

Slotnick v Holmes

2013 NY Slip Op 32715(U)

April 22, 2013

Supreme Court, Westchester County

Docket Number: 60255/11

Judge: Joan B. Lefkowitz

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To commence the statutory time period for appeals as of right [CPLR 5513(a)], you are advised to serve a copy of this order, with notice of entry upon all parties.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER - COMPLIANCE PART

-----X
SUSAN SLOTNICK and HOWARD SLOTNICK,

Plaintiffs,

DECISION & ORDER

-against-

Index No. 60255/11
Motion Date: April 22, 2013

WILLIAM HOLMES, HOLMES & HOLMES, LLC,
and HOLMES & KENNEDY, INC.,

Seq. No. 1 & 2

Defendants.

-----X
LEFKOWITZ, J.

The following papers were read on (1) motion by defendants for an order dismissing plaintiffs' complaint or precluding plaintiffs from giving or presenting evidence at trial based upon plaintiffs' failure to provide discovery as directed in court orders, or compelling plaintiffs to provide responses to defendants' discovery demands as previously directed in court orders, and (2) motion by plaintiffs for a protective order regarding plaintiff Susan Slotnick's medical records, or, alternatively, an in camera inspection of the contested records to determine if they are discoverable.

- Order to Show Cause - Affirmation in Support of Gina M. Longobardi, Esq. - Exhibits A-O
- Affirmation in Opposition of Peter A. Frankel, Esq. - Exhibit A
- Order to Show Cause - Affirmation in Support of Peter A. Frankel, Esq. - Exhibits A-L
- Affirmation in Opposition of Gina M. Longobardi, Esq.

Upon the foregoing papers and the proceedings held on April 22, 2013, this motion is determined as follows:

Factual and Procedural Background

Plaintiffs commenced this action to recover damages for, inter alia, personal injuries which plaintiff Susan Slotnick allegedly sustained when she tripped in fell in a parking lot on May 27, 2009. Plaintiffs' verified bill of particulars alleges, inter alia, that Susan Slotnick sustained the following injuries: (1) a tear to her right hamstring; (2) a hip labral tear of the left hip, including a partial tear of both the anterolateral gluteus medius tendon and the gluteus

minimus tendon; (3) pudendal nerve injury with ligament damage affecting the pelvic floor including sensory branches to the clitoris, vagina and rectal sphincter; (4) scarring of the pelvic floor extending into the pelvic fat and abutting the left pudendal nerve within the canal, causing persistent vaginal pain requiring ongoing treatment including nerve root steroid injections and pelvic floor physical therapy; and (5) cartilage tear of right wrist.

On June 1, 2012, plaintiffs responded to defendants' Notice for Discovery and Inspection and provided 6 HIPAA compliant authorizations. On June 25, 2012, plaintiffs provided another HIPAA compliant authorization in response to defendants' Notice for Discovery and Inspection.

On or about July 25, 2012, plaintiff Susan Slotnick was deposed. On or about August 7, 2012, defendants served post-deposition demands in the form of a letter on plaintiffs' counsel. The demands included demands for multiple authorizations for tax records, employment/financial records and medical records, as well as color copies of the marked Exhibits A-E. On or about October 4, 2012, defendants served a second letter demand for the post-deposition discovery.

After a compliance conference, the court issued a Compliance Conference Order dated October 10, 2012, wherein plaintiffs were directed to respond to the outstanding discovery by October 23, 2012. On October 11, 2012, plaintiffs provided 7 HIPAA compliant authorizations and indicated that other authorizations would be provided under separate cover. By letter dated November 15, 2012, defendants advised plaintiffs' counsel that plaintiffs had failed to provide 18 demanded authorizations and color copies of the marked exhibits from the deposition.

