

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CHRISTINE A. STULSKY and JANA M. PRINDLE,

Plaintiffs,

-against-

VINCENT F. DEMARCO, et al.,

Defendants.  
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**ORDER**

16-CV-3804 (GRB) (ARL)

**LINDSAY, Magistrate Judge:**

Before the Court are the motions of the County defendants and the defendant Dr. Gerard Micalizzi (“Micalizzi”), seeking a stay of discovery in this matter. Although the plaintiffs have not yet responded to the motions, given the current deadlines, the Court grants the motions at this time.

In April, the parties appeared before the undersigned in this four-year old case. The Court indicated that it would consider a joint proposal to modify the scheduling order despite the age of the case. ECF No. 50. Two days later, counsel for the plaintiffs submitted a request for a 15-month extension, which was denied. Instead, the Court adjourned the deadline to complete all discovery, inclusive of expert discovery, to November 20, 2020. The Court also directed that any party planning on making a dispositive motion was to take the first step in the motion process by December 4, 2020. Finally, a final conference was scheduled for December 17, 2020.

Thereafter, on October 20, 2020, counsel for the plaintiffs sought “a thirty day suspension to get a final decision from the family about the action's future course.” ECF No. 53. In response to the letter, the Court issued the following order:

The plaintiff's request to stay this case for thirty days is denied. In his letter, counsel for the plaintiff has outlined a number of issues that have complicated

the prosecution of this action including the anticipated bankruptcy filing of a family member. Counsel has been aware of the possible bankruptcy filing since at least September 11, 2020. In addition, after conferencing with the parties in April, the Court indicated that it would consider a joint proposal for an amended scheduling order. However, shortly thereafter, the Court rejected the proposed 15-month extension as excessive and established November 20, 2020 as the final deadline for discovery. Given the age of this case, discovery must go forward. Accordingly, to the extent witnesses are available, they should be produced for depositions.

Order dated October 22, 2020. One week later, plaintiffs' counsel submitted an application to District Judge Brown seeking to withdraw. ECF No. 54. Judge Brown denied the motion and indicated that, pursuant to his individual rules, the application for withdrawal had to be made to the undersigned.

On November 5, 2020, counsel for the plaintiffs did renew his motion before the undersigned; however, the Court was forced to deny the motion, once again, as the motion failed to address the impact of the withdrawal on the timing of the proceeding. To date, plaintiffs' counsel has not resubmitted the motion to withdraw. Nonetheless, the letters submitted to Court had indicated that his "services were terminated" by the plaintiff executrix. Accordingly, since November 6, the defendants have attempted to contact him to ascertain how he intends to proceed as he did not file any additional correspondence with the Court. It appears that on November 13, 2020, defense counsel were advised that plaintiffs' counsel intended to file a renewed application that day, which he did not do.

Moreover, according to the defendant Micalizzi, he has been unable to schedule the depositions of Jana Prindle and Diana Stulsky with the plaintiffs' attorney. In addition, although a motion to compel was not filed with the undersigned<sup>1</sup>, counsel for

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<sup>1</sup> Micalizzi's letter motion to compel dated October 14, 2020, which inadvertently was filed in another action is denied with leave to renew once the stay is lifted.

Micalizzi has now advised that the plaintiffs have not responded to the defendant's requests for the following documents:

1. Dr. Michael Pearl – Stony Brook Hospital Oncology Department;
2. Name, address and authorization for facility where decedent had a splenectomy;
3. Dr. Edward Valentine;
4. Brookhaven Memorial Hospital Infusion Center;
5. Dr. John Stephen;
6. Dr. Jarid Pachter;
7. Catholic Home Care;
8. Name, address and authorization for therapist, Jeanine based upon the deposition of decedent, Christine Stulsky; and
9. Records from the Eastern Long Island Hospital for the ER presentation on 5/5/17.

Given this history, the Court will stay discovery in this case for the next thirty days to give the parties an opportunity to resolve the issue concerning the plaintiffs' representation. On or before December 24, 2020, the parties are directed to submit a status letter to the Court. The final conference scheduled for December 17, 2020 is adjourned without date. An amended scheduling order will be issued upon receipt of the status letter.

Dated: Central Islip, New York  
November 20, 2020

**SO ORDERED:**

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/s/  
ARLENE ROSARIO LINDSAY  
United States Magistrate Judge

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