SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. CAROL R. EDMEAD** **PART** **IAS MOTION 35EFM**

Justice

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NICOLE ROSENBERG

Plaintiff,

- v -

NEW YORK UNIVERSITY,

Defendant.

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INDEX NO. 160326/2020

MOTION DATE 12/11/2020

MOTION SEQ. NO. 001

ORDER - INTERIM (MOTION RELATED)

The following e-filed documents, listed by NYSCEF document number (Motion 001) 10, 19, 20, 23 were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

Upon the foregoing documents, it is

Upon the foregoing documents, and in accordance with the "So-Ordered" Transcript December 7, 2020 (Karen Perlman, Court Reporter), it is hereby

ORDERED that the application by Petitioner Nicole Rosenberg for an interim stay pending further proceedings is denied; and it is further

ORDERED that Respondent shall, on or before 5:00 p.m. on December 11, 2020, submit its answer to the petition, with its fact affidavits and supplemental memorandum of law; and it is further

ORDERED that Petitioner shall, on or before 5:00 p.m. on December 11, 2020, submit her fact affidavits and supplemental memorandum of law in support of the petition.

MEMORANDUM DECISION

In this Article 78 proceeding, petitioner Nicole Rosenberg seeks an order declaring the determinations dated October 23, 2020 and November 13, 2020 (collectively, the "Decision") made by Respondent New York University ("Respondent" or "NYU") to suspend her for the fall 2020 semester to be arbitrary, capricious and constituting an abuse of discretion.

Simultaneous to the filing of their petitions, Petitioner moves, by Order to Show Cause ("OSC"), for the issuance of a temporary restraining order staying the Decision, and all the sanctions imposed therein, pending a hearing. Respondent opposes.

For the reasons below, and in accordance with the "So-Ordered" Transcript December 7, 2020 (Karen Perlman, Court Reporter), Petitioner's application for an interim stay is denied.

BACKGROUND

Petitioner is currently enrolled as a freshman for the academic year 2020-2021 at the NYU Gallatin School of Individualized Study (NYSCEF doc No. 11, Affidavit of Petitioner, ¶7). She alleges that on October 15, 2020, she and two of her friends "went to a boat to listen to music outdoors." (*Id.*, ¶18) She stated that she learned about the boat event from a friend who read the event's promotional flyer and allegedly told her that the boat was "operating under COVID guidelines." (*Id.*, ¶ 15; *see also* NYSCEF doc No, 4, at 13).

Petitioner attached in her papers a copy of the flyer (NYSCEF doc No. 4, at 25). The flyer indicates that the party will go from "10PM-LATE," that the music will be played by certain artists, that the boat will depart from a "SECRET PORT," that "[t]ickets are mandatory for entry 21+" and that the party will be "[o]perating under COVID guidelines." (*Id.*)

Petitioner claims that upon arriving at the event on October 15, 2020, she and her friends looked around the upper deck then went downstairs to the lower deck where the bathrooms were

located (*Id.*, ¶¶19-20). It was allegedly at this point that they realized the boat was not operating under COVID guidelines so they tried to leave, but were not allowed to by the security staff who advised that the boat was in the process of departing (NYSCEF doc No. 4, Petitioner's Affidavit, ¶ 22). As a result, Petitioner and her friends allegedly decided to just stay in a corner of the boat, but wore their masks and socially distanced while they were there (*Id.*, ¶¶ 23-24).

On October 21, 2020, Petitioner received an email from NYU's Office of Student Conduct ("OSC") informing her that the NYU OSC was in receipt of an incident report alleging that she "attended a large gathering at an off-campus location without proper use of masks and social distancing" and that, consequently, Petitioner was being charged with potentially violating university policies related to the COVID-19 pandemic (NYSCEF doc No. 4 at 31). In the same email, Petitioner was requested to attend a Conduct Conference via Zoom ("Conduct Conference") on October 22, 2020 to discuss the incident and was further warned that Respondent would consider sanctions, including her suspension from NYU. The Conduct Conference proceeded as scheduled.

On October 23, 2020, Petitioner received a letter from Respondent setting forth Respondent's finding that Petitioner violated sections B1, E1 and E3 of the NYU Student Conduct Policy (the "Student Conduct Policy"), which state as follows:

> "University Student Conduct Policy/B1: Engaging in or threatening to engage in behavior(s) that, by virtue of their intensity, repetitiveness, or otherwise, endanger or compromise the health, safety or well-being of oneself, another person, or the general University community."
>
> "University Student Conduct Policy/E1: Disorderly, disruptive, or antagonizing behavior that interferes with the safety, security, health or welfare of the community, and/or the regular operation of the University."
>
> "University Student Conduct Policy/E3: Failure to abide by the Policy on Requirements Related to Access to NYU Buildings and Campus Grounds Resulting from the COVID-19 Pandemic, or any related governmental orders issued concerning public health."

To support the above finding, Respondent explained that Petitioner's narrative of the boat party was "questionable based on the evidence available" as it was not "plausible that [Petitioner] would have been naïve to the type of the event [she was] attending before stepping on to the boat." (NYSCEF doc No. 2, at 2). Respondent also referenced videos which Petitioner allegedly "acknowledged were an accurate representation of the conditions [of the event]." (*Id.*).

Respondent imposed the following sanctions:

(i) Suspension from NYU for the fall 2020 semester until December 31, 2020 with eligibility to resume course of studies in the January 2021 term;

(ii) Probation upon return to NYU until August 31, 2021; and

(iii) Submission of a research and reflection paper focusing on the role young people have played in the transmission of COVID-19 in the United States due on November 16, 2020.

On October 30, 2020, Petitioner appealed; respondent denied the same in a letter dated November 13, 2020 (NYSCEF doc No. 3).

Petitioner then commenced this Article 78 proceeding on November 30, 2020, arguing that Respondent's Decision is arbitrary, capricious and constitutes an abuse of discretion (NYSCEF doc No. 1, ¶ 1). Petitioner simultaneously moved for the issuance of a temporary restraining order staying the Decision. On December 2, 2020, Respondent filed its opposition to the stay.

On December 7, 2020, this Court held oral argument on Petitioner's application for an interim stay. This Decision and Order addresses the arguments raised by parties at oral argument and in their submissions in relation to the limited issue of Petitioner's entitlement to an interim stay.

DISCUSSION

Jurisdiction of the Court

As a preliminary matter, the Court finds that it has jurisdiction to review the Decision under CPLR 7801. While strong policy considerations militate against the intervention of courts in controversies relating to an educational institution's judgment of a student's academic performance (*Matter of Ghlay v Columbia Univ.*, 179 A.D.3d 484 [1st Dept 2020], citing *Keles v Trustees of Columbia Univ. in the City of N.Y.*, 74 AD3d 435, 435 [1st Dept 2010] and *Matter of Susan M. v New York Law School*, 76 NY2d 241, [1990]), Petitioner's case does not involve any assessment of her academic performance. Rather, Petitioner is requesting this Court to review Respondent's disciplinary ruling against her. Therefore, she presents a judicially cognizable claim.

However, the Court recognizes that its power of review is limited to determining whether Respondent substantially adhered to its own published rules and guidelines and its Decision was not arbitrary, capricious or an abuse of discretion, as further discussed below (*infra*, at pp. 10-13).

The Application for an Interim Stay

Petitioner argues that she is entitled to the grant of an interim stay of the Decision and all of its resulting sanctions because: (1) the suspension, which took effect on November 19, 2020, with less than a month to go in the semester, will cause Petitioner irreparable harm now and in the future; (2) Respondent failed to substantially comply with its published rules and guidelines; (3) Respondent's Determination was not "based on a rational interpretation of the relevant evidence"; and (4) Respondent will not suffer any harm by reason of an interim stay/order, but without the same, Petitioner will lose her Fall 2020 semester effectively rendering any judgment of this court in her favor ineffectual (NYSCEF doc No. 12, pp. 3-4).

Respondent opposes Petitioner's application for interim relief, primarily on the basis that Petitioner has failed to show a likelihood of success on the merits of her Article 78 claim (NYSCEF doc No. 20).

The Court of Appeals holds that "[t]he party seeking a preliminary injunction must demonstrate a probability of success on the merits, danger of irreparable injury in the absence of an injunction and a balance of equities in its favor" (*Nobu Next Door, LLC v Fine Arts Hous., Inc*., 4 NY3d 839, 840 [Ct App 2005]). Before the Court addresses these standards, the Court must first address whether Petitioner was afforded pre-conduct notice.

Pre-Conduct Notice

Petitioner argues that "NYU's inability to give its students consistent messages and notices regarding what conduct will result in suspension is yet another reason why the [Decision] must be overturned" (NYSCEF doc No. 12, at 20).

In *Storino v New York University*, No. 157947/2020, 2020 WL 6161626 (NY Sup. Ct. Oct. 21, 2020*)*, a recent consolidated decision involving suspensions imposed on three NYU students, this Court noted that on September 3, 2020, Respondent issued a written communication to all students entitled "Keeping Each Other Safe: Additional Guidance on University Expectations" to the NYU community ("September 3 Communication"). The September 3 Communication expanded the ban on gatherings to off-campus locations, noting that students are expected to "*stay away from gatherings where there are no masks or distancing, even at off-campus private residences."* (*Id.*) (emphasis in original). The September 3 Communication explicitly states that attending a gathering where masks and distancing are not enforced "will likely" result in suspension. Thus, by September 3, 2020, Respondent had put its students on notice that attending a gathering at an off-campus location without the proper use of masks and social distancing may

result in suspension. The conduct at issue here happened on October 15, 2020. Thus, Petitioner was afforded pre-conduct notice that attending a boat party where the use of masks and social distancing were not enforced violates Respondent's policies and said conduct may result in potential suspension.

Having established that Petitioner was given pre-conduct notice, the Court will now address each standard for granting an application for interim stay *seriatim*.

A. Irreparable Harm

Petitioner argues that without an interim stay of the Decision, Petitioner will be unable to complete her Fall 2020 term. Consequently, she will lose all her work in progress and the grades for the work she has already completed. Petitioner maintains that loss of educational time is irreparable, as even if this Court ultimately grants her petition, she will not be able to recoup her lost semester, rendering any judgement ineffectual (NYSCEF doc No. 12, pp. 6-7). Petitioner cites to several district court and second circuit cases in support of her contention.[1]

On the other hand, Respondent states that it "recognizes that this Court has previously noted in the *Storino* case that a one-semester suspension can constitute irreparable harm". Respondent, however, submits otherwise, citing to two cases rendered by the Supreme Courts in Nassau and Richmond counties.[2]

Notably, neither parties cited to any Court of Appeals or First Department case on the issue of irreparable harm. While this Court found a Second Department case, *Melvin v Union College* (195 AD 2d 447 [2d Dept, 1993]), the case is not on all fours with the case at bar as *Melvin* involved

[1] *Phillips v. Marsh* (687 F.2d 620, 622 [2d Cir. 1982]); *Doe v. NY Univ.* (666 F.2d 761, 773 [2d Cir 1981]), *Bhandari v. Trustees of Columbia Univ.* (2000 WL 310344 [US SDNY 2000]) and *Doe v. Univ. of Conn.* (2020 WL 406356 [US Dist. Conn 2020]).
[2] *In re Mirenberg*, 2008 WL 8746720 ([Sup. Ct. Nassau County, 2008]) and *Stapor v. Wagner Coll.*, 2014 WL 3441049 [Sup. Ct. Richmond County, 2014]).

a suspension of a student for two semesters. This prolonged suspension justified the Court's finding that the student therein would suffer irreparable harm if suspension were not stayed pending the outcome of her Article 78 petition.

While Respondent cites to two Supreme Court cases to support its proposition that loss of educational time does not constitute irreparable harm, this Court finds these cases inapposite. In *In re Mirenberg* (2008 WL 8746720 [Sup. Ct., 2008]), the court's finding of lack of irreparable harm was with respect to petitioners first seeking an appeal to the Commissioner of Education before pursuing their Article 78 petition. Accordingly, the court denied their petition for failure to exhaust administrative remedies ("Accordingly, the petition is denied, without prejudice, as the court finds that the administrative process has not been exhausted. The court is not inclined to substitute its judgment for the Education Department. Moreover, petitioners have not shown to the satisfaction of this court that their appeal to the Commissioner is futile and that such pursuit will cause irreparable harm. Petitioners may, therefore, pursue their remedies in their appeal filed on or about February 1, 2008, with the Commissioner of Education."). The court in *Stapor v. Wagner Coll.* (2014 WL 3441049 [Sup. Ct., 2014]), on the other hand, denied petitioner's application for a stay because beyond petitioner's inability to show irreparable harm, he failed to show likelihood of success on the merits. The element of likelihood of success on the merits in this case is discussed below (*infra*, at pp. 9-13).

It is beyond cavil that a one-semester suspension constitutes irreparable harm. Thus, this Court in *Storino, supra*, granted the students' application for interim stay pending a hearing, explaining that "[if] it is determined that [] NYU's procedure and application of the procedure is arbitrary and capricious, the student[s] would be losing a semester if they were to prevail and they are kept out. They have lost time that they cannot make up. That is not something that can be

recouped by money or anything else. They would have lost time. Time we all know is not something one can get back."[3] The same rationale was echoed by the Court in *Bhandari v Trustees of Columbia Univ. in N.Y.* (2000 WL 310344 [US SDNY 2000]) when it held that "[w]hile nothing would prevent the plaintiff [therein] from repeating the courses he is currently taking after serving his suspension, requiring him to do so would forever deny him the benefit of the work he has already performed this semester and would necessarily delay his ultimate fulfillment of the requirements for a degree. This constitutes irreparable injury."[4]

Petitioner's case, however, presents a factual milieu different from *Storino* and *Bhandari*. Petitioner here does not stand to lose an entire semester pending the hearing of her Article 78 petition. While the students in *Storino* were just about to begin their fall semester, Petitioner is already at the tail end of hers. Respondent's website indicates that the last day of Fall 2020 classes is on Sunday, December 13, 2020 (*see* "Academic Calendar", available at https://www.nyu.edu/registrar/calendars/university-academic-calendar.html [last accessed December 13, 2020]). December 13th is less than a week from December 7, 2020, the date this Court is issuing its decision on Petitioner's application for interim stay. Thus, the Court is not convinced by Petitioner's contention of losing educational time as she will miss, at most, six more days of class if her application for an interim stay is not granted. While the Court agrees that the ultimate sanction of suspension is irreparable, any interim harm is minimal, especially that this Court is deciding this matter on an expedited basis.

[3] *See* Index No. 157787/2020, NYSCEF doc No. 38, September 25, 2020 Transcript, at 8-9.
[4] Petitioner in *Bhandari* was suspended in March 2000 and had two more months of class time to complete the semester by May 2000.

In any event, because at this juncture, there does not appear to be a likelihood of success on the merits (*infra*, at pp. 9-14), the interim stay would amount to "sound and fury, signifying nothing."[5]

B. Likelihood of Success on the Merits

Petitioner argues that she has a strong likelihood of success on the merits as Respondent issued the Decision without complying with NYU's own procedures and policies. Petitioner contends that Respondent failed to provide her with notice "detailing the date and location of the incident, nature of the alleged conduct, and applicable policies alleged to have been violated" pursuant to Respondent's Student Conduct Policy (NYSCEF doc No. 12, at 7). Petitioner also insists that the Decision was not "based on a preponderance of the evidence" as required by the Student Conduct Policy, rendering the process to be unfair and partial (*Id.*, at 11).

In response, Respondent contends that NYU substantially complied with its procedures in investigating and disciplining Petitioner such that every step Respondent took, from sending Petitioner written notice to the resolution of her appeal, comported with NYU's Student Conduct Procedures (NYSCEF doc No. 20, at 7-8). Respondent further argues that it did not act in an arbitrary and capricious manner as it properly determined the credibility of the evidence presented, that the policies it relied on were a proper basis to discipline Petitioner, and that Petitioner had pre-conduct notice that attending an off-campus gathering such as a boat party would violate NYU policies (*Id.*, at 10-13).

The Appellate Division, First Department has held that "judicial review of an educational institution's disciplinary determination involving nonacademic matters is limited to whether the institution substantially adhered to its own published rules and guidelines and was not arbitrary

[5] Shakespeare, William. *Macbeth* 5.5 2289-2290.

and capricious" (*Matter of Quercia v New York Univ.*, 41 AD3d 295, 296 [1st Dept 2007], *citing Matter of Harris v Trustees of Columbia Univ.*, 98 AD2d 58, 70 [1st Dept 1983] [Kassal, J., dissenting], *revd on dissenting op* 62 NY2d 956, [1984]; *see also Matter of Acevedo v Preston High Sch.*, 118 AD3d 576 [1st Dept 2014]; *Kickertz v New York Univ.*, 110 AD3d 268 [1st Dept 2013]; *Matter of Constantine v Teachers Coll.*, 85 AD3d 548 [1st Dept 2011]; *Matter of Ebert v Yeshiva Univ.*, 28 AD3d 315 [1st Dept 2006]; *Matter of Fernandez v Columbia Univ.*, 16 AD3d 227 [1st Dept 2005]).

Thus, this Court shall be guided by a hybrid "substantial adherence/arbitrary and capricious" standard of review in analyzing whether Petitioner has shown a likelihood of success on the merits.

Substantial Adherence

Based on the record, the charges against Petitioner were adjudicated by Respondent in the same manner it did against the students in *Storino*. Similar to *Storino*, Petitioner here was provided with written notice of the charges against her by email and was advised that a remote "Conduct Conference" was scheduled to be held via Zoom the following day. The Conduct Conference was subsequently held, as scheduled, in accordance with Section III(B) of the Student Conduct Procedures. During the Conduct Conference, Petitioner admitted to have attended the boat party in question and stated she was not wearing a face mask and did not practice social distancing during the times that she and her friends were taking photos of themselves on the boat (NYSCEF doc No. 11, Petitioner's Affidavit, ¶ 23).

Petitioners' conduct in this regard was confirmed in photographic evidence provided to Respondent (NYSCEF doc No. 4, Ex. E). The photograph shows Petitioner standing next to her friend without wearing any sort of face covering (*Id.*, Ex. C). As Respondent determined that a

violation of the Student Conduct Policy occurred, Respondent: (i) suspended Petitioner for the Fall 2020 semester, (ii) placed Petitioner on disciplinary probation for the 2020-2021 academic term, and (iii) required Petitioner to write a short research and reflection paper relating to COVID-19 (NYSCEF doc No. 2). As this Court ruled in *Storino*, all such sanctions are authorized by the Student Conduct Procedures.

Thereafter, Respondent's determination and the sanctions imposed were provided to Petitioner, in writing, within 10 days of the Conduct Conference, as required by Section III(B) of the Student Conduct Procedures.

While Petitioner argues that Respondent failed to provide notice of the "date and location of the incident" upon which the charges against her was based as required by the Student Conduct Procedures, the Court notes that Petitioner admitted to the conduct with which she was charged and was provided with a fair opportunity to, and did, defend herself against the charges alleged both during the Conduct Conference and thereafter on appeal. The photographic proof provided to Respondent confirmed Petitioner's attendance at the off-campus gathering and demonstrated that neither the use of masks nor social distancing were observed.

With respect to Petitioner's argument that Respondent failed to provide Petitioner with any information regarding "these hearsay 'subsequent conversations', which NYU had with the ***suitemates of another person who allegedly described the 'party' to the suitemates*** which NYU utilized to find Petitioner responsible for violating B1, E1 and E3" (NYSCEF doc No. 12, at 10 [emphasis and italics in original]), Respondent correctly notes that hearsay is admissible as competent evidence in an administrative proceeding (*Matter of Haug v. State Univ. of N.Y. at Potsdam*, 32 N.Y.2d 1044, [2018]); *see Matter of Ebert v. Yeshiva Univ.*, 28 A.D.3d 315, 316 [1st Dept 2006] ["In a school disciplinary proceeding, evidence may consistent of hearsay"]).

Therefore, while Petitioner is of the opinion that Respondent's deviations from the Student Conduct Procedures will inure to her benefit in meeting her burden to show likelihood of success, this Court is not convinced. It is well settled doctrine that "perfect adherence to every procedural requirement is not necessary to demonstrate substantial compliance" (*Doe,* 152 AD3d at 935).

Arbitrary and Capricious

Petitioner argues that Respondent acted arbitrarily in finding her narrative of events to be implausible, while crediting hearsay statements from other students (NYSCEF doc No. 12, at 11).

The Court, however, notes the long line of Article 78 decisions holding that a reviewing court may not weigh evidence, choose between conflicting proof, or substitute its assessment of either evidence or witness credibility for that of the fact-finder. (*See e.g., Matter of Amatulli v Bratton*, 156 AD 3d 559 [1st Dept 2017]; *Matter of Porter v New York City Hous. Auth.*, 42 AD3d 314 [1st Dept 2007]; *Matter of Edwards v Safir*, 282 AD2d 287 [1st Dept 2001]).

Pursuant to the rationale stated in this body of case law, it would be improper for this Court to second guess Respondent's finding that it was implausible for Petitioner to not know the type of event she was attending before stepping on the boat. In any event, it was not arbitrary, capricious or irrational for Respondent to conclude that Petitioner's reliance on a party boat promoter's representation that its party cruise would be "Operating under COVID guidelines," with nothing more, was a lapse in judgment.

It strains credulity for one to expect a feckless party cruise organizer's representation to absolve one of one's own behavior and actions.

Petitioner next argues that it was arbitrary for NYU to rely on Policies B1 and E1 to discipline Petitioner as they lack "specificity" and "were not written to address COVID-19, or the failure to wear masks or social distance" (NYSCEF doc No. 12, at 10).

Sections B1 and E1 of the Student Conduct Policy, which the Decision against Petitioner cites as grounds for the disciplinary action, both prohibit students from engaging in conduct that poses a danger to the health, safety or welfare of the NYU community. This Court in *Storino* had the opportunity to analyze the same policies and concluded that had petitioners therein been afforded pre-conduct notice, sections B1 and E1 would have provided a rational basis for discipline. The Court held that it "cannot second guess the scope of policies that may properly fall within the purview of the educational institution which issued and implements them" and further explained that "while attending a private gathering would not, in normal times, be considered disruptive behavior, in the midst of a deadly global pandemic, attending a social gathering without proper safety protocols in place could certainly be deemed behavior that has the potential to endanger 'the safety, security, health or welfare of the community.'" Moreover, with respect to section B1, this Court is mindful that the language "or otherwise" thereunder is global and inclusive and, thus, is broad enough to encompass Petitioner's conduct of attending a boat party where the wearing of masks and practicing of social distancing were not enforced.

Petitioner's argument that it was irrational for NYU to rely on Policy E3 as this provision allegedly applies only to on-campus conduct must also fail. As this Court noted in *Storino*, the Student Conduct Policy provides that "the University may take disciplinary action for conduct occurring outside the University context which substantially disrupts the regular operation of the University or threatens the health, safety, or security of the University community".

Abuse of Discretion

Petitioner does not provide a separate or discrete basis for this Court to make a finding that Respondent abused its discretion. Rather, Petitioner's arguments show that what she considers to be capricious and arbitrary acts also constituted an abuse of Respondent's discretion. Having

found, however, that Respondent did not act in an arbitrary and capricious manner, the Court cannot make a finding that Respondent abused its discretion in investigating and disciplining Petitioner.

On the basis of the foregoing, the Court finds that, at this juncture, Petitioner has not shown a likelihood success on the merits.

C. The Balance of Hardships

Petitioner asserts that the balance of hardships tips in her favor. She argues that without an interim stay, she will lose all the work and grades she achieved to date, impacting her trajectory to graduation and the start of her career. On the other hand, she alleges that no one will be harmed if she is permitted to complete her semester, as she is taking her classes virtually, off-campus from her current residence in California.

Respondent does not address this argument. However, the Court finds that the balance of hardships does not tip decidedly in favor of Petitioner. As discussed (*supra*, at p. 8), if Petitioner's application for an interim stay is not granted, she will lose a maximum of six more days of class time. On the other hand, allowing Petitioner to return to class would effectively prevent Respondent from implementing the penalty of suspension as Petitioner would have already completed her Fall 2020 semester by the time the merits of the petition are decided.

In any event, even if the Court were to find that the balance of hardships tips in Petitioner's favor, her application for interim stay cannot be granted as she had not met her burden of establishing the elements of likelihood of success on the merits and irreparable harm.

CONCLUSION

Accordingly, it is hereby

ORDERED that the application by Petitioner Nicole Rosenberg for an interim stay pending further proceedings is denied; and it is further

ORDERED that Respondent shall, on or before 5:00 p.m. on December 11, 2020, submit its answer to the petition, with its fact affidavits and supplemental memorandum of law; and it is further

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12/7/2020
DATE

CAROL R. EDMEAD, J.S.C.

CHECK ONE:	[ ]	**CASE DISPOSED**		[X]	**NON-FINAL DISPOSITION**		
	[ ]	**GRANTED**	[ ] **DENIED**	[ ]	**GRANTED IN PART**	[X]	**OTHER**
APPLICATION:	[ ]	**SETTLE ORDER**		[ ]	**SUBMIT ORDER**		
CHECK IF APPROPRIATE:	[ ]	**INCLUDES TRANSFER/REASSIGN**		[ ]	**FIDUCIARY APPOINTMENT**	[ ]	**REFERENCE**