

DISTRICT COURT OF THE COUNTY OF SUFFOLK, SECOND DISTRICT

Present:

HON John P. Schettino
Judge

Motion Date August 14, 2017

SLOMIN' S INC.

Plaintiff

-Against-

PASQUALE MANGANO

Defendant

Upon the following papers numbered 1 to 3 read on this motion vacate the notice of trial and strike the complaint
Notice of Motion/xxxxxxxxxxxxxxxxxxxx and supporting papers 1, 2
Notice of cross-Motion and supporting papers _____
Answering Affidavits and supporting papers 3
Replying Affidavits and supporting papers _____
Filed papers _____ ; Other Exhibits - A-E

and after review of the papers in support of and opposed to the motion it is,

ORDERED that this motion by the defendant to vacate the notice of trial and to strike the complaint is granted only to the extent that the matter is stayed for thirty (30) days from the date of mailing of this order by the court during which time the defendant may, if so inclined, conduct an examination before trial of the plaintiff at a time and place mutually agreed to by the parties. At the time of filing of the notice of trial the only outstanding demand for disclosure was defendant's notice for an examination before trial of plaintiff dated April 27, 2016. The defendant has failed to demonstrate that any specific written or oral demand was made to actually conduct the examination before trial at any time prior to the filing of the notice of trial. The service of additional demands for disclosure with the instant motion papers are of no moment as they are untimely and an obvious delay tactic. Thus, the plaintiff need not respond to such demands. The clerk of the court shall remand this matter to the commissioner of civil arbitration thirty (30) days after the mailing of this order by the court.

Dated: August 24, 2017

Decision to be published on line ___ Yes No

Mailed 8.30.17

John P. Schettino
J.D.C. #113
Hon. John P. Schettino