On December 13, 2012, the court held a compliance conference. Plaintiffs appeared by a per diem attorney, who did not have full and complete knowledge of the discovery issues. Thereafter, on the same date, the court issued a Compliance Conference Order directing plaintiffs to respond to defendants' post-deposition demands on or before January 14, 2012. On December 14, 2012, defendants' counsel sent plaintiff's counsel a letter demanding the outstanding discovery.

On January 14, 2013, a compliance conference was held. Plaintiffs appeared by a per diem attorney, who did not have full and complete knowledge of the discovery issues. At the conference, defendants' counsel advised the court that further demands were required based upon new records that had been received. By Compliance Conference Order dated January 25, 2013, the court directed defendants to serve a new demand for authorizations on or before January 28, 2013, and directed plaintiffs to respond to both the outstanding demands and new demands by February 11, 2013.

On January 25, 2013, defendants' counsel served plaintiffs' counsel with a letter demand seeking 19 additional authorizations for medical records, 18 authorizations previously demanded and color copies of the marked exhibits from the deposition.

By response dated February 7, 2013, plaintiffs provided defendants with 20 authorizations for medical records and authorizations for tax returns and employment records. In the response, plaintiffs objected to the demand for authorizations for medical records from seven medical providers on the ground that the medical providers “had no connection with the injury sustained in the accident and the physical conditions in controversy,” and plaintiff Susan Slotnick had not waived her physician-patient privilege as to those medical records. Those medical providers included Dr. Moscovitz (ENT), Dr. Mark Borkin (internist, who plaintiff claimed treated her 20 years ago), Dr. Cassell (who plaintiff alleges is a breast surgeon), Carnegie Hill Endoscopy, Dr. Felsenstein (who plaintiff asserts is a dermatologist), Dr. Bloomgarten (who plaintiff alleges treated her over 20 years ago), and Dr. Dimple Tejwani (internist). Plaintiffs also advised defendants that plaintiff Susan Slotnick was unaware of Dr. Deborah Coady, Dr. Schneider, Dr. Hollis Potter and Dr. Dena Harris, and does not recall being treated by them. Plaintiffs asked defendants to provide further information as to those doctors’ specialties and the time period they allegedly treated plaintiff Susan Slotnick.

On February 13, 2013, another compliance conference was held. Plaintiffs again appeared by a per diem attorney, who did not have full and complete knowledge of the discovery issues. At the conference, plaintiffs objected to certain discovery demands. By Compliance Conference Order dated February 13, 2013, the court directed plaintiffs to provide responses to the outstanding discovery demands by March 1, 2013, including color copies of the marked exhibits from the deposition.

By letter dated February 13, 2013, defendants’ counsel identified 16 outstanding demands for authorizations for medical records, including authorizations to obtain plaintiff’s hysterectomy records and records regarding treatment for a vaginal virus, a mass and cysts in her abdomen. With respect to certain demands for authorizations, defendants identified the condition the medical provider treated and whether a reference to the medical provider was at the deposition or in another medical provider’s records. For instance, defendants demanded an unrestricted authorization to obtain the records of (1) “Dr. Helene Kaminski (Gynecologist) (As testified by plaintiff at her EBT-Mount Kisco requires separate authorizations for its doctors and its radiological facilities);” (2) “Dr. Mark Borkin (Columbia Doctors Medical Group) ... (internist abdomen mass and cysts); (3) “Dr. Jerome Felsenstein ... (treated her for [vaginal virus] as noted in her records;” (4) “Deborah Coady and Dr. Dena Harris (noted in Dr. Bully’s records) SoHo Obstetrics and Gynecology ...;” and (5) “Dr. Schneider and Hollis Potter, (who might have interpreted the coil MRI) ...”

On March 6, 2013, a compliance conference was held and briefing schedules were issued for the present motions since plaintiffs had not provided all the demanded authorizations.

