

<b>Re v Monaco</b>
2021 NY Slip Op 31487(U)
April 22, 2021
Supreme Court, New York County
Docket Number: 805304/2017
Judge: Judith N. McMahon
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. JUDITH REEVES MCMAHON PART IAS MOTION 30**

*Justice*

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**INDEX NO. 805304/2017**

CHERILYN RE, JOHN RE,

**MOTION DATE N/A, N/A**

Plaintiff,

**MOTION SEQ. NO. 005 006**

- v -

JOAN MONACO M.D. M.S., JOAN MONACO, M.D.,  
PLLC, LENOX HILL HOSPITAL A/K/A THE LENOX HILL  
HOSPITAL MEDICAL CENTER, DARREN SMITH M.D.

**DECISION + ORDER ON  
MOTION**

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 005) 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 158, 164

were read on this motion to/for DISMISSAL.

The following e-filed documents, listed by NYSCEF document number (Motion 006) 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 157, 161, 162, 165

were read on this motion to/for SUMMARY JUDGMENT(AFTER JOINDER).

Defendant Lenox Hill Hospital s/h/a Lenox Hill Hospital a/k/a The Lenox Hill Hospital Medical Center ("Lenox Hill") moves this Court for an Order (1) pursuant to CPLR §214-a dismissing all of Plaintiffs' allegations against it relating to the July 18, 2013 abdominoplasty on the grounds that is barred by the statute of limitations without any continuous treatment by the hospital; (2) pursuant to CPLR §3212 granting complete summary judgment and dismissing the Plaintiffs' complaint as against it; (3) amending the caption to delete Lenox Hill as a defendant and severing it from the Action; and (4) permitting Lenox Hill Hospital to enter judgment with a Clerk of the Court and against Plaintiffs with statutory costs and disbursements. Lenox Hill's

motion for dismissal of the Complaint as against it is granted without opposition. Lenox Hill's motion for judgment against Plaintiffs for statutory costs and disbursements is hereby denied.

Defendants Joan Monaco, M.D., M.S. ("Dr. Monaco") and Joan Monaco, M.D., PLLC ("PLLC") (collectively "Moving Defendants" or "Movants") move this Court for an Order (1) granting them summary judgment pursuant to CPLR §3212 and dismissing the Action against them; or alternatively (2) dismissing all dates of treatment prior to and including September 22, 2014 as barred by the statute of limitations and not part of a continuous course of treatment and (3) dismissing all dates of treatment prior to and including September 22, 2014 on Plaintiff John Re's derivative claim. Movants' motion is granted only to the extent that Plaintiffs' cause of action for lack of informed consent and Plaintiff John Re's derivative claim are hereby dismissed.

### **FACTS**

Plaintiff Cherilyn Re ("Ms. Re") commenced this Action against Dr. Monaco for his alleged failure to timely diagnose and treat her after he performed an abdominoplasty surgery on July 18, 2013, which allegedly caused her to suffer persistent draining wounds, chronic infections, painful scars and pain and suffering. Ms. Re previously underwent a gastric bypass surgery, during which a lap band with a permanent portal was placed. Ms. Re consulted with Dr. Monaco to have an abdominoplasty surgery, also known as a tummy tuck, to remove and reconstruct excessive skin that resulted from her significant weight loss following the gastric bypass surgery. During this visit, Dr. Monaco represents that she discussed the risks of the procedure with Ms. Re, including infection and scarring, and gave her a printed pamphlet which discussed such risks. Ms. Re signed a consent form and presented at Manhattan Eye & Ear and

Throat Hospital on July 18, 2013 to undergo the surgery. The surgery was performed without complication and Ms. Re was discharged with two Jackson Pratt drains in place to allow for removal of extra fluid in the abdominal cavity.

