TRAUB LIEBERMAN

NEWS & EVENTS

August 23, 2023

Traub Lieberman Partner Colleen Hastie and Associate Jeffrey George Successfully Oppose Plaintiff's Motion to Vacate Dismissal

Related Attorneys: Jeffrey George

Traub Lieberman Partner Colleen Hastie and Associate Jeffrey George successfully opposed Plaintiff's motion to vacate a prior dismissal of plaintiff's medical malpractice action brought before the Supreme Court of the State of New York, Bronx County.

The lawsuit, commenced by Plaintiff in 2015, alleged medical malpractice stemming from treatment Plaintiff received at a New York medical facility after falling out of a window at a rental property owned by Traub Lieberman's client ("Property Owner"). Property Owner moved to dismiss Plaintiff's complaint or preclude Plaintiff from offering evidence in support of its claims, or in the alternative, compel plaintiff to produce all outstanding discovery. The Medical Facility cross-moved for the same relief. Defendants agreed to adjourn the motion until after plaintiff's deposition, but plaintiff made no effort to secure an adjournment with the court and plaintiff filed no opposition to the motion, allowing the motion to be granted on default. Plaintiff waited nearly a year to file a motion to vacate the default judgment, despite receiving notification of the default from defense counsel. Property Owner, in opposing plaintiff's motion, pointed to plaintiff's long history of dilatory conduct and failure to comply with discovery orders in support of its position that plaintiff failed to show any good cause for its default on the motion to dismiss.

The court agreed with Property Owner's position and found that Plaintiff had reasonable time to oppose the motion to dismiss and that the Defendant's had maintained professional conduct throughout the proceedings. Therefore, the Plaintiff's motion to vacate was denied.

© Traub Lieberman Straus & Shrewsberry LLP