Defendants’ Motion to Dismiss, Preclude or Compel

Defendants now seek an order dismissing plaintiffs’ complaint or precluding plaintiffs based upon their failure to provide responses to defendants’ discovery demands, or, alternatively compelling plaintiffs to comply with court orders and provide discovery responses to defendants’

discovery demands. Defendants contend that plaintiffs have willfully and continuously failed to provide outstanding discovery despite numerous requests and court orders, necessitating the present motion. Defendants further contend that plaintiffs have let the matter unnecessarily languish and have neglected to move forward with the prosecution of the matter.

Plaintiffs oppose defendants' motion and contend that there has been no willful failure to comply with the court's discovery orders as evidenced by the vast discovery provided by plaintiffs. Plaintiffs assert that defendants have failed to establish any willful and contumacious conduct on the part of plaintiffs warranting dismissal. Plaintiffs contend that they have substantially complied with defendants' excessive demands for HIPAA compliant authorizations, except for the demands which plaintiffs reasonably believe seek medical records which are protected and not discoverable. As to the authorizations which defendants contend are outstanding, plaintiffs assert that they either provided the authorizations or the records for which defendants seek are not discoverable. Plaintiffs specifically assert that the records of Dr. David Bloomgarten and Dr. Mark Borkin are not discoverable as they treated plaintiff Susan Slotnick 20 years ago and did not treat the injuries alleged in the present action. Plaintiffs further contend that plaintiff Susan Slotnick is unaware of Drs. Deborah Coady and Dena Harris, or being treated by those doctors. Accordingly, plaintiffs contend that preclusion is not warranted and relies upon its argument in support of their motion for a protective order with respect to the demanded authorizations.

Plaintiffs further assert the following with respect to that discovery which defendants contend that plaintiffs have not provided:

- (1) Defendants made copies of all marked exhibits at plaintiff Susan Slotnick's deposition. Plaintiffs' counsel has advised defendants that color copies would be provided of the exhibits if defendants agreed to pay the cost of color copies;
- (2) Authorization for Mt. Sinai Hospital diagnostic testing, reports and films and for Hospital for Special Surgery where the Coil MRI was performed were provided on June 1, 2012. Additional authorizations for records of Hospital for Special Surgery provided in October 11, 2012, with respect to specific doctors. If defendants failed to utilize authorizations for Hospital for special Surgery records, consequences should not be borne by plaintiffs;
- (3) Authorizations for Mount Kisco Medical Group and Carnegie Hill Endoscopy provided on February 7, 2013;
- (4) Drs. David Bloomgarten and Mark Borkin treated plaintiff over 20 years ago and no connection to injuries sustained in subject accident. Plaintiff Susan Slotnick has not waived her physician-patient privilege as to these medical provider and the records are not discoverable;
- (5) Plaintiff Susan Slotnick is not aware of or recall being treated by Drs. Deborah Coady, Dena Harris or Robert Schneider. Defendants have not provided further information as to these doctors;

(6) Dr. Dimple Tejwani is a pulmonologist and never treated plaintiff for the injuries at issue in this action. Plaintiff has not waived her physician-patient privilege as to this medical provider;

(7) Authorization for Dr. Jerome Felsenstein shall be provided;

(8) Dr. Lauren Cassell is a breast surgeon and never treated plaintiff with respect to the injuries at issue in this action. Plaintiff has not waived her physician-patient privilege as to this medical provider; and

(9) Plaintiff underwent a hysterectomy 12 years ago and making no claims regarding the removal of her uterus, which has no connection with the injuries sustained in the subject accident and plaintiff's physical conditions placed in controversy in the present action. Plaintiff Susan Slotnick has not waived her physician-patient privilege as to those medical records.

Plaintiffs contend that initiating a personal injury lawsuit does not constitute a "wholesale waiver" of all information as to a plaintiff's physical and mental condition, but only as to those conditions placed in controversy. Accordingly, plaintiffs contend that defendants' motion should be denied and defendants' motion for a protective order granted.