When Ms. Re first returned to Dr. Monaco on July 23, 2013, she had no complaints or signs of infection and Dr. Monaco removed one Jackson Pratt drain. The record shows that Ms. Re developed an open wound measuring 1 cm at the surgical incision site on August 12, 2013. Dr. Monaco represents that Ms. Re returned to her office one month later than she was supposed to on October 29, 2013, at which time she said that the small area on the right lower incision opened up one day before and a second area opened lateral to the wound. Dr. Monaco prescribed antibiotics, Bactrim, and packed and cultured the wound. Culture results received on November 2, 2013 showed that Ms. Re had a staph aureus infection (“MRSA”).<sup>1</sup> On November 6, 2013, Dr. Monaco cleaned and packed Ms. Re’s wound and continued antibiotics. During a visit on November 22, 2013, Dr. Monaco noted Ms. Re's two small holes almost closed and continued antibiotics and Silvadene. Dr. Monaco represents that on December 27, 2013, she noted that Ms. Re continued to have a leak from the right incision and the two discussed a potential future procedure to clean out the wound to speed the healing process.

Ms. Re represents that on January 29, 2014, Dr. Monaco noted that her drainage continued from the open wound at the right incision, which measured 2 mm, and recommended she continue massaging the area and apply scar cream. On April 11, 2014, Ms. Re stated that she restarted Bactrim one week prior due to pain around the port site and Dr. Monaco noted serious drainage. Dr. Monaco represents that she recommended another CT scan and ordered a culture

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<sup>1</sup> A CT Scan conducted on November 5, 2013 showed phlegmon vs hematoma involving the lap band port, which was previously placed during Plaintiff’s lap band surgery. The CT scan also showed no drainable fluid collection, but found old organized fluid near the port.

from the drain if any fluid was found by the interventional radiologist. Dr. Monaco testified that when Ms. Re came for a follow-up visit on April 23, 2014, there was one open wound measuring less than two millimeters with drainage and Ms. Re was improperly using Acquacel, which Dr. Monaco did not prescribe. While Dr. Monaco told Ms. Re to return in two weeks, Ms. Re did not return until five months later.

On September 3, 2014, Ms. Re saw Dr. Christine Ren-Fielding, who performed Ms. Re's lap band surgery. On September 22, 2014, Dr. Ren-Fielding removed Ms. Re's port to stop the drainage and allow the incision to close. Ms. Re then returned to Dr. Monaco on September 22, 2014 and presented with two open areas on the right side and drainage that was clear in color. Dr. Monaco noted that her plan was for a surgical washout, scar revision of the scar from Dr. Ren-Fielding's incision and advanced closure. Ms. Re represents that this was the first time Dr. Monaco suggested surgery after the abdominoplasty. Dr. Monaco testified that Ms. Re was informed of the risks of the procedures and consented to the surgery, which was scheduled to be done in November 2014. However, Ms. Re did not return to Dr. Monaco until eleven months later on August 21, 2015. Ms. Re testified that she did not return prior to such date because she was experiencing marital problems at the time.

On August 31, 2015, Dr. Monaco performed a wash-out procedure during which she washed out the area and removed ethoid sutures. While Ms. Re was doing well post-operatively when she returned to Dr. Monaco in September 2015, she subsequently developed another staph infection. Dr. Monaco prescribed antibiotics and referred Ms. Re to an infectious disease specialist. Ms. Re did not return to Dr. Monaco after this appointment. On February 6, 2016, Ms. Re consulted with a new plastic surgeon, Dr. David Antell, who recommended exploratory surgery, scar excision and sinus tract excision, prep for flap coverage and local tissue

arrangement and removal of ethoid sutures. Dr. Antell performed a procedure on March 31, 2016, during which he surgically removed the sutures. Ms. Re was healed by April 19, 2016 and reported being extremely happy with her results.

In support of their motion for summary judgment, Movants submit the affirmation of Robert T. Grant, M.D. (“Dr. Grant”), who states that the abdominoplasty was indicated for Ms. Re and that Dr. Monaco properly performed such procedure. Dr. Grant opines that Ms. Re's complications were not caused by Dr. Monaco's acts or omissions. Rather, Dr. Grant opines, Ms. Re suffered her alleged injuries when the port that was placed by Dr. Ren-Fielding during lap band surgery became infected and surrounded with fluid collection after the abdominoplasty. This caused small openings in the incision with drainage and prevention of the incision closure. Dr. Grant further states that Ms. Re developed MRSA infections and had underlying conditions, including Diabetes Mellitus and obesity, that contributed to her slow healing.

