

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Rucinski v. More Restoration Co. Inc.

2017 NY Slip Op 01137 (N.Y. Ct. App. 2017) · No. 3076N; 303087/12; 83924/12; 83996/12; 83739/13;
84015/15; 84072/15 · Decided February 10, 2017

SUMMARY

The Appellate Division, First Department affirmed the denial of defendants' request to compel plaintiffs to provide HIPAA-compliant Arons authorizations for depositions of medical providers concerning statements about the cause of a construction accident. The court held that the requested discovery was relevant but that Arons authorizations were unnecessary because defendants sought depositions under CPLR 3101(a)(4), rather than informal interviews. The court dismissed the remaining appeal as premature because there was no indication that the proposed subpoenas had been issued or served.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Sweeny, J.P.; Acosta, J.; Mazzarelli, J.; Manzanet-Daniels, J.; Webber, J.
JURISDICTION	New York
DECIDED	February 10, 2017
DOCKET	3076N; 303087/12; 83924/12; 83996/12; 83739/13; 84015/15; 84072/15
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order of Supreme Court, Bronx County, denying their motion to compel plaintiffs to provide HIPAA-compliant Arons authorizations for medical providers or to so-order proposed subpoenas for depositions concerning statements in medical records about the cause of the accident.
STANDARD OF REVIEW	Abuse of discretion; the Appellate Division reviewed whether Supreme Court providently exercised its discretion in denying the discovery request.
PRECEDENTIAL VALUE	published

PARTIES

Kraus Management, Inc., Franklin Kite Housing Development Fund Corporation v. Zbigniew Rucinski, et al.

TOPICS

discovery dispute

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QUESTIONS PRESENTED

1. Whether defendants were entitled to compel plaintiffs to provide HIPAA-compliant Arons authorizations so defendants could depose plaintiff's medical providers about statements in medical records concerning the cause of the accident.
2. Whether the Appellate Division could determine the propriety of proposed subpoenas that had not been issued or served.

HOLDINGS

1. No. Because defendants sought depositions under CPLR 3101(a)(4), rather than informal interviews under Arons v. Jutkowitz, plaintiffs were not required to provide HIPAA-compliant authorizations.
2. No. The appeal concerning the proposed subpoenas was dismissed as premature because there was no indication that the subpoenas had been issued or served.

KEY QUOTATIONS

“While the discovery sought is relevant under the broad standard of CPLR 3101, the court providently exercised its discretion in denying defendants' request to compel plaintiffs to provide Arons authorizations.”

“Here, defendants sought depositions of plaintiff's medical providers pursuant to CPLR 3101(a)(4), not interviews, and specified that the subject of the depositions was not diagnosis and treatment, but statements recorded in medical records relating to the cause of the accident.”

FACTUAL BACKGROUND

Zbigniew Rucinski alleged that he was struck by a falling object while performing construction work at a building owned and managed by defendants. His medical records contained conflicting accounts of how the accident occurred, and the records alone did not resolve the issue. Defendants sought to depose the medical providers who created the records about statements concerning the accident's cause.

PROCEDURAL HISTORY

In a Labor Law § 240(1) action, defendants sought discovery from plaintiff's medical providers regarding statements in medical records describing how the accident occurred. Supreme Court denied the request for

authorizations. The Appellate Division affirmed that portion of the order and dismissed the remainder of the appeal as premature because the subpoenas had not been issued or served.

DISPOSITION

affirmed

CASES CITED

- Arons v. Jutkowitz, 9 NY3d 393 (2007)
- Matter of Kapon v. Koch, 23 NY3d 32, 38 (2014)
- Benavides v. City of New York, 115 AD3d 518 (1st Dept 2014)
- Cuomo v. Long Is. Light. Co., 71 NY2d 349, 354 (1988)

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