

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

967

CA 21-01597

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, BANNISTER, AND MONTOUR, JJ.

MARGARET GROOMS-YARBORO, PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

DAVID CARTER AND MARIA MACKIN,
DEFENDANTS-RESPONDENTS.

CAMPBELL & ASSOCIATES, HAMBURG (JASON M. TELAACK OF COUNSEL), FOR
PLAINTIFF-APPELLANT.

OSBORN, REED & BURKE, LLP, ROCHESTER (MICHAEL C. PRETSCH OF COUNSEL),
FOR DEFENDANTS-RESPONDENTS.

Appeal from an order of the Supreme Court, Steuben County
(Patrick F. McAllister, A.J.), entered October 25, 2021. The order
denied plaintiff's motion seeking, inter alia, a protective order.

It is hereby ORDERED that the order so appealed from is
unanimously affirmed without costs.

Memorandum: In this personal injury action arising from injuries
plaintiff allegedly sustained when she slipped and fell in a parking
lot owned by defendants, plaintiff appeals from an order denying her
motion for a protective order pursuant to CPLR 3103 (a) and/or the
appointment of a judicial hearing officer or referee to supervise
discovery. The motion sought to preclude defendants from asking
plaintiff questions at her deposition about the extent and nature of
various preexisting medical conditions identified in her medical
records.

"It is well settled that the court is invested with broad
discretion to supervise discovery . . . , and only a clear abuse of
discretion will prompt appellate action" (*Mosey v County of Erie*, 148
AD3d 1572, 1573 [4th Dept 2017] [internal quotation marks omitted];
see *Castro v Admar Supply Co., Inc.* [appeal No. 2], 159 AD3d 1616,
1617 [4th Dept 2018]). Here, we conclude that, given the elements of
damages requested by plaintiff in her bill of particulars, Supreme
Court did not abuse its broad discretion in denying plaintiff's motion
(see generally *Castro*, 159 AD3d at 1618).

Entered: February 10, 2023

Ann Dillon Flynn
Clerk of the Court