Dr. Grant emphasizes that Ms. Re did not timely return to Dr. Monaco for follow-up at two separate points in time, the first for a five-month period and the second for an eleven-month period. This second delay caused Ms. Re to miss the planned wash-out procedure in November 2014. Dr. Grant also notes that Ms. Re, who is a nurse, took care into her own hands “on several occasions, using things such as Aquacel, not recommended by Dr. Monaco, which kept the wounds moist and prevented healing.” According to Dr. Grant, Ms. Re’s abdomen contained sutures placed during prior procedures that can migrate and lead to slow healing.

In his affidavit, Dr. Grant further states that Dr. Monaco properly obtained informed consent from Ms. Re, who was told of the risks of infection and scarring prior to undergoing the abdominoplasty and signed consent forms prior to surgery. Dr. Grant opines that Dr. Monaco’s “conservative management following the abdominoplasty with continued packing and anti-

biotics and eventual second procedure, were within accepted standards of medical practice and not a departure.” Dr. Grant explains that Dr. Monaco’s management of all issues with drainage with open wounds after the abdominoplasty was appropriate.

Movants also argue alternatively that they are entitled to dismissal of Ms. Re's claims against them based on any treatment dates up to and including September 22, 2014, as they are barred by the statute of limitations and not part of a continuous treatment. According to Movants, Dr. Monaco recommended Ms. Re undergo a surgical washout and scar revision during an office visit on September 22, 2014. While Ms. Re stated she would have the surgery done in November 2014, Ms. Re did not return to Dr. Monaco for eleven months until she presented on August 21, 2015. Defendants argue that the statute of limitations for Ms. Re’s medical malpractice claim began running on September 22, 2014 and expired on March 22, 2017, five months prior to when Ms. Re filed her summons and complaint. Therefore, the Movants maintain, the claims brought by Ms. Re and the derivative claim of Plaintiff John Re (“Mr. Re”) regarding treatment prior to and including September 22, 2014 must be dismissed as time-barred.

In opposition to Movants’ motion, Plaintiffs submit a redacted expert affirmation of a physician who is Board Certified in Plastic Surgery. Plaintiffs’ expert disagrees with Dr. Grant’s opinion that Dr. Monaco’s “conservative” treatment of Ms. Re’s infection and non-healing wound with persistent drainage was within the accepted standards of medical care. Plaintiffs’ expert also disagrees with Dr. Grant’s opinion that Ms. Re’s alleged injuries were caused by an infection of the permanent port placed by Dr. Ren-Fielding during the prior lap surgery and that the Ethibond sutures (which were removed by Dr. Antell in 2016) were not the cause of Ms. Re's persistent wound drainage and infection. According to Plaintiffs’ expert, Dr. Monaco departed

from the accepted standard of medical care by failing to timely diagnose and treat Ms. Re's signs and symptoms of an infection after the abdominoplasty.

Plaintiffs' expert also opines that Dr. Monaco mismanaged Ms. Re's post-operative care and departed from the standard of care by failing to recommend and perform surgery at Ms. Re's appointment on January 29, 2014, at the latest, in order to identify the source of the persistent drainage issues and chronic infection, which were not resolved using antibiotics and local wound care. Instead, Plaintiffs' expert states, Dr. Monaco failed to recommend such procedure until September 22, 2014. Plaintiffs' expert opines that even if Dr. Monaco operated in September 2014, such would have been "13 months of failed conservative treatment" that was a deviation from the standard of care since the surgery should have been done earlier. According to Plaintiffs' expert, Dr. Monaco departed from the standard of care when performing the surgery on August 31, 2015 by failing to take the necessary steps to locate and remove the "offending sutures" that were causing Ms. Re's symptoms, including by exploring the entire surgical field.

Finally, Plaintiffs' expert opines that from the time Dr. Monaco performed the abdominoplasty and up until the last appointment in October 2015, Dr. Monaco treated Ms. Re for the same condition, namely infection and persistent drainage issues after her abdominoplasty. Regarding the gap from September 22, 2014 to August 21, 2015, Plaintiffs' expert maintains that the record demonstrates that Dr. Monaco recommended the same surgery at both times and obtained the patient's consent on September 22, 2014 before performing the surgery on August 31, 2015. Plaintiffs' expert notes that Ms. Re did not seek treatment from any other physicians for this continued problem aside from Dr. Monaco and any physicians she recommended. According to Plaintiffs' expert, such was all part of a continuous course of treatment for the same condition.

