

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

In the Matter of the Application of

ROTH & ROTH, LLP,

Petitioner,

-against-

TIMOTHY CURTIN, as Corporation
Counsel of the City of Rochester, and CITY
OF ROCHESTER,

Respondents,

For a Judgment Pursuant to Article 78 of
the Civil Practice Law and Rules.

Index No.: E2020009862

ORDER

Hon. Ann Marie Taddeo, JSC,

Upon a Verified Petition pursuant to CPLR Article 78 submitted by Elliot D. Shields, Esq., and an Affirmation in Support submitted by Mr. Shields; and upon an Answer by Patrick Beath, Esq., an Affirmation in Opposition by Mr. Beath, an Affirmation in Opposition by John Campolieto, Esq., and a Memorandum of Law in Opposition by Mr. Beath; and a Reply Affirmation and a Reply Memorandum of Law by Mr. Shields; and oral argument having been conducted and all exhibits attached to Counsels' papers having been considered, it is hereby ORDERED AND ADJUDGED that:

The relief requested in the Verified Petition, for an Order and Judgment pursuant to CPLR Article 78, is GRANTED. The Court finds that Respondents' decision to notice parties for in-person depositions and claimants for in-person

General Municipal Law § 50-h hearings (“50-h hearings”), without providing the option to conduct the deposition or hearing virtually by videoconference, was arbitrary and capricious.

Accordingly, it is:

ORDERED that, for all claimants who have served notices of claim on the City of Rochester prior to and including the date of this Order, the City of Rochester shall provide the option to proceed with all 50-h hearings virtually by videoconference.

It is FURTHER ORDERED that, for the remainder of the COVID-19 pandemic, for all notices of claim served on the City of Rochester, the City of Rochester shall notice all 50-h hearings to include the option to proceed with the hearing virtually by videoconference, as set forth in this judgement.

It is FURTHER ORDERED that, for the remainder of the COVID-19 pandemic, for all state court cases for which City of Rochester Corporation Counsel’s office is appearing as counsel for any party, the City of Rochester shall notice all depositions, and include in all discovery orders, the option to proceed with the deposition virtually by videoconference, as set forth in this judgement.

It is FURTHER ORDERED that the relief ordered herein shall remain in full force and effect until the States of Emergency related to the COVID-19 pandemic as declared by the Mayor of the City of Rochester, the Governor of the State of New York, the Administrative Judge of the 7th Judicial District, Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence Marks declare that the State of

Emergency due to the COVID-19 pandemic is over and that normal Court operations shall resume; ~~which time Respondents may petition this Court by Order to Show Cause as to why the relief granted herein is no longer necessary and why this order should be vacated.~~

Dated: 2/17/21
 Rochester, New York


 Hon. Ann Marie Taddeo, JSC