

Bowman v City of New York
2021 NY Slip Op 31541(U)
May 6, 2021
Supreme Court, New York County
Docket Number: 160009/2015
Judge: Erika M. Edwards
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ERIKA M. EDWARDS

PART II

Justice

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ROBERT BOWMAN,

Plaintiff,

- v -

THE CITY OF NEW YORK and PROJECT RENEWAL INC.

Defendants.

INDEX NO. 160009/2015

MOTION DATE 04/02/2020

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81

were read on this motion to/for DISMISS

Upon the foregoing documents and oral argument conducted on May 6, 2021, the court grants in part Defendants The City of New York's and Project Renewal, Inc.'s ("collectively, "Defendants") motion to dismiss Plaintiff Robert Bowman's ("Plaintiff") complaint or to compel for failure to comply with seven court Orders to the extent that the court compels Plaintiff to comply with the discovery requirements set forth herein or the court will preclude Plaintiff from testifying or presenting any evidence at the time of trial in support of allegations regarding loss of enjoyment of life, injuries to his lower extremities, use of a cane, and any damages sought for injuries allegedly sustained in this case which are similar to injuries he allegedly sustained in his subsequent accident which occurred on or about December 31, 2016.

The court denies Defendants' requests for orders dismissing Plaintiff's complaint or, in the alternative, vacating Plaintiff's Note of Issue and striking this matter from the trial calendar. However, the court grants the portion of Defendants' motion seeking an extension of time to file

a summary judgment motion and orders all dispositive motions to be filed within ninety (90) days of the date of this Order.

The court has considered all remaining arguments and additional requests for relief and denies them unless expressly granted herein.

As such it is hereby

ORDERED that the court grants in part Defendants The City of New York's and Project Renewal, Inc.'s motion to dismiss Plaintiff Robert Bowman's complaint, or to compel discovery, or to strike Plaintiff's Note of Issue and strike this matter from the trial calendar, or to extend the time for Defendants to file a summary judgment motion, to the extent that the court orders the following:

1) To the extent not already provided, the court orders Plaintiff to produce within thirty (30) days of the date of this order authorizations for Defendants to obtain copies of Plaintiff's records from all treating and examining healthcare providers, including diagnostic tests, x-rays, MRIs, EMGs and CT scans, for injuries specified in Plaintiff's bill of particulars, supplemental bill of particulars and amended bill of particulars served in this case for two years prior to the date of this accident to present, and for injuries specified in his subsequent accident which allegedly occurred on December 31, 2016 set forth in *Robert Bowman v. Hawanantu Kargbo and Emmanuel Roberts*, under Richmond County index number 151675/2018, including, but not necessarily limited to, the following:

- a) Richmond University Medical Center;
- b) Issac Romanoff (orthopedic specialist);
- c) Dr. Shreelo (primary care physician);
- d) Advanced Sports Medicine and Physical Therapy;

- e) Transformative Medical Health, PLLC;
- f) Hudson Pro Orthopedics and Sports Medicine;
- g) Health Plus Surgery Center; and
- h) One on One Physical Therapy;

2) The court requests, but does not order, Plaintiff's counsel to provide Defendants with copies of all records that he has in his possession and control regarding Plaintiff's treatment by the above-mentioned healthcare providers for authorizations not previously provided within thirty (30) days of the date of this order; and

3) To the extent not already provided, the court orders Plaintiff to produce within thirty (30) days of the date of this order copies of the non-privileged legal file within Plaintiff's counsel's possession or control regarding Plaintiff's subsequent accident which allegedly occurred on December 31, 2016 in *Robert Bowman v. Hawanantu Kargbo and Emmanuel Roberts*, under Richmond County index number 151675/2018, including, but not necessarily limited to, the following:

- a) Summons and Complaint;
- b) Bill of Particulars;
- c) Discovery Demands and Responses;
- d) IME reports;
- e) EBT transcripts; and it is further

ORDERED that should Plaintiff fail to comply with the discovery requirements set forth above, the court will preclude Plaintiff from testifying or presenting any evidence at the time of trial in support of allegations regarding loss of enjoyment of life, injuries to his lower extremities, limitations and use of a cane caused by injuries to his lower extremities, and any damages sought


for injuries allegedly sustained in this case which pertain to the same body parts allegedly injured in his subsequent accident which occurred on or about December 31, 2016; and it is further

ORDERED that the court grants the portion of Defendants' motion requesting an extension of time for Defendants to file a summary judgment motion and the court extends the time for all parties to file dispositive motions until on or before ninety (90) days from the date of this Order; and it is further

ORDERED that the court denies the portion of Defendants' motion seeking to dismiss Plaintiff's complaint, vacate Plaintiff's Note of Issue, and strike this matter from the trial calendar; and it is further

ORDERED that counsel are directed to appear for a virtual status conference via Microsoft Teams on June 24, 2021, at 11:30 a.m. (separate link provided).

5/6/2021
DATE


ERIKA M. EDWARDS, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION
APPLICATION:	<input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART <input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT <input type="checkbox"/> REFERENCE