## DISCUSSION

Pursuant to CPLR §3212(b), a motion for summary judgment “shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the Court as a matter of law in directing Judgment in favor of any party.” CPLR §3212(b). A party seeking summary judgment must show that there are not material issues of fact that are in dispute and that it is entitled to judgment as a matter of law. *See Dallas-Stephenson v. Waisman*, 39 AD3d 303, 306 [1st Dept., 2007]. Once a movant makes such a showing, “the burden shifts to the party opposing the motion to produce evidentiary proof in admissible form sufficient to establish the existence of a material issue of fact that precludes summary judgment and requires a trial. *Id.*

### Standard for Summary Judgment in Medical Malpractice Actions

“A defendant in a medical malpractice action establishes prima facie entitlement to summary judgment by showing that in treating the plaintiff, he or she did not depart from good and accepted medical practice, or that any such departure was not a proximate cause of the plaintiff’s alleged injuries.” *Anyie B. v. Bronx Lebanon Hosp.*, 128 AD3d 1, 3 [1st Dept 2015]. (*See Costa v. Columbia Presbyt. Med. Ctr.*, 105 AD3d 525, 525 [1st Dept 2013]). “Once a defendant has established prima facie entitlement to summary judgment, the burden shifts to plaintiff to ‘rebut the prima facie showing via medical evidence attesting that the defendant departed from accepted medical practice and that such departure was a proximate cause of the injuries alleged.’” *Ducasse v. New York City Health and Hosps. Corp.*, 148 AD3d 434, 435 [1st

Dept 2017] (internal citations omitted). “The opinion of a qualified expert that a plaintiff’s injuries were caused by a deviation from relevant industry standards would preclude a grant of summary judgment in favor of the defendants.” *Diaz v. New York Downtown Hosp.*, 99 N.Y.2d 542, 544 [2002].

“To defeat summary judgment, the expert’s opinion “must demonstrate ‘the requisite nexus between the malpractice allegedly committed’ and the harm suffered.” *Anyie B. v. Bronx Lebanon Hosp.*, 128 AD3d 1, 3 [1st Dept 2015] (internal citations omitted). “General allegations of medical malpractice, merely conclusory and unsupported by competent evidence tending to establish the essential elements of medical malpractice, are insufficient to defeat defendant physician’s summary judgment motion.” *Alvarez v. Prospect Hosp.*, 68 NY2d 320, 325 [1986]. (See *Otero v. Faierman*, 128 AD3d 499, 500 [1st Dept 2015]. See generally *Cruz v. New York City Health and Hosps. Corp.*, 188 AD3d 592, 593 [1st Dept 2020]; *Henry v. Duncan*, 169 AD3d 421 [1st Dept 2019]). “In order not to be considered speculative or conclusory, expert opinions in opposition should address specific assertions made by the movant’s experts, setting forth an explanation of the reasoning and relying on ‘specifically cited evidence in the record.’” *Lowe v. Japal*, 170 AD3d 701, 703 [2d Dept 2019]. See *Frye v. Montefiore Med. Ctr.*, 70 AD3d 15, 24 [1st Dept 2009].

#### The Continuous Treatment Document

The First Department, Appellate Division has held that “the two-year-and-six-month statute of limitations applicable to medical malpractice actions (CPLR 214-a) is tolled until the end of the course of treatment for a particular medical condition ‘when the course of treatment which includes the wrongful acts or omissions has run continuously and is related to the same original condition or complaint.’” *O'Donnell v. Siegel*, 49 AD3d 415, 419 [1st Dept 2008]

(internal citations omitted). The continuous treatment doctrine has three essential elements: (1) that the plaintiff continued to seek, and in fact obtained, an actual course of treatment from the defendant physician during the relevant period; (2) the course of treatment provided by the physician must be for the same conditions or complaints underlying the plaintiff's medical malpractice claim; and (3) that the physician's treatment be deemed "continuous." (*See Gomez v Katz*, 61 AD3d 108, 111 [2d Dept 2009]. *See generally Preinz-Schwartz v. Levitan*, 17 A.D.3d 175, 178 [1st Dept., 2005]).

