

UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF NEW YORK

CHRISTOPHER and DARLEEN )  
LIVECCHI, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
OTIS ELEVATOR COMPANY, )  
 )  
Defendants. )

Case No. 1:18-cv-333

**ORDER ON DEFENDANT’S MOTION FOR IME and  
PLAINTIFF’S MOTION FOR PROTECTIVE ORDER AND TO AMEND SCHEDULE**  
(Docs. 21, 22)

On January 14, 2020, the court held a hearing on the above-referenced motions.

The court GRANTS defendant’s motion for an independent medical exam to be conducted by Dr. Moreland and DENIES plaintiff’s motion for a protective order. Dr. Moreland is a licensed physician in active practice. The issues raised by plaintiff go primarily to credibility and cross-examination. They are not sufficient to disqualify him from conducting an IME. This order is subject to counsel’s agreement to submit a proposed hourly rate to govern the cost of depositions by both side’s physicians. The court will not order payment of a flat rate which does not reflect the actual time spent at deposition and related activities such as travel or reasonable preparation.

The court revises the pre-trial schedule:

**Liability**

Two fact witnesses related to the plaintiff shall be deposed by April 1, 2020.

The parties shall conduct a joint inspection of the elevator not later than April 1, 2020.

Plaintiff's expert report shall be disclosed by May 1, 2020. Defendant's expert report shall be disclosed by June 1, 2020. Depositions of experts shall be complete by September 1, 2020.

**Damages**

Dr. Moreland's exam shall be complete by May 1. The defense rehabilitation specialist's exam shall be complete by June 1, 2020. IME reports shall be disclosed by July 1, 2020. Depositions shall be complete by September 1, 2020.


**Summary Judgment**

Any dispositive motion shall be filed by October 1, 2020. Usual response times apply.

**Trial readiness**

The case shall be trial ready on September 1, 2020, or 60 days after the court rules on any dispositive motion, whichever comes last.

Dated at Rutland, in the District of Vermont, this 14<sup>th</sup> day of January, 2020.

  
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Geoffrey W. Crawford  
U. S. District Court Judge