

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
JENNIFER NICHOLAS,

Index №. 805140/2019

Plaintiff(s),

-against-

**RAMACHANDRA C. REDDY, M.D., SUDHAN
NAGARAJAN, M.D., and THE MOUNT SINAI
HOSPITAL,**

Defendant(s).
-----X

The following papers numbered 1 to 2 were read on this motion (Seq. No. 001) (*see* CPLR § 2219 [a]):

Notice of Motion - Order to Show Cause - Exhibits and Affidavits Annexed	No(s). 1
Answering Affidavit and Exhibits	No(s). 2
Replying Affidavit and Exhibits	No(s).

Upon the foregoing papers, it is hereby ordered that this motion is granted. Since the outset of the coronavirus pandemic, the overwhelming majority of depositions have been conducted remotely. This practice sharply diverges from past practice where depositions were largely conducted in-person. Indeed, in light of present circumstances, the general rule that depositions be conducted in-person has had to yield to practical public health considerations. Fortunately, this court has the authority to address those concerns, in part, by ordering that depositions be conducted remotely. To be sure, under CPLR §3103(a), a court has the discretionary power to compel a remote deposition over a party's objection (*see Gabriel v. Johnston's L.P. Gas Service, Inc.*, 98 AD3d 168 [4th Dept. 2012]; *Yu Hui Chen v. Chen Li Zhi*, 81 AD3d 818 [2d Dept. 2011]; *Rogovin v. Rogovin*, 3 AD3d 352 [1st Dept. 2004]; Siegel & Connors, New York Practice §§ 353, 355 [6th ed]).

Using CPLR §3103(a) to compel remote depositions is consistent with the spirit of directives from the Chief Administrative Judge of the Courts (Administrative Order 129/20 [June 22, 2020] ["In light of the ongoing coronavirus public health emergency, counsel and litigants are strongly encouraged to pursue discovery in cooperative fashion and to employ remote technology in discovery whenever possible"]).

Here, plaintiff has demonstrated that, in light of the ongoing coronavirus pandemic, appearances for in-person depositions would present an undue hardship, and that the depositions in this matter should proceed remotely without delay. Nevertheless, it is also axiomatic that defendants are entitled to corrected authorizations from plaintiff for Medicaid, Social Security Administration, and Express Scripts and other collateral sources before the depositions can proceed. In addition, defendants are owed responses to defendants' Demands for Authorizations

dated January 31, 2020 and February 7, 2020, which included demands for over 50 authorizations; and responses to defendants' correspondences dated September 19, 2019, October 22, 2019, and November 21, 2019 requesting correction of all previously provided authorizations which were set to expire "two years from the date hereof" to be extended and set to expire at "the end of litigation." Once plaintiff provides this outstanding discovery, the parties shall proceed with depositions remotely, as provided in this court's decision and order. Accordingly, it is hereby

ORDERED that plaintiff's motion is granted to the extent that the parties shall conduct depositions remotely; and it is further

ORDERED that plaintiff is directed to provide defendants with the discovery items outlined above within thirty (30) days of this court's order; and it is further

ORDERED that provided that the discovery items outlined above have been furnished, the parties are directed to commence depositions within sixty (60) days thereafter; and it is further

ORDERED that the parties shall submit a proposed stipulation and/or order to the court at manmedmal@nycourts.gov following the completion of plaintiff's deposition outlining remaining discovery items that need to be completed.

This constitutes the decision and order of the court.

Dated: 4/2/21

Hon. 
GEORGE J. SILVER J.S.C.

- 1. CHECK ONE..... CASE DISPOSED IN ITS ENTIRETY CASE STILL ACTIVE
- 2. MOTION IS..... GRANTED DENIED GRANTED IN PART OTHER