"The underlying premise of the continuous treatment doctrine is that the doctor-patient relationship is marked by continuing trust and confidence and that the patient should not be put to the disadvantage of questioning the doctor's skill in the midst of treatment, since the commencement of litigation during ongoing treatment necessarily interrupts the course of treatment itself." *Gomez v Katz*, 61 AD3d 108, 111 [2d Dept 2009]. (*See Prinz-Schwartz v. Levitan*, 17 A.D.3d 175, 177 [1st Dept., 2005]). The Appellate Division, First Department has held

Accordingly, the determination of whether the continuous treatment doctrine applies must focus primarily on whether there was continuing trust in the physician on the part of the patient. Additionally, "[w]here there is a direct physician-patient relationship, *continuous treatment exists only 'when further treatment is explicitly anticipated by both physician and patient as manifested in the form of a regularly scheduled appointment for the near future, agreed upon during that last visit, in conformance with the periodic appointments which characterized the treatment in the immediate past'*" *O'Donnell v Siegel*, 49 AD3d 415, 420 [1st Dept 2008] (international citations omitted).

The term "course of treatment" speaks to affirmative and ongoing conduct by the physician such as surgery, therapy, or the prescription of medications. (*See Gomez v. Katz*, 61 AD3d 108, 111-12 [2d Dept 2009]).

In the case of *Devadas v. Niksarli*, the Appellate Division, First Department upheld a jury verdict that held there was continuous treatment for a plaintiff who underwent Lasik surgery in

April 2004 and complained of blurry vision over the next two months. *See Devadas v. Niksarli*, 120 AD3d 1000, 1007 [1st Dept 2014]. Though the plaintiff did not return to the defendant doctor until February 21, 2007 with complaints of worsening blurriness, the Court upheld the jury's finding of continuous treatment since the plaintiff went back to the defendant in February 2007 because he wanted the defendant to fulfill his guarantee that that Lasik surgery would work. "This was consistent with the notion that "[i]ncluded within the scope of 'continuous treatment' is a timely return visit *instigated by the patient* to complain about and seek treatment for a matter related to the initial treatment" *Devadas v. Niksarli*, 120 AD3d 1000, 1007 [1st Dept 2014] (quoting (*McDermott v. Torre*, 56 N.Y.2d 399, 406 [1982] [emphasis added])).

Defendant's Motion Pursuant to CPLR §3212

The Court finds that based upon the affirmation of Dr. Grant, the Movants have demonstrated their prima facie right to judgment as a matter of law. Dr. Grant sufficiently explains his opinion that Ms. Re's complications were caused by the port which was placed by Dr. Ren-Fielding during her lap band surgery. Dr. Grant also details how Ms. Re's health conditions slowed down her healing process and how her delay in returning to Dr. Monaco for significant periods of time contributed to her alleged injuries. Furthermore, Dr. Grant sufficiently opined that Ms. Re gave informed consent for the procedures and that Dr. Monaco's "conservative" treatment of Ms. Re's symptoms was within the standard of care.

The Court further finds that Plaintiffs have sufficiently rebutted Defendants' prima facie showing and demonstrated that an issue of fact exists as to whether Dr. Monaco departed from the standard of care and proximately caused Ms. Re's alleged injuries. In the affidavit, Plaintiffs' expert explains his or her opinion that Dr. Monaco departed from the standard of care by failing to timely diagnose Ms. Re's infection and recommend surgery no later than January 29, 2014.

Plaintiffs' expert describes how Dr. Monaco departed from the standard of care by failing to properly perform the wash-out surgery on August 31, 2015 by finding and removing the sutures that Plaintiffs' expert represents caused Ms. Re's infection and continuous drainage. Plaintiffs' expert also sufficiently addresses the specific assertions made by Dr. Grant and sets forth the reasoning behind his or her opinion that Dr. Monaco's alleged negligence proximately caused Ms. Re's injuries. Therefore, the Court finds that summary judgment dismissal of Plaintiffs' medical malpractice claims and derivative claim is precluded pursuant to CPLR §3212.

The Court also holds that Plaintiffs' expert failed to demonstrate that an issue of fact exists as to the allegations of lack of informed consent. Therefore, such cause of action is hereby dismissed.