Plaintiffs' Motion for a Protective Order

Plaintiffs seek a protective order as to the demands for authorizations by defendants for certain medical providers as follows: (1) Dr. Moscovitz, an otolaryngologist, Dr. Felsenstein, a dermatologist, Dr. Cassel, a breast surgeon, Dr. Dimple Tejwani, a pulmonologist, and Carnegie Hill Endoscopy who never treated plaintiff Susan Slotnick for any pelvic, gynecological or orthopedic condition or injury to her pelvic floor or hamstring; (2) Plaintiff is unaware of Drs. Deborah Coady, Robert Schneider, Hollis Potter and Dena Harris, and does not recall being treated by these medical providers. Defendants have not provided additional information as to these medical providers; and (3) Drs. Borkin and Bloomgarten are internists who treated plaintiff Susan Slotnick over 20 years ago and have no connection to the injuries sustained in the subject accident.

Plaintiffs seek a protective order regarding defendants' demands for authorizations regarding the foregoing medical providers since their care and treatment have no bearing on the injuries claimed in the present action. Plaintiffs contend that the records requested by defendants pertain to unrelated conditions and treatments beyond the physical conditions in controversy, and defendants' request for over 80 medical authorizations is an abuse of CPLR 3101. As asserted in opposition to defendants' motion, plaintiffs contend that plaintiff Susan Slotnick has not waived her physician-patient privilege as to these unrelated physical conditions. Plaintiffs further contend that defendants have not offered any evidence that the treatment by the medical providers, for whom authorizations are outstanding, have any relevance to the injuries alleged in

this action. Plaintiffs note that defendants have not submitted a medical affidavit or other evidence which would establish or substantiate that any of the medical authorizations for the contested physicians or facilities would have any relevance to the preparation of a defense in this case. Plaintiffs further assert that although the commencement of an action for personal injuries waives the physician-patient privilege as to records relating to treatment of the alleged injuries and treatment of prior complaints to the same area, there is no waiver as to unrelated illnesses and treatments.

Defendants oppose plaintiffs' motion for a protective order. Defendants contend that plaintiffs failed to comply with four court orders directing them to provide the outstanding discovery. Defendants further contend that the authorizations which they requested are relevant and material to the issues in the present action. Defendants assert that the records provided indicated that plaintiff Susan Slotnick treated with the doctors or facilities for which authorizations were requested for either gynecological reasons or for conditions that could cause or lead to "pelvic floor scarring," "pudendal nerve injury," and/or "pudendal neuralgia," the injuries alleged by plaintiffs. Counsel for defendants asserts that in light of the unusual injuries claimed by plaintiff from a slip and fall accident, counsel went online and conducted a Google search of the common causes of pelvic pain and pelvic floor scarring and found most, if not all of the conditions noted on numerous websites, plaintiff Susan Slotnick testified that she had. These conditions, defense counsel asserts, includes sexually transmitted diseases, endometriosis, hysterectomy, ovarian cysts, fibroids, irritable bowel syndrome, interstitial cysts, chronic UTIs and bacterial vaginosis, and surgeries of the bladder, kidney and vagina. Defense counsel further asserts that plaintiff Susan Slotnick admitted to experiencing the foregoing conditions during her deposition when testifying as to her extensive medical history. Defense counsel also contends that during her deposition, plaintiff Susan Slotnick admitted to treating with some of the doctors and facilities for which authorizations are outstanding, and testified that she could not recall others.

Defendants also oppose plaintiffs' motion for a protective order on the ground that plaintiffs failed to object to the demands for discovery within 20 days of service of the demands. Defendants note that plaintiffs failed to object to any of the demands or move for a protective order for almost seven months. Defendants further rely upon case law which holds that if a timely motion is not made for a protective order under CPLR 3122, then all inquiry as to the propriety of a notice of discovery is foreclosed, except as to demands which are palpably improper or seek material privileged under CPLR 3101. Accordingly, defendants contend that plaintiffs have waived their opportunity to object to the discovery demands and plaintiffs' motion for a protective order should be denied.

