

Amitrano v Richmond
2019 NY Slip Op 32300(U)
July 31, 2019
Supreme Court, New York County
Docket Number: 156249/2019
Judge: Debra A. James
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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RALPH AMITRANO,

Petitioner,

- v -

JEFFERY RICHMOND, DAVID HELFET, DAVID WELLMAN
and NEW YORK PRESBYTERIAN,

Respondents.

-----X

INDEX NO. 156249/2019

MOTION DATE 07/31/2019

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17

were read on this motion to/for RELEASE RECORDS

ORDER

Upon the foregoing documents, it is

ORDERED that the motion of petitioner for pre-action disclosure is resolved as moot; and it is further

ORDERED that the cross motion of respondents David L. Helfet, M.D. and David S. Wellman, M.D. for an award of reasonable attorneys' fees incurred in defending this proceeding pursuant to Part 130 of the Court Rules is granted as petitioner failed to oppose such motion and there is no admissible evidence of a colorable claim against either such respondent in the papers before the court; and it is further

This matter having come on before this court on July 31, 2019, on cross-motion of the respondents David Helfet and David

Wellman for reasonable attorneys' fees, and the petitioners having been represented in connection therewith by Michael Mile, Esq., and the respondents having been represented in connection therewith by _____ Jacqueline Mandell, Esq., and, pursuant to CPLR 4317, the court having on its own motion determined to consider the appointment of a referee to determine an issue of damages separately triable and not requiring a trial by jury, pursuant to CPLR 4319, as follows, it is now hereby

ORDERED that a Judicial Hearing Officer ("JHO") or Special Referee shall be designated to determine the following individual issue of fact, which are hereby submitted to the JHO/Special Referee for such purpose:

the issue of the reasonable attorneys' fees incurred by respondents David Helfet and David Wellman in defending against the petition at bar; and it is further

ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR; and it is further

ORDERED that this matter is hereby referred to the Special Referee Clerk (Room 119, 646-386-3028 or spref@nycourts.gov) for placement at the earliest possible date upon the calendar of the Special Referees Part (Part SRP), which, in accordance with the Rules of that Part (which are posted on the website of this court

at www.nycourts.gov/supctmanh at the "References" link), shall assign this matter at the initial appearance to an available JHO/Special Referee to determine as specified above; and it is further

ORDERED that counsel shall immediately consult one another and counsel for plaintiff/petitioner shall, within 15 days from the date of this Order, submit to the Special Referee Clerk by fax (212-401-9186) or e-mail an Information Sheet (accessible at the "References" link on the court's website) containing all the information called for therein and that, as soon as practical thereafter, the Special Referee Clerk shall advise counsel for the parties of the date fixed for the appearance of the matter upon the calendar of the Special Referees Part; and it is further

ORDERED that the parties shall appear for the reference hearing, including with all witnesses and evidence they seek to present, and shall be ready to proceed with the hearing, on the date fixed by the Special Referee Clerk for the initial appearance in the Special Referees Part, subject only to any adjournment that may be authorized by the Special Referees Part in accordance with the Rules of that Part; and it is further

ORDERED that, except as otherwise directed by the assigned JHO/Special Referee for good cause shown, the trial of the issue(s) specified above shall proceed from day to day until completion and counsel must arrange their schedules and those of their witnesses accordingly.

7/31/2019
DATE

Debra A. James
DEBRA A. JAMES, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER	<input checked="" type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input checked="" type="checkbox"/>
					<input checked="" type="checkbox"/>
					REFERENCE