#### Defendant's Motion to Dismiss Based on Statute of Limitations

Regarding the issue of continuous treatment, the Court finds that the Moving Defendants have shown prima facie that Plaintiffs' claims are time-barred by the statute of limitations under CPLR §214-a. The record shows that despite the fact that Dr. Monaco recommended Ms. Re undergo a washout procedure in September 2014 and scheduled the surgery for November 2014, Ms. Re did not return until August 2015. Therefore, the Court finds that Defendants have shown prima facie that the continuous treatment doctrine is not applicable here and therefore Plaintiffs' Action is untimely.

However, the Court further finds that Plaintiffs have successfully rebutted Defendants' prima facie showing and shown that the continuous treatment doctrine applies to Ms. Re's claims. The record shows that Ms. Re continued to seek and obtained an actual course of treatment from Dr. Monaco in September 2014 to correct her continuous issues of infection and drainage. When Ms. Re returned in August 2015, she agreed to continue with this same

treatment plan and undergo the wash-out procedure. The record also shows that Dr. Monaco's course of treatment in August 2015 was for the same conditions and complaints that underly Ms. Re's medical malpractice claim.

The treatment is also continuous based upon the ongoing relationship of trust between Ms. Re and Dr. Monaco. As evidenced by the scheduling of the wash-out procedure in November 2014, it is clear that further treatment was anticipated by both Ms. Re and Dr. Monaco. Ms. Re testified that she did not return for nearly eleven months due to marital problems she was experiencing. Furthermore, nothing in the record shows that Ms. Re delayed returning to Dr. Monaco due to a loss of confidence in Dr. Monaco's treatment plan or her desire to seek treatment from another medical professional. While an eleven-month delay is not insignificant, the Court notes that the Appellate Division has held that an issue of fact exists regarding the application of the continuous treatment doctrine in cases involving lengthier delays. (*See generally Devadas v. Niksarli*, 120 AD3d 1000, 1007 [1st Dept 2014]; *Chestnut v. Bobb-McKoy*, 94 A.D.3d 659, 662 [1st Dept., 2012]; *Prinz-Schwartz v. Levitan*, 17 A.D.3d 175, 179 [1st Dept., 2005]).

Therefore, this Court finds that the continuous treatment doctrine applies and Ms. Re's claims prior to and including September 22, 2014 are timely.

The Court notes that the tolling of the statute of limitations under the continuous treatment doctrine is personal to the recipient of the medical services and therefore does not apply to derivative claims. (*See Dunning v. Brisson*, 21 AD3d 271, 272 [1st Dept 2005]; *Wojnarowski v. Cherry*, 184 AD2d 353, 354-55 [1st Dept 1992]; *See also Schrank v. Lederman*, 52 AD3d 494, 496-97 [2d Dept 2008]). Therefore, the portion of Mr. Re's derivative claim

regarding Dr. Monaco’s treatment prior to and including September 22, 2014 is hereby dismissed.

Accordingly, it is hereby

**ORDERED** that Lenox Hill’s Motion to dismiss Plaintiffs' Complaint as against it is granted without opposition; it is further

**ORDERED** that the Action is hereby dismissed as against Lenox Hill; it is further

**ORDERED** that the caption be amended to remove Lenox Hill as a defendant in this Action; it is further

**ORDERED** that Lenox Hill’s Motion for a judgment against Plaintiffs for statutory costs and disbursements is hereby denied; it is further

**ORDERED** Plaintiffs’ allegations of lack of informed consent are hereby dismissed; it is further


**ORDERED** that the portion of Mr. Re’s derivative claim regarding Dr. Monaco’s treatment prior to and including September 22, 2014 is hereby dismissed; it is further

**ORDERED** that the remainder of Movants’ motion is hereby denied; it is further

**ORDERED** that any and all other requests for relief are hereby denied; and it is

**ORDERED** that counsel for Plaintiffs and Moving Defendants are required to appear for a Microsoft Teams Virtual Conference on **May 19, 2021 at 10:30 AM.**

This is the decision and order of the Court.

<u>4/22/2021</u> DATE	 JUDITH REEVES MCMAHON, J.S.C.			
CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED		<input checked="" type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE