

**John Doe v Archdiocese of New York**

2023 NY Slip Op 31333(U)

April 19, 2023

Supreme Court, New York County

Docket Number: Index No. 950065/2020

Judge: Laurence L. Love

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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: HON. LAURENCE L. LOVE PART 63M**

*Justice*

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JOHN DOE,

Plaintiff,

- v -

ARCHDIOCESE OF NEW YORK, OUR LADY OF MOUNT  
CARMEL CHURCH, OUR LADY OF MOUNT CARMEL  
SCHOOL

Defendant.

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INDEX NO. 950065/2020

MOTION DATE 03/07/2023

MOTION SEQ. NO. 005

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 005) 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153

were read on this motion to/for DISCOVERY.

Upon the foregoing documents, plaintiff's motion seeking an Order pursuant to CPLR 3124 directing Defendant Archdiocese of New York to appear for deposition on a date certain is decided as follows:

The Child Victims Act as implemented in 2019 was aimed at addressing longstanding injustices due to the relatively short statutes of limitations previously contained in the CPLR balanced with modern psychological research on the subject of the length of time it often takes victims of child sex abuse to face their alleged abusers as a result of said trauma.

At this time, within the City of New York alone, approximately five thousand Child Victims Act cases have been filed, many of which name as party defendants, as is the case herein, institutional defendants alleged to be the employer of an alleged sexual abuser responsible for dozens of individual claims. While the merits of each of the individual actions clearly stands on its own, there are necessarily substantial common discovery issues including, but not limited to, employment records and notice, and the witnesses produced for deposition will therefore

necessarily be the same. As such, while these cases cannot be consolidated for all purposes, common sense demands that discovery be streamlined wherever possible.

To this end, the Court has strived to work with parties on both sides to create groupings where plaintiffs alleging abuse by a common abuser can better coordinate discovery for all. There has been broad agreement that the premise of such groupings is desired, but the implementation of a specific discovery schedule has frequently been difficult to agree upon and the larger the group, the more difficult it is to reach a proper balance. Clearly it would be inefficient to compel institutional defendants to endure multiple depositions oftentimes going over much of the same ground and at the same time it is patently unfair to make numerous plaintiffs wait for their day in court simply because an institutional defendant seeks to delay producing a witness for a deposition until all plaintiffs within a group have been deposed.

In general, supervision of disclosure is generally left to the trial court's broad discretion (see *Allen v. Crowell–Collier Pub. Co.*, 21 N.Y.2d 403, 406, 288 N.Y.S.2d 449, 235 N.E.2d 430; *Argumedo v. 303 Tenants Corp.*, 246 A.D.2d 616, 667 N.Y.S.2d 305; *City of Mount Vernon v. Lexington Ins. Co.*, 232 A.D.2d 358, 648 N.Y.S.2d 311; *Buonaccorso v. City of New York*, 208 A.D.2d 791, 618 N.Y.S.2d 393).

The grouping of over seventy cases at issue in this motion all allege sexual abuse by Rudy Tremaroli and stands as a perfect illustration of the above issues. Here, one plaintiffs firm represents seventy alleged victims of the same abuser with individual claims spanning 1958 through 1992. Based upon the sheer number of cases involved, instead of informally grouping the cases for discovery, the Court formally consolidated the seventy cases for the purpose of joint discovery. The Court readily notes that other CVA cases are proceeding with informal groupings wherein discovery is being coordinated in the most efficient manner possible. Specifically in the

instant actions the Court has met and conferred with the attorneys on several occasions since September 21, 2022. From the outset, the Court directed defendants to conduct two depositions a week with the expectation that all would be completed on or before the end of June, 2023 and that depositions of defendant would follow therein. At the time of oral argument on this motion, approximately sixteen plaintiffs' depositions had been completed. Unfortunately, the continuation of those depositions was delayed when plaintiffs' counsel sought an earlier deposition date of for defendant's witness and defendants responded by briefly stopping the depositions of additional plaintiffs as the dispute came before the Court.

The Court heard oral argument on this matter on March 7, 2023 and reserved decision, but did instruct defendants to resume depositions of plaintiffs immediately pending the instant order. Both sides present compelling arguments to the Court. Plaintiff seeks to depose a witness on behalf of the Archdiocese of New York in the immediate future to discuss its relationship with co-defendants Our Lady of Mount Carmel Church and Our Lady of Mount Carmel School, representing that the deposition would be binding for all seventy plaintiffs and that there would be no prejudice to defendant to proceed at this time. Plaintiff further argues that once said deposition is complete that all discovery will be complete in at least sixteen of the cases and same will be ready to be placed on the trial calendar.

In opposition, defendant argues that pursuant to the original agreement the depositions of all seventy plaintiffs must be completed before they produced a witness and it is unfair to change the agreement at the present time. They also raise concerns that proceeding with a defendant witness of this type prior to completing all plaintiffs' witnesses would be prejudicial.

The Court and all parties are well aware of the language of the Case Management Orders governing CVA cases as well as the standard understanding per the CPLR setting out discovery.

Clearly, absent special circumstances, the deposition of plaintiffs should be completed prior to deposing a defendant.

The Court notes that the consolidation of joint discovery in this matter was jointly sought by all parties specifically for the purpose of streamlining discovery. Now, plaintiff claims it is unfair to some of the seventy plaintiffs to be delayed several months while they wait for all to be deposed and at the same time defendant claim they are following the process that was put into place. As discussed supra, even with a joint discovery consolidation in place, each of the seventy cases stand alone and some individual cases may theoretically be ready for a Notes of Issue to be filed before others. While the Court is not in a position at this time to address the specific open discovery that may still exist among the seventy cases, the issue raised by plaintiffs' motion seeking a potential earlier deposition of a specific defendant witness is ripe for review.

The court recognizes that even with best of intentions on all sides, the realities of CVA related depositions and life circumstances can reasonably result in some delay to complete seventy depositions at the agreed upon pace of two per week. At the same time, significant delay is unwarranted and can unreasonably impact plaintiffs. The Court hereby finds that the parties shall continue the procedure set out at the September 21, 2022 compliance conference of conducting at least two plaintiffs' depositions per week. If the original timeline had been adhered to, defendant would have been expected to produce a witness in June, 2023. The Court agrees that it would be unfair to penalize defendant by changing the agreement of depositions midstream, however at the same time there is insufficient need to delay defendant's original deposition date. As such, it is hereby

ORDERED that plaintiff's motion is GRANTED to the following extent:

ORDERED that the parties shall use their best efforts to complete a minimum of two

plaintiffs' depositions per week; and it is further

ORDERED that even if all seventy plaintiffs have not been deposed, defendant, The Archdiocese of New York shall produce a witness on or before July 14, 2023, to address *inter alia* its relationship with co-defendants Our Lady of Mount Carmel Church and Our Lady of Mount Carmel School; and it is further

ORDERED that said witness's testimony shall be utilized for all seventy plaintiffs, even if some plaintiffs' depositions have not been completed on or before that date.

4/19/2023  
DATE

  
LAURENCE L. LOVE, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: