

NEW YORK SUPREME COURT - QUEENS COUNTY

Present: Honorable, PETER J. O'DONOGHUE IAS PART MD
Justice

TEONI MADDOX,

Index No.: 719701/2021

Plaintiff,

Motion Date: 02/08/2023

-against-

Seq. No.: 1

EPISCOPAL HEALTH SERVICES, INC. d/b/a ST.
JOHN'S EPISCOPAL HOSPITAL,

Defendant.



The following papers numbered as set forth below and read on this motion by defendant EPISCOPAL HEALTH SERVICES, INC. d/b/a ST. JOHN'S EPISCOPAL HOSPITAL for an order:

- a) Pursuant to CPLR §3211(a)(7) and New York Public Health Law §3080-3082, dismissing plaintiff's complaint with prejudice as defendant is immune from liability claimed in this action; and
- b) Staying discovery pending the determination of this motion pursuant to CPLR §2201, in the interests of justice and judicial economy; and
- c) For such other and further relief as to this court seems just and proper.

PAPERS
NUMBERED

N.M.-Affirmation-Exhibits-Affidavit of Service...	21-28
Opposition-Exhibits-Affidavit of Service.....	29-34
Reply-Exhibits-Affidavit of Service.....	37-39

Upon the foregoing papers it is ordered that the within motion by defendant for an order pursuant to CPLR §3211(a)(7) and New York Public Health Law §3080-3082, dismissing plaintiff's complaint with prejudice as defendant is immune from liability claimed in this action is granted.

The New York Emergency or Disaster Treatment Protection Act ("EDTPA") which was signed into law on April 3, 2020, and which was made effective as of March 7, 2020, was initially designed to be extremely broad, granting complete civil immunity to health care providers, including skilled nursing facilities whose services were impacted by the response to COVID-19. The EDTPA

was subsequently amended effective August 4, 2020 to narrow the granting of civil immunity to the treatment of a patient with confirmed or suspected COVID-19, as opposed to all treatment in facilities or situations affected by the pandemic. On April 6, 2021 a bill was signed repealing the EDTPA, effective immediately and omitting any language making the repeal retroactive.

Plaintiff was admitted to defendant hospital on February 25, 2021 for COVID-19 and was treated for COVID-19 throughout her admission until she was discharged to a nursing home on March 15, 2021. Plaintiff alleges that the defendant was negligent in that the hospital was inadequately staffed, resulting in her development of pressure ulcers. The evidence clearly establishes that plaintiff's care was impacted by the COVID-19 pandemic thereby establishing the applicability of the EDTPA to provide immunity to defendant for the care rendered during this admission.

Case dismissed. The Clerk of the Court shall enter judgment accordingly.

Dated: June 15, 2023

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Peter J. O'Donoghue, J.S.C.