Analysis

CPLR 3101(a) requires "full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof." The phrase "material and necessary" is "to be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing

delay and prolixity. The test is one of usefulness and reason” (*Allen v Crowell-Collier Publishing Co.*, 21 NY2d 403, 406 [1968]; *Foster v Herbert Slepoy Corp.*, 74 AD3d 1139 [2d Dept 2010]). Although the discovery provisions of the CPLR are to be liberally construed, “a party does not have the right to uncontrolled and unfettered disclosure” (*Foster*, 74 AD3d at 1140; *Gilman & Ciocia, Inc. v Walsh*, 45 AD3d 531 [2d Dept 2007]). The party seeking disclosure has the burden to demonstrate that the method of discovery sought will result in the disclosure of relevant evidence or is reasonably calculated to lead to the discovery of information bearing on the claims (*Foster*, 74 AD3d at 1140). The court has broad discretion to supervise discovery and to determine whether information sought is material and necessary in light of the issues in the matter (*Mironer v City of New York*, 79 AD3d 1106, 1108 [2d Dept 2010]; *Auerbach v Klein*, 30 AD3d 451, 452 [2d Dept 2006]).

“[A] party must provide duly executed and acknowledged written authorizations for the release of pertinent medical records under the liberal discovery provisions of the CPLR [citation omitted] when that party has waived the physician-patient privilege by affirmatively putting his or her physical or mental condition in issue” (*Cynthia B. v New Rochelle Hosp. Med. Ctr.* 60 NY 2d 452, 456-457 [1983]; *see* CPLR 3121 [a]; *DeLouise v S.K.I. Wholesale Beer Corp.*, 79 AD3d 1092 [2d Dept 2010]). It is well settled that a party waives the physician-patient privilege by affirmatively putting his or her physical or mental condition in issue (*Lombardi v Hall*, 5 AD3d 739, 740 [2d Dept 2004]). However, a party does not waive the privilege with respect to unrelated physical or mental conditions or treatment (*McLane v Damiano*, 307 AD2d 338 [2d Dept 2003]; *Carboni v New York Medical College*, 290 AD2d 473; *Cottrell v Weinstein*, 270 AD2d 449 [2d Dept 2000]; *Kohn v Fisch*, 262 AD2d 535 [2d Dept 1999]).

CPLR 3103(a), however, provides the Court may issue a protective order “denying, limiting, conditioning or regulating the use of any disclosure device” to “prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts.” The burden of establishing that certain documents are privileged and protected from discovery is on the party asserting the privilege, and the protection claimed must be narrowly construed (*Spectrum Sys. Intern. Corp. v Chemical Bank*, 78 NY2d 371 [1991]; *148 Magnolia, LLC v Merrimack Mut. Fire Ins. Co.*, 62 AD3d 486, 487 [1st Dept 2009]). It is well settled that a party waives the physician-patient privilege by affirmatively putting his or her physical or mental condition in issue (*Lombardi v Hall*, 5 AD3d 739, 740 [2d Dept 2004]). However, a party does not waive the privilege with respect to unrelated physical or mental conditions or treatment (*McLane v Damiano*, 307 AD2d 338 [2d Dept 2003]; *Cottrell v Weinstein*, 270 AD2d 449 [2d Dept 2000]; *Kohn v Fisch*, 262 AD2d 535 [2d Dept 1999]).

Initially, the court notes that, as conceded by defendants, the failure to object to a demand for discovery is not waived as to demands which are palpably improper or subject to a privilege pursuant to CPLR 3101 (*Accent Collections v Cappelli Enters.*, 84 AD3d 1283 [2d Dept 2011]; *Otto v Triangle Aviation Svcs.*, 258 AD2d 448 [2d Dept 1999]). Here, plaintiffs contend that, with the exception of the color copies of the marked deposition exhibits, the outstanding demands, which all seek authorizations for medical providers, are subject to the physician-patient

privilege and the privilege has not been waived. With respect to the color copies, insofar as plaintiffs only objected to the production based on the fact that they had offered to provide the color copies if defendants covered the cost and not on the ground of privilege, inquiry into the propriety of the demand is foreclosed. In any event, the court notes that in multiple orders, plaintiffs were directed to provide color copies of the marked deposition exhibits to defendants. Accordingly, plaintiffs shall provide color copies of the marked deposition exhibits to defendants at plaintiffs' expense.

