

0

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU - IAS/TRIAL PART 22
Present: HON. SHARON M.J. GIANELLI, J.S.C.**

-----X

NOELLE C. SANICOLA,

Plaintiff,

Index No. 606022/15

Mot. Seq. No. 005

DISCOVERY ORDER

~~-against-~~

**WANTAGH FIRE DISTRICT and
JOSEPH C. GROSS, JR.,**

Defendants.

-----X

Papers submitted on this motion:

Plaintiff's Notice of Motion and Memorandum of Law-----X

Defendants' Affirmation in Opposition and Memorandum of Law --X

Plaintiff's Affirmation in Reply -----X

Background

This action arises from a motor vehicle accident that occurred on June 17, 2014 in Wantagh, New York. At the time of the accident, Plaintiff was operating a vehicle and Defendant Gross was operating a fire department vehicle. Plaintiff served a Notice of Claim on July 28, 2014. A 50-h hearing was held on September 22, 2014. Plaintiff thereafter filed a Summons and Complaint on September 15, 2015, to which Defendants responded by filing an Answer on October 29, 2015. A lengthy discovery process ensued. Depositions concluded on October 11, 2017. The matter was certified for trial on October 13, 2017, along with a stipulation between the parties that certain additional discovery would be provided to Plaintiff by Defendants. The matter was thereafter placed

on the trial calendar, at which time Plaintiff asserted that Defendant had failed to comply with the discovery stipulation.

By Motion dated August 21, 2018, Plaintiff moved the Court for an Order: (1) vacating the Note of Issue and striking the case from the trial calendar; (2) striking the Answer; (3) compelling the Defendant Wantagh Fire District to provide the last known address of the retired fire chief Jim Johnston in aid of scheduling his deposition; (4) compelling Defendant Wantagh Fire District to turn over to Plaintiff any and all materials regarding the training conducted by Defendant Wantagh Fire District for the chauffer/master pump operator; (5) requesting that the Court so-order a subpoena in blank for Jim Johnston, believed to be the former Chief of Defendant Wantagh Fire District; and (6) requesting that the Court so-order a subpoena directing the deposition of Michael G. Antonucci, Superintendent of Defendant Wantagh Fire District.

The Court heard oral argument on the matter on October 10, 2018.

Ruling

Based on oral arguments, a review and consideration of the papers, together with the totality of the facts and circumstances herein to date, it is

ORDERED that Plaintiff's motion as to (2) is DENIED at this time; and it is

ORDERED that Plaintiff's motion as to (5) is DENIED, as Plaintiff's request is for a so-ordered subpoena with blank address; and it is

ORDERED that Plaintiff's motion is Granted as to (1), (3), (4), and (6), pursuant to Article 31 of the CPLR; and it is

ORDERED that Defendant shall comply with the Court's order within fifteen (15) days of the date of this Order; and it is

ORDERED that the Note of Issue is vacated and the matter removed from the Central Jury Trial Calendar; and it is

ORDERED that the parties shall appear before this Court for a certification conference on December 6, 2018 at 9:30 a.m., Part 22, located at Supreme Court, Nassau County 100 Supreme Court Drive, Mineola, New York.

Any requests not specifically ruled on herein are DENIED.

This constitutes the Decision and Order of the Court.

ENTER: October 15, 2018
 Mineola, New York



HON. SHARON M.J. GIANELLI,
Justice of the Supreme Court