

Yan v Kalikow Mgt. Inc.

2022 NY Slip Op 34593(U)

July 25, 2022

Supreme Court, Queens County

Docket Number: Index No. 711060/2018

Judge: Tracy Catapano-Fox

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

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GLADYS YAN,

Index No. 711060/2018

Plaintiff,

Part 6

Motion Date: May 23, 2022

-against-

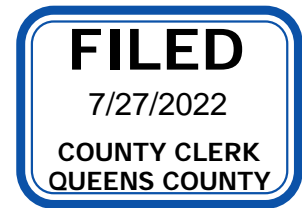
Calendar No. 42

KALIKOW MANAGEMENT INC., KALED
MANAGEMENT CORP., KALIKOW FAMILY
PARTNERSHIP, L.P., THE KALIKOW GROUP, THE
CITY OF NEW YORK, and NEW YORK CITY
DEPARTMENT OF PARKS & RECREATION,

Sequence No. 1

Defendants.

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The following papers numbered 1 to 9 read on this motion by defendants Kalikow Management Inc., Kaled Management Corp., and Kalikow Family Partnership L.P. to compel plaintiff to provide an Arons Authorization for New York-Presbyterian Hospital Queens Physician Assistant Alejandro Molina and impose conditional sanctions pursuant to CPLR §3124.

Papers
Numbered

| | |
|--|-----|
| Notice of Motion, Affirmation, Exhibits..... | 1-4 |
| Affirmation in Opposition..... | 5-6 |
| Reply Affirmation, Exhibits..... | 7-9 |

Upon the foregoing papers, it is ordered that this motion is determined as follows:

Defendants Kalikow Management Inc., Kaled Management Corp, and Kalikow Family Partnership L.P.’s motion to compel plaintiff to provide an Arons Authorization for New York-Presbyterian Hospital Queens Physician Assistant Alejandro Molina and impose conditional sanctions pursuant to CPLR §3124 is denied.

“New York’s liberal discovery policy, generally governed by CPLR §3101(a) broadly mandates full disclosure of all matter material and necessary in the prosecution or defense of an action...[t]he words material and necessary are to be interpreted liberally to require disclosure,

upon request, of any facts bearing on the controversy which will assist preparation for trial.” (*Siegel v. Snyder*, 202 A.D.3d 125, 130 [2d Dept. 2021].) However, while discovery may be relevant under the broad standard of CPLR §3101, its disclosure may be still limited based on the parties’ intent and use of the discovery. (*See Arons v. Jutkowitz*, 9 N.Y.3d 393 [2007]; *Rucinski v. More Restoration Co. Inc.*, 147 A.D.3d 485 [1st Dept. 2017].)

Defendants failed to demonstrate good cause to compel plaintiff to provide an Arons authorization for Physician Assistant Alejandro Molina. It is noted that defendants’ original moving papers pointed out they requested the authorization and their requests have gone ignored but failed to explain why they were entitled to the Arons authorization. In their reply papers, defendants clarified they are seeking the Arons authorizations because statements in plaintiff’s medical records contradicted plaintiff’s deposition testimony regarding the events in this matter. However, statements regarding liability for the accident are insufficient to obtain an Arons authorization, which is limited in scope to plaintiff’s medical condition. (*See Rucinski*, 147 A.D.3d at 486.) Further, defendants’ request to depose Physician Assistant Molina is contrary to the purpose of Arons authorizations, which permit informal interviews of a treating physician that are entirely voluntary and limited in scope to the particular medical condition at issue. (*See Arons, supra*; *see also Muzio v. Napolitano*, 82 A.D.3d 947 [2d Dept. 2011].)

Accordingly, defendants Kalikow Management Inc., Kaled Management Corp, and Kalikow Family Partnership L.P.’s motion to compel plaintiff to produce an Arons authorization for New York-Presbyterian Hospital Queens Physician Assistant Alejandro Molina and impose conditional sanctions pursuant to CPLR §3124 is denied.

This constitutes the decision and Order of the Court.

Dated: July 25, 2022

Tracy Catapano-Fox

Tracy Catapano-Fox, J.S.C.