With respect to the objections to the demands for the authorizations to which plaintiffs have now objected and have sought a protective order, the court determines as follows:

By alleging persistent vaginal pain and pudendal nerve injury (nerve in pelvic region), plaintiff Susan Slotnick has placed her gynecological treatment, including any treatment of any condition or virus of the vagina, as well as any conditions and treatment of the pelvic region into controversy. Accordingly, the records of Dr. Helene Kaminski, a gynecologist, and Dr. Felsenstein, who treated plaintiff's vaginal virus, are not protected by a privilege. Notably, in opposition to defendants' motion, plaintiffs have not agreed to provide an authorization for Dr. Felsenstein. Moreover, insofar as a hysterectomy involves surgery in the pelvic region, plaintiffs' hysterectomy is related to the injuries claimed in light of plaintiffs' claims of nerve damage in the pelvic region, and plaintiff has waived her privilege as to those records. Similarly, the treatment of an abdomen mass and cysts, as alleged by plaintiffs, by Dr. Mark Borkin, may be related to the injuries and symptoms that plaintiff is now alleging to the pelvic region. Although Dr. Borkin allegedly treated plaintiff over 20 years ago, the prior condition and treatment of the body part at issue in the present case is relevant. Plaintiffs shall provide authorizations for Dr. Felsenstein, Dr. Borkin and for plaintiff Susan Slotnick's hysterectomy records within 14 days of this order.

As to Dr. Bloomgarten, who plaintiffs only assert is an internist who treated plaintiff Susan Slotnick over 20 years ago, plaintiffs fail to offer any evidence as to what conditions were treated by that medical provider. The court, therefore, cannot determine if the treatment by that medical provider was for a condition related to an area of the body which plaintiff now claims an injury. Contrary to plaintiffs' contention, the burden is not upon defendants to establish that the records sought involve treatment of a condition related to the injuries alleged by plaintiff, but rather the burden is upon plaintiffs to demonstrate entitlement to a protective order. Accordingly, since plaintiffs have failed to demonstrate their entitlement to a protective order as to those records, plaintiffs shall provide an authorization for Dr. Bloomgarten within 14 days of this order.

Although plaintiffs assert that authorizations have been provided for Mt. Sinai Hospital diagnostic testing, reports and films, Mount Kisco Medical Group, and Carnegie Hill Endoscopy¹, the record does not substantiate this contention. The responses upon which

¹ Plaintiffs' counsel in support of the motion for a protective order inconsistently alleges that Carnegie Hill Endoscopy did not treat plaintiff Susan Slotnick for any of the claimed

plaintiffs rely establish the plaintiffs only provided authorizations addressed to one doctor each at Mount Kisco Medical Group and Carnegie Hill Endoscopy, but failed to provide authorizations for those entities. Accordingly, plaintiffs shall provide authorizations for those medical providers within 14 days of this order.

Plaintiffs, however, correctly contend that they provided an authorization for the Hospital for Special Surgery dated June 1, 2012, for the Coil MRI films and records. Although plaintiffs correctly contend that defendants apparently failed to timely utilize the authorization, defendants' need for the records in order to prepare a defense outweighs a minor inconvenience on the part of plaintiffs in providing a recent authorization. Plaintiffs, therefore, shall provide a new authorization for the Hospital for Special Surgery to defendants within 14 days of this order.

