

<b>O'Shea Partners LLP v Gladstone</b>
2019 NY Slip Op 31861(U)
June 24, 2019
Supreme Court, New York County
Docket Number: 656198/2016
Judge: Robert R. Reed
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**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

**PRESENT: HON. ROBERT R. REED PART 43**

*Justice*

-----X		<b>INDEX NO.</b>	<u>656198/2016</u>
O'SHEA PARTNERS LLP,		<b>MOTION DATE</b>	<u>08/10/2018,</u> <u>08/10/2018</u>
Plaintiff,		<b>MOTION SEQ. NO.</b>	<u>001 002</u>
- v -			

ROBERT GLADSTONE, MADISON EQUITIES

Defendant.

**DECISION AND ORDER**

-----X  
The following e-filed documents, listed by NYSCEF document number (Motion 001) 19, 20, 21, 30, 31, 33, 34, 35

were read on this motion for DISCOVERY.

The following e-filed documents, listed by NYSCEF document number (Motion 002) 22, 23, 24, 25, 26, 27, 28, 29, 32

were read on this motion for DISCOVERY.

Motion sequence 001 and 002 are combined for disposition and are granted in part and denied in part.

In motion sequence 001, plaintiff moves, pursuant to CPLR 3124, (1) to compel defendants to produce relevant electronic documents related to their contract for services from March 2013 to June 2016 and to answer interrogatories from the same period, (2) to answer an interrogatory relating to the contact information of defendants' employees from in or around March 2013, the date of the agreement, to June 2016, when plaintiff withdrew from representation of defendants, and (3) to produce relevant documents detailing defendants' available financial assets during the relevant time period. Defendant opposes, arguing that plaintiff is only entitled to documents from January 2016 to November 2016, and that the request for financial and employee information is burdensome and irrelevant. In motion sequence 002, defendants move, pursuant to CPLR 3124, to compel plaintiff (1) to produce an accounting

ledger reflecting the billed amounts, (2) documents and communications relating to the adjournment of a May 19, 2016 oral argument, (3) documents and communications reflecting the research plaintiff conducted regarding its right to withdraw from the representation of defendants, and (4) documents and communications between plaintiff regarding plaintiff partnering with Boies Schiller Flexner LLP, and representation of Madison 92, an affiliate company of defendants. Plaintiff opposes, arguing that all billing information was produced, and the remainder of the documents requested either do not exist or are irrelevant.

In motion sequence 001, the larger time frame is relevant to plaintiff's case. While there may have been a compromise agreement reached between the parties in 2016, such agreement can hardly be held to confine the limits of discovery in the absence of proof that all of its terms have been met. Plaintiff's request for information regarding defendant's assets, however, is premature and is not relevant to the issues currently before the court. Additionally, plaintiff's request for the contact information of all of defendants' employees is not narrow in scope and plaintiff has not made a showing that the broad range of requested employees would have necessary information relevant to the dispute between the parties.

Regarding defendants' motion sequence 002, plaintiff has provided the requested billing information and defendants are free to manipulate that data as they choose. Plaintiff should not be required to create a document that does not currently exist merely for defendants' convenience. Documents relating to the adjournment of the May 19, 2016 oral argument hearing does pertain to defendants' defense in this matter and appears to this court to be narrow in scope. Defendants have not offered sufficient information to show that their request for plaintiff's withdrawal research and documents and communications between Boies Schiller Flexner LLP is

likely to lead to relevant and admissible evidence. Moreover, such items appear preemptively to be entitled to attorney work product protection.

Accordingly, it is

ORDERED that the portion of plaintiff's motion seeking an order directing that the relevant time period for discovery is March 6, 2013 to June 21, 2016 is granted; and it is further

ORDERED that defendants are directed to produce relevant electronic documents from on or about March 6, 2013 to June 21, 2016 and defendants are also directed to answer plaintiff's relevant interrogatories from the same period; and it is further

ORDERED that the portion of plaintiff's motion seeking an order to compel defendants to answer interrogatory #4 is granted in part, to the extent that defendants are ordered to produce relevant contact information for key management personnel from on or about March 6, 2013 to June 21, 2016; and it is further

ORDERED that the portion of plaintiff's motion seeking an order to compel defendants to produce documents for demand numbers 14, 18, 20-21, 24-29 and for documents showing defendants' available financial assets is denied; and it is further

ORDERED that the portion of defendants' motion seeking an order to compel plaintiff to produce an accounting ledger is denied; and it is further

ORDERED that the portion of defendants' motion seeking an order to compel plaintiff to produce documents relating to the adjournment of their May 19, 2016 oral argument is granted in this respect: (a) to the extent responsive documents are not privileged, plaintiff shall produce the documents demanded; (b) to the extent that the documents responsive to the request are privileged, plaintiff will provide a privilege log detailing the asserted privilege; and it is further

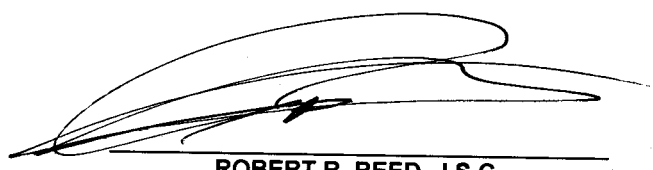
ORDERED that the portion of defendants' motion seeking an order to compel plaintiff to produce research of their right to withdraw from representation of defendants is denied; and it is further

ORDERED that the portion of defendants' motion seeking an order to compel plaintiff to produce communications relating to the representation of Madison 92 and the effects of partnering with Boies Schiller Flexner LLP is denied; and it is further

ORDERED that, to the extent that documents or other items have been ordered to be produced or provided herein, such production shall be accomplished within 20 days of the date of the order; and it is further

ORDERED that counsel are directed to appear for a compliance conference in Part 43, located at 60 Centre