

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CIVIL TERM: PART 12

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IN RE 91ST STREET CRANE COLLAPSE LITIGATION:

Index No. 771000/2010E
Date: 9/24/2010

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THIS DOCUMENT RELATES TO: ALL CASES
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CASE MANAGEMENT ORDER NO. 3

PAUL G. FEINMAN, J.:

I. No Automatic Stays

To the extent that CMO 2 and this court's prior orders only implicitly address this, the court hereby explicitly orders that neither service of notice of a dispositive motion (*see* CPLR 3214 [b]), nor service of a notice of motion pursuant to CPLR 3104 shall automatically stay disclosure of this matter. Disclosure shall proceed to the fullest extent permissible under the CPLR.

II. Conferences of August 12 and 20, 2010 are Deemed Incorporated into CMO 3

Next, attached as exhibits to this order are the first and final pages of the transcripts of three conferences this court held, one of which was on August 12, 2010 and two of which were held on August 20, 2010. The transcripts of those proceedings are deemed fully incorporated into this order, CMO 3. The steering committee members shall confer amongst each other and upload the transcripts onto the E-filing system under the master index number 771000/10.

III. Rulings as to Wrongful Death Plaintiffs' CPLR Demands on the Lomma Defendants (Doc. 200).

After the court's conferences with the wrongful death plaintiffs and the Lomma

defendants on August 20 and 25, the following items of the Wrongful Death Plaintiffs' CPLR demands on Lomma (Doc. 200), remained outstanding: 15, 62, and 63. Demand number 15 seeks "the name and present address for each and every Insurance Broker/Agency" of the various Lomma defendants. There mere fact that a response to a demand may possibly ultimately lead to relevant evidence is distinct from a demand that is reasonably calculated to lead to relevant evidence. For this reason, demand number 15 is stricken.

Demand number 62 seeks "a complete copy of each bid submitted to and each contract with the City of New York and/or any of its agencies and/or departments and any of the above-named Lomma Defendants for the period of 1995 to present." Similarly, demand number 63 seeks "a complete copy of each bid submitted to and each contract with the Port Authority of New York & New Jersey and/or any of its agencies and/or departments and any of the above-named Lomma Defendants for the period of 1995 to present."

These demands are relevant insofar as they seek evidence which could tend to prove the nature of Lomma defendants' relationship with either the City of New York or the Port Authority which may have accounted for or contributed to the alleged negligence on the part of the Lomma defendants, the City defendants, or Michael Carbone, who is alleged to have been a former employee of Lomma as well as the former Chief of the Department of Buildings' Emergency Response Team. However, the breadth of the demands shall be tailored. As to demand number 62, the Lomma defendants shall furnish "a complete copy of each contract with the City of New York and/or any of its agencies and/or departments and any of the above-named Lomma Defendants for the period of May 2004 to May 2009." As to demand number 63, the Lomma defendants shall furnish "a complete copy of each contract with the Port Authority of New York & New Jersey and/or any of its agencies and/or departments and any of the above-

named Lomma Defendants for the period of May 2004 to May 2009.” The responsive documents shall be furnished by October 30, 2010.

Also, at the August 20, 2010 conference, the wrongful death plaintiffs made an oral application seeking to modify the rulings that the court issued at the August 12, 2010 conference. The wrongful death plaintiffs maintained that there are now grounds to believe that certain components of the subject crane, bearing serial number 84-052, were switched with components of the crane bearing serial number 84-053. Accordingly, they sought to expand the scope of the court’s prior rulings to include the crane bearing serial number 84-053. The Lomma defendants took exception to this arguing that such an application should be addressed by a written submission. The court agrees. Thus, the wrongful death plaintiffs application is denied, without prejudice to formally move for such relief or propound an appropriate demand.

This constitutes the order of the court.

Dated: September 24, 2010
New York, New York



J.S.C.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: TRIAL TERM PART 12

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IN RE:
91st STREET CRANE COLLAPSE
LITITGATION,

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INDEX NO: 771000/2010E 60 Centre Street
New York, New York
August 12, 2010

BEFORE: HONORABLE PAUL FEINMAN, Justice

APPEARANCES:

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Attorneys for Defendant DeMatteis
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New York, New York
BY: MARK D. LEVI, ESQ.

So ordered
SO ORDERED
PAUL FEINMAN
J.S.C.
SSC

RECEIVED
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PART 12

PROCEEDINGS

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BY: JENNIFER JAFFEE, ESQ.

NINA J. KOSS, C.S.R., C.M.
Official Court Reporter

NEW YORK STATE SUPREME COURT
NEW YORK COUNTY : CIVIL TERM : PART 12

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IN RE 91st STREET CRANE COLLAPSE LITIGATION:

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DONALD R. LEO, ADMINISTRATOR OF THE ESTATE OF HIS SON,
DONALD CHRISTOPHER LEO, DECEASED MAY 30, 2008,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY, DEPARTMENT OF
BUILDINGS, MICHAEL CARBONE, PATRICIA J. LANCASTER,
ROBERT LIMANDRI, NEW YORK CRANE & EQUIPMENT CORP.,
JAMES F. LOMMA, LOMMA TRUCKING & RIGGING, J. F. LOMMA
INC., TES INC., J F LOMMA TRUCKING & RIGGING, JF LOMMA
RIGGING AND SPECIALIZED SERVICES, BRADY MARINE REPAIR
CO., TESTWELL, INC., BRANCH RADIOGRAPHIC LABORATORIES
INC., CRANE INSPECTION SERVICES, LTD., SORBARA
CONSTRUCTION CORP., 1765 FIRST ASSOCIATES, LLC, LEON
D. DEMATTEIS CONSTRUCTION CORPORATION, MATTONE GROUP
CONSTRUCTION CO. LTD., MATTONE GROUP LTD., MATTONE
GROUP LLC, CITY OF NEW YORK SCHOOL CONSTRUCTION
AUTHORITY, CITY OF NEW YORK SCHOOL CONSTRUCTION FUND,
HOWARD I. SHAPIRO & ASSOCIATES CONSULTING ENGINEERS,
P.C., NEW YORK RIGGING CORP., TOWER RIGGING
CONSULTANTS, INC., TOWER RIGGING, INC., UNIQUE RIGGING
CORP. LUCIUS PITKIN, INC., MCLAREN ENGINEERING GROUP,
M.G. MCLAREN, P.C. and JOHN/JANE DOES 1 THROUGH 10,

Defendants.

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Index No. 771000/2010E

New York Supreme Court
60 Centre Street
New York, N.Y. 10007
August 20, 2010

Mary Ellen

RECORDED
[Signature]
PAUL G. FEINMAN
J.S.G.

B E F O R E: HON. PAUL G. FEINMAN
Supreme Court Justice

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Certified to be a true and accurate transcript of the
above-captioned stenographic minutes.

Lori Ann Sacco

Lori Ann Sacco
Official Court Reporter

FILED
PAUL G. FEINMAN
J.S.C.

NEW YORK STATE SUPREME COURT
NEW YORK COUNTY : CIVIL TERM : PART 12

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DONALD R. LEO, ADMINISTRATOR OF THE ESTATE OF HIS SON,
DONALD CHRISTOPHER LEO, DECEASED MAY 30, 2008,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY, DEPARTMENT OF
BUILDINGS, MICHAEL CARBONE, PATRICIA J. LANCASTER,
ROBERT LIMANDRI, NEW YORK CRANE & EQUIPMENT CORP.,
JAMES F. LOMMA, LOMMA TRUCKING & RIGGING, J. F. LOMMA
INC., TES INC., J F LOMMA TRUCKING & RIGGING, JF LOMMA
RIGGING AND SPECIALIZED SERVICES, BRADY MARINE REPAIR
CO., TESTWELL, INC., BRANCH RADIOGRAPHIC LABORATORIES
INC., CRANE INSPECTION SERVICES, LTD., SORBARA
CONSTRUCTION CORP., 1765 FIRST ASSOCIATES, LLC, LEON
D. DEMATTEIS CONSTRUCTION CORPORATION, MATTONE GROUP
CONSTRUCTION CO. LTD., MATTONE GROUP LTD., MATTONE
GROUP LLC, CITY OF NEW YORK SCHOOL CONSTRUCTION
AUTHORITY, CITY OF NEW YORK SCHOOL CONSTRUCTION FUND,
HOWARD I. SHAPIRO & ASSOCIATES CONSULTING ENGINEERS,
P.C., NEW YORK RIGGING CORP., TOWER RIGGING
CONSULTANTS, INC., TOWER RIGGING, INC., UNIQUE RIGGING
CORP. LUCIUS PITKIN, INC., MCLAREN ENGINEERING GROUP,
M.G. MCLAREN, P.C. and JOHN/JANE DOES 1 THROUGH 10,

Defendants.

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Index No. 771000/2010E

New York Supreme Court
60 Centre Street
New York, N.Y. 10007
August 20, 2010

*AFRAGON City
CC*

SO ORDERED

[Signature]
PAUL G. FEINMAN
J.S.C.

B E F O R E: HON. PAUL G. FEINMAN
Supreme Court Justice

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PROCEEDINGS

see if you can narrow or rephrase as the case may be. There seems to be less need for rephrasing here. Off the record.

(Whereupon a discussion off the record was held.)

(Whereupon the proceedings were adjourned.)

ooOoo

Certified to be a true and accurate transcript of the above-captioned stenographic minutes.

Lori Ann Sacco

Lori Ann Sacco
Official Court Reporter

SO ORDERED
PGF
PAUL G. FEINMAN
J.S.C.