

At a Motion Term of the Supreme Court of the State of New York, held in and for the County of Onondaga, at the Onondaga County Courthouse, Syracuse, New York, on the 29th day of March, 2018.

PRESENT: Honorable James P. Murphy, J.S.C
Justice of the Supreme Court

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONONDAGA

JAMES HATCH and PATRICIA HATCH,
his wife,

Plaintiffs,

-vs-

ST. JOSEPH'S HOSPITAL HEALTH CENTER,
DR. J. TIMOTHY RILEY, MD,
DR. ROBERT S. NOLAN, MD, PhD,
NEUROLOGICAL ASSOCIATES OF
CENTRAL NEW YORK, LLP,
VASCULAR SURGEONS OF CNY, PLLC,
and DR. ROBERT E. CARLIN, M.D.,

Defendants.

ORDER

Index No.: 2016EF404
RJI No.: 33-16-0923

Hon. James P. Murphy

Defendant St. Joseph's Hospital Health Center, by and through their attorneys Gale Gale & Hunt, LLC having duly moved for an Order pursuant to CPLR §3212 granting their Motion for Summary Judgment dismissing the Complaint of James and Patricia Hatch against them including any and all cross-claims,

NOW, upon the reading and filing of the Notice of Motion of Gale Gale & Hunt, LLC, dated March 12, 2018, the Affirmation of Max D. Gale, Esq. sworn to March 12, 2018, with attached exhibits and accompanying Memorandum of Law, and Affidavit of Resident Jeffery J. Stein, M.D. sworn to March 2, 2018 in support of said motion,

AND UPON the reading and filing of the Affirmation of Sidney P. Cominsky, Esq., dated March 22, 2018, with attached exhibits and Affidavit of Plaintiffs' vascular surgeon in opposition to said motion,

AND UPON the reading and filing of the Reply Affirmation of Max D. Gale, Esq., dated March 26, 2018 and accompanying Memorandum of Law in further support of said motion,

AND UPON the reading and filing of the Sur-Reply Affirmation of Sidney P. Cominsky, Esq., dated March 27, 2018, in further opposition to said motion,

AND UPON the appearances of Max D. Gale, Esq., on behalf of St. Joseph's Hospital Health Center, Danielle Mikalajunas Fogel, Esq., on behalf of Robert E. Carlin, M.D. and Sidney P. Cominsky, Esq. on behalf of James and Patricia Hatch for oral arguments before the Honorable James P. Murphy, J.S.C. on March 29, 2018, which the Court reserved ruling on said motion, with a transcript or oral arguments attached hereto and incorporated herein,

AND UPON review of the letter submission of Sidney P. Cominsky, Esq. dated March 29, 2018, with attached exhibits, in further opposition to said motion,

AND UPON review of the letter submission of Max D. Gale, Esq. dated March 30, 2018, with attached exhibits, in further support of said motion,

AND UPON appearances of Max D. Gale, Esq., on behalf of St. Joseph's Hospital Health Center, Danielle Mikalajunas Fogel, Esq., on behalf of Robert E. Carlin, M.D. and Daniel S. Greene, Esq. and Sylvia Bode Kraus, Esq. on behalf of James and Patricia Hatch on April 2, 2018, for the decision of the Court, with a transcript of the decision of the Honorable James P. Murphy, J.S.C. attached hereto and incorporated herein,

AND UPON due deliberation by the Court, it is hereby,

ORDERED that the Motion for Summary Judgment of Defendant St. Joseph's Hospital Health Center is granted in its entirety, and it is further

ORDERED that the Complaint against Defendant St. Joseph's Hospital Health Center is hereby dismissed with prejudice on the merits, including any and all cross-claims.

Dated: April ____, 2018

ENTERED

Honorable James P. Murphy
Justice of the Supreme Court