As to Dr. Deborah Coady and Dr. Dena Harris of SoHo Obstetrics and Gynecology, defendants have alleged that those doctors were referenced in the record of Dr. Bully, for whom plaintiffs provided an authorization. Accordingly, defendants have established that the treatment by those doctors is related to the injuries at issue, and plaintiffs have failed to demonstrate that the privilege as to those medical providers has not been waived. Plaintiffs shall, therefore, provide an authorization for those medical providers within 14 days of this order.

To the extent that the record demonstrates that Drs. Robert Schneider and Dr. Hollis Potter may have interpreted the Coil MRI at the Hospital for Special Surgery, for which plaintiffs have provided an authorization, plaintiffs shall provide an authorization for those medical providers limited to the reading and interpretation of plaintiff Susan Slotnick's Coil MRI. Said authorizations shall be provided within 14 days of this order.

Plaintiffs, however, are entitled to a protective order with respect to the authorizations for records of Dr. Lauren Cassel and Dr. Dimple Tejwani, who plaintiffs have asserted are a breast surgeon and pulmonologist, respectively. Plaintiff is also entitled to a protective order as to the authorization for Dr. Moscovitz, an otolaryngologist. Insofar as the areas treated by these medical providers are so far removed from the areas of the body which plaintiffs allege were injured in the subject accident, plaintiff has not waived her physician-patient privilege as to those records.

In view of the foregoing, it is

ORDERED that defendants' motion is granted only to the extent that plaintiffs shall provide the following outstanding discovery within 14 days of this order: (1) color copies of the marked deposition exhibits at plaintiffs' own cost; and (2) HIPAA compliant authorizations for the following medical providers and records: Dr. Jerome Felsenstein, Dr. Helene Kaminski, Dr. Mark Borkin, Dr. David Bloomgarten, Mount Kisco Medical Group, Carnegie Hill Endoscopy,

injuries, but plaintiffs have already provided an authorization for Dr. Blair Lewis c/o Carnegie Hill Endoscopy and, in opposition to defendants' motion, contend that they already provided the authorization for Carnegie Hill Endoscopy.

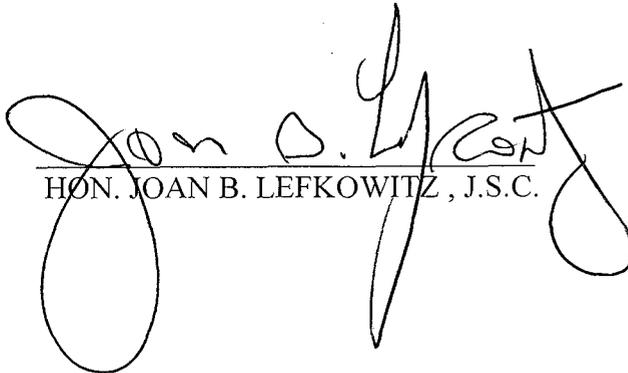
Hospital for Special Surgery, Mt. Sinai Hospital, and plaintiff Susan Slotnick's hysterectomy records; and it is further

ORDERED that plaintiffs' motion for a protective order is granted only with respect to the demands for authorizations for Dr. Lauren Cassell, Dr. Dimple Tejwani and Dr. Moscovitz, and plaintiffs do not need to produce authorizations for those medical providers; and it is further

ORDERED that all parties are directed to appear for a conference in the Compliance Part, Courtroom 800, on May 16, 2013 at 9:30 a.m.

The foregoing constitutes the decision and order of this Court.

Dated: White Plains, New York
April 22, 2013


HON. JOAN B. LEFKOWITZ, J.S.C.

TO:

Peter A. Frankel, Esq.
Attorney for Plaintiffs
225 Broadway, Ste. 3000
New York, NY 10007
BY NYSCEF

Law Offices of Susan B. Owens
By Gina M. Longobardi, Esq.
140 Grand St., Ste. 707
White Plains, NY 10601
BY NYSCEF

cc: Compliance Part Clerk