

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MARY LISE RHEAULT-SCHERER,

Plaintiff,

- v -

1:17-CV-1220
(DJS)

FALCON MUSIC & ART PRODUCTIONS, INC.,

Defendant.

APPEARANCES:

OF COUNSEL:

RUTBERG BRESLOW
Attorneys for Plaintiff
3344 Route 9N
Poughkeepsie, New York 12601

LAWRENCE A. BRESLOW, ESQ.
CARMINE J. CAROLEI, ESQ.

LAW OFFICES OF MICHAEL
E. PRESSMAN
Attorneys for Defendant
125 Maiden Lane
17th Floor
New York, New York 10005

STEVEN H. COHEN, ESQ.

DANIEL J. STEWART
United States Magistrate Judge

ORDER

This matter was scheduled for trial beginning October 25, 2021, with the trial now adjourned to February 7, 2022. Dkt. No. 94. In connection with the October trial date, the parties filed several pretrial motions which the Court now addresses.


Defendant initially sought to preclude the testimony of Frederick Bremer, Dkt. No. 78, and to preclude the admission of certain medical records, Dkt. No. 79, but has now

withdrawn those objections. Dkt. Nos. 92 & 95. Plaintiff filed a Motion in Limine seeking relief on a variety of matters. See Dkt. No. 90. During a telephone conference regarding the request to adjourn the trial, Plaintiff withdrew her application to preclude Defendant's experts.¹ Plaintiff has now also withdrawn her objection to the use of the deposition testimony of Betty Gennarelli. Dkt. No. 93.²

Plaintiff's application to use the deposition testimony of Anthony Falco is deferred to the time of trial. Plaintiff's request to permit her experts to testify regarding applicable building codes, Dkt. No. 88 at p. 4, is granted since the violation of a building code may be some evidence of negligence. *Elliott v. City of N.Y.*, 95 N.Y.2d 730, 734-35 (2001); *Gonzalez v. State of N.Y.*, 60 A.D.3d 1193, 1194 (3d Dep't 2009).

IT IS SO ORDERED.

Date: October 12, 2021
Albany, New York



Daniel J. Stewart
U.S. Magistrate Judge

¹ Defendant's motion seeking a ruling regarding the admissibility of its expert testimony, Dkt. No. 77, therefore, is moot.

² The Court is appreciative of the efforts of counsel to narrow the disputes at trial.