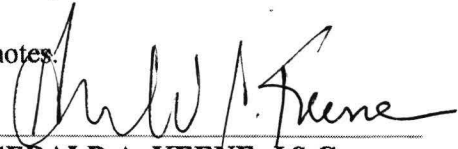
- a) HIPPA and Arons authorizations for records from and discussion with Cayuga Medical Center;
- b) HIPPA and Arons authorizations for records from and discussion with Dr. Ryan, a medical provider of the decedent, which authorizations denotes Dr. Ryan's first name and medical practice address;
- c) HIPPA and Arons authorizations for records from and discussion with Dr. Mignon Encilla;
- d) HIPPA and Arons authorizations for records from and discussion with the medical providers who prescribed the Soma and Ultram decedent took before presenting at Cayuga Medical Center on December 3, 2014;
- e) HIPPA and Arons authorizations for records from and discussion with the pharmaceutical providers who filled prescriptions for the Soma and Ultram decedent took before presenting at Cayuga Medical Center on December 3, 2014;
- f) HIPPA and Arons authorizations for records from and discussion with South Seneca

Ambulance;

- g) HIPPA and Arons authorizations for records from and discussion with any ambulance service or fire department involved in decedent's post motor vehicle collision care on December 4, 2014;
- h) HIPPA and Arons authorizations for records from and discussion with any ambulance service or fire department involved in decedent's post-motor vehicle collision care on December 4, 2014;
- i) a fully executed IRS authorization for federal income tax returns for 2010-2014;
- j) a fully executed employment authorization for records from the National Bank of Geneva;
- k) fully executed employment authorizations from any other of the decedent's former employers;
- l) fully executed educational authorizations for records from the decedent's high school and any institutions of higher education, including technical or vocational schools;
- m) invoices concerning funeral and burial expenses;
- n) information regarding pecuniary losses and decedent's former occupation; and
- o) a fully executed authorization permitting the defendants to obtain the decedent's health insurance, Medicare and/or Medicaid information; and it is further,

ORDERED AND ADJUDGED, that with respect to all HIPPA and Arons authorizations provided by the plaintiff, the authorizations shall be fully executed, and the plaintiff shall authorize the release and discussion of the decedent's entire medical record, mental health and HIV related information, alcohol and drug treatment, and psychotherapy notes.

DATED: November ^{21,} ~~19,~~ 2018


GERALD A. KEENE, J.S.C.

ENTER: