

**Siguencia v City of New York**

2024 NY Slip Op 34350(U)

December 11, 2024

Supreme Court, New York County

Docket Number: Index No. 161392/2018

Judge: Sabrina Kraus

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This opinion is uncorrected and not selected for official publication.

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

**PRESENT: HON. SABRINA KRAUS PART 57M**

*Justice*

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FRANKLIN SIGUENCIA,

Plaintiff,

- v -

THE CITY OF NEW YORK, THE NEW YORK CITY  
DEPARTMENT OF EDUCATION, THE NEW YORK CITY  
SCHOOL CONSTRUCTION AUTHORITY

Defendant.

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INDEX NO. 161392/2018

MOTION DATE 11/19/2024

MOTION SEQ. NO. 005

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 005) 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 137, 138, 139

were read on this motion to/for DISCOVERY.

**BACKGROUND**

In this labor law action, defendant moves for additional discovery and related relief based on Plaintiff’s service of a fourth supplemental bill of particulars which specifies in greater detail the cost of future treatment and the nature of future treatment. Plaintiff filed the Note of Issue with the Court on February 15, 2024. On October 16, 2024, plaintiff served a Fourth Supplemental Bill of Particulars setting forth specific costs for future medical care.

On December 6<sup>th</sup>, 2024, defendant moved for an order compelling plaintiff to appear for a further deposition and further physical examinations, provide a response to defendants' discovery demand and provide trial authorizations, or, in the alternative, for an Order, pursuant to CPLR§ 3216, precluding plaintiff from offering evidence at the trial of this action,

On December 10, 2024, the motion was fully briefed, marked submitted and the Court reserved decision.

The motion is granted to the extent set forth below.

### **DISCUSSION**

Plaintiff's first Bill of Particulars, dated June 21, 2019, asserted injuries to both his knees, asserted the need for future surgery to the left knee, lower back pain, steroid injections, disc herniation, PTSD, depression and other psychological diagnoses. Plaintiff asserted these injuries were permanent and progressive in nature, and that he would "require future medical care, orthopedic care, pain management care and neurological care and attention for the balance of his lifetime."

A first supplemental Bill dated October 9, 2020, pertained primarily to and August 30, 2019 left knee arthroscopy and updated the medical costs incurred to date. A second supplemental Bill dated May 10, 2021, only updated medical costs incurred as of that date. A third supplemental Bill dated September 10, 2021, addressed a further arthroscopy performed on Plaintiff's right knee.

The fourth supplemental Bill, which is the primary basis for the relief sought by defendant in the underlying motion, specified the type of future care and anticipated costs that were referenced in Plaintiff's initial Bill. It provided as follows:

The plaintiff needs and should be seen by an Orthopedic Surgeon at least six (6) times per year. The cost for each visit is \$200.00.

The plaintiff needs and should be seen by a Spinal Surgeon at least three (3) times per year. The cost for each visit is \$300.00.

The plaintiff needs and should be seen by a Physiatrist at least 8-10 times per year to monitor the patient's overall musculoskeletal injuries, assess the need for physical therapy, pain medication, diagnostic studies and any psychiatric treatments. The cost for each visit is \$200.00.

The plaintiff needs and should be seen by a Psychiatrist at least six (6) times per year to monitor his psychiatric ailments and prescribe psychotropic medications. The cost for each visit is about \$300.00.

The plaintiff needs and should be seen by a Clinical Psychologist at least once a week for a psychotherapy session. The cost is about \$400.00 per session.

The plaintiff needs and should have at least one (1) physical therapy session per week to diminish pain and spasm, improve range of motion and improve overall function. The cost for each visit is \$200.00.

The plaintiff needs and should have periodic MRIs of the cervical spine, lumbar spine, and both knees every 2-3 years to assess the ongoing pathology. The cost for each MRI is \$1,500.00.

The plaintiff needs and should undergo EMGs of the upper and lower extremities now and every 1-2 years to assess the extent of radiculopathy and/or nerve damage. The cost for each EMG is \$2,500.00.

The plaintiff needs pain medications for pain, spasm, inflammation, and for anxiety and depression. The approximate annual cost is \$5,000.00 to \$10,000.00 per year depending on the medication dosage and frequency. Topical compounding cream medications are highly recommended because of the low toxicity and side effects; however, the cost is \$800.00 to \$900.00 per month.

The plaintiff will need and should undergo periodic CBC, basic chemistry profile, liver function tests, and urinalysis every four (4) months to monitor the potential side effects of the medications. The cost for each is \$400.00.

The plaintiff will need the following interventional pain management procedures for the next five (5) years. The patient will need annual MRIs for the cervical and lumbar spine while interventional pain management procedures have been given.

- a. The plaintiff will need three (3) cervical epidural injections per year and three (3) lumbar epidural injections per year. The cost for each epidural is \$2,000.00 and outpatient surgical facility fee for each is \$3,000.00.
- b. The plaintiff will need three (3) cervical medial branch block injections and three (3) lumbar medial branch block injections per year. The cost for each is \$3,000.00.
- c. The plaintiff will need two (2) sets of cervical radiofrequency ablation procedures and two (2) sets of lumbar radiofrequency ablation procedures per year, one (1) to each side. The cost is \$5,000.00 for each and the outpatient surgical facility fee for each is \$4,000.00.
- d. The plaintiff will need twelve (12) sets of trigger point injections per year for the muscle pain. The cost is \$400.00 per set.

The plaintiff needs a two-level lumbar discectomy with possible fusion surgery. The cost for this procedure is as follows: surgeon's fee is \$60,000.00 to \$75,000.00; Surgical assistant fee is about \$10,000.00; Aone (1) to two (2) day hospital stay is about \$150,000.00 to \$200,00.00; The anesthesia fee is about \$4,000.00; the neuromonitoring fee to monitor the spine during surgery is \$3,000.00; the postsurgical bracing is \$1,000.00.

After the surgery, the plaintiff will need additional physical therapy sessions three (3) times a week for four (4) to six (6) months.

As times goes on, this patient will be a candidate for early bilateral total knee replacement surgery. The cost of the knee replacement surgery for each knee is about \$120,000.00. This will include the surgeon's fee, the prosthetic knee replacement cost, a one (1) to two (2) day hospital stay, anesthesia, miscellaneous expenses, and postsurgical bracing. After each surgery, the patient will need additional physical therapy sessions three (3) times per week for four (4) to six (6) months.

In response to the Fourth Supplemental Bill of Particulars and Medical Exchange, defendants served a Notice to Take a Further Deposition of Plaintiff, a Notice for Discovery and Inspection and Notices for Further Defense Physical Examinations.

The parties agree that the fourth supplemental does not allege any new injuries. The Court finds no basis to order that the defendant be produced for a further deposition or further defense independent medical examinations with defense orthopedist, neurologist and psychiatrist based on said Bill. Defendant could not opine on the need for future treatment and already appeared before defendants doctors in 2023 for examination on these same issues.

However, the Court finds it appropriate for plaintiff to provide authorizations to obtain plaintiff's medical records from all healthcare providers who support the claim of the need for future medical care treatment as set forth in plaintiff's Fourth Supplemental Bill of Particulars.

Additionally, Plaintiff must provide trial authorizations and has submitted no basis to the Court not to comply with defendant's request for same.

**CONCLUSION**

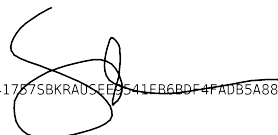
WHEREFORE it is hereby:

ORDERED that plaintiff provide authorizations sought in accordance with the October 18, 2024, Notice of Discovery and Inspection served by defendant within ten days of service of a copy of this order with notice of entry; and it is further

ORDERED that plaintiff provide the outstanding requested trial authorizations within ten days of service of a copy of this order with notice of entry; and it is further

ORDERED that the balance of the relief requested is denied.

This constitutes the decision and order of the Court.



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12/11/2024

DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER  
REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: