

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

MARIE WALCEK,

Plaintiff,

v.

THE EMBASSY ROW HOTEL et al.,

Defendants.

Case No. 2016 CA 003287 B

Judge Michael L. Rankin

OMNIBUS ORDER

This matter is before the court on a number of motions. The defendants have filed a motion for summary judgment and a motion for a protective order. They have also filed an ex parte motion to expedite the briefing schedule and motion to set a new mediation date. The plaintiffs have filed motions to compel discovery and oppositions to the defendants' motions. Upon consideration of the motions, their respective oppositions, and the entire record herein, it is this 17th day of July, hereby:

ORDERED, that the defendants' motion for summary judgment is **DENIED WITHOUT PREJUDICE**. Defendants' motion is premature. The court is not persuaded, at this juncture, that expert testimony regarding the standard of care is necessary. *See District of Columbia v. Shannon*, 696 A.2d 1359, 1365 (D.C. 1997). Further, genuine disputes of material facts preclude summary judgment on the basis of contributory negligence. It is further

ORDERED, that the defendants' motion for a protective order is **GRANTED IN PART AND DENIED IN PART**. Defendants must produce their corporate representatives for deposition. However, deponents are not required to be prepared to discuss security issues at hotel premises outside the District of Columbia; and it is further

ORDERED, that the plaintiffs' discovery motions are **GRANTED IN PART AND DENIED IN PART** as follows:

Plaintiff's Motion to Compel as to Request for Production ("RFP") 4 is **GRANTED**. The court rejects the defendants' argument concerning the plaintiff's failure to designate an expert. As such, the absence of expert testimony does not render other evidence of the standard of care irrelevant.

Plaintiff's Motion to Compel as to RFP 5 is **GRANTED**. To establish foreseeability in a premise liabilities action alleging an unsafe condition, the plaintiff must prove the existence of the hazard and the defendant's actual or constructive notice thereof. Evidence of lock malfunctions or repairs during the relevant time frame is therefore relevant and discoverable.

Plaintiff's Motion to Compel as to RFP 10 is **GRANTED IN PART**. Evidence of hotel room thefts of a similar nature at the District of Columbia Embassy Row Hotel is relevant to the plaintiff's claim. Evidence of crimes at other properties is not.

Plaintiff's Motion to Compel as to RFP 11 is **DENIED**. As previously noted, criminal conduct of a similar nature on properties outside of the District of Columbia is not relevant to any claims or defenses. It is further

ORDERED, that the scheduling order is **AMENDED** as follows:

- The close of discovery is extended to August 30, 2017.
- The deadline for filing motions is extended to September 15, 2017.
- Mediation is rescheduled to October 25, 2017 at 9:00 a.m.

IT IS SO ORDERED.


Michael L. Rankin, Associate Judge

Copies to:
Counsel of Record
Via CaseFileXpress