

**Manhattan Telecom. Corp. v Coordinated Behavioral Care,
Inc.**

Motion No: 2022-03844 2022-04055 2022-04090 2022-04213

Slip Opinion No: 2022 NY Slip Op 76205(U)

Decided on December 29, 2022

Appellate Division, First Department, Motion Decision

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This motion is uncorrected and is not subject to publication in the
Official Reports.

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Present – Hon. Rolando T. Acosta,
David Friedman
Lizbeth González
Tanya R. Kennedy
John R. Higgitt,

Presiding Justice,

Justices.

Manhattan Telecommunications
Corporation, doing business as Mettel,
Plaintiff-Appellant,

Motion Nos. **2022-03844**
2022-04055
2022-04090
2022-04213

-against-

Index No. 156369/20
Case No. 2022-00401

Coordinated Behavioral Care, Inc.,
Defendant-Respondent,

Leo L. Esses, Esq., The Esses Law Group,
LLC,

Non-Party Respondent.

Separate appeals having been taken to this Court by plaintiff-appellant from a single order of the Supreme Court, New York County, entered on or about December 15, 2021, said order having (1) denied plaintiff's motion for leave to reargue the trial court's prior order dated March 22, 2021, which denied plaintiff's motion for summary judgment (motion seq. No. 7), and (2) denied plaintiff's motion for leave to renew and reargue its motion for sanctions (Motion Seq. No. 6), and said appeals having been perfected,

And non-party, Leo L. Esses, Esq., The Esses Law Group, LLC, having moved to dismiss plaintiff's appeals to the extent that they address that part of the aforesaid order as denied plaintiff's motion for leave to renew and reargue its application for sanctions, on the basis that the Record on Appeal is incomplete, that the order is unappealable, and that plaintiff cannot seek relief from a non-party (M-2022-03844),

And plaintiff-appellant having cross moved for sanctions against non-party Leo L. Esses, Esq., The Esses Law Group, LLC, on the basis that in moving to dismiss the appeals the non-party engaged in frivolous conduct, and for an order barring the non-party from filing any papers in this action unless they are verified by Alvin Sinckler, CFO of defendant-respondent Coordinated Behavior Care, Inc. (M-2022-4055),

And defendant-respondent having moved to dismiss the appeals on the ground that the December 15, 2021 order is non-appealable (M-2022-04090),

And plaintiff-appellant having cross moved for sanctions against non-party Alex Ross, Esq., counsel to defendant-respondent, on the basis that in moving to dismiss the appeals on behalf of defendant-respondent said counsel engaged in frivolous conduct, and for an order barring said counsel from filing any papers in this action unless they are verified by Alvin Sinckler, CFO of defendant-respondent Coordinated Behavior Care, Inc. (M-2022-4055),

Now, upon reading and filing the papers with respect to the motions and cross motions, and due deliberation having been had thereon,

It is ordered that the motions to dismiss the appeals taken to this Court from the December 15, 2021 order, made by non-party, Leo L. Esses, Esq., The Esses Law Group, LLC and defendant-respondent are denied, without prejudice to the non-party and defendant-respondent raising directly on appeal the argument that the aforesaid order is non-appealable (M-2022-03844 and M-2022-04090). Sua sponte, Leo L. Esses, Esq., The Esses Law Group, LLC is deemed to be a non-party respondent on the appeals, and the appeals are adjourned to the April 2023 Term of this Court with leave granted to Leo L. Esses, Esq., The Esses Law Group, LLC to file a respondent's brief, and in his discretion, a supplemental record which may include defendant-respondent's underlying motion to dismiss the complaint; plaintiff-appellant is permitted to file a reply brief to any respondent's brief filed by Leo L. Esses, Esq., The Esses Law Group, LLC, and

It is further ordered that plaintiff-appellant's cross motions for sanctions and verification by Alvin Sinckler, CFO of defendant-respondent Coordinated Behavior Care, Inc., are denied (M-2022-04055 and M-2022-04213).

ENTERED: December 29, 2022



Susanna Molina Rojas
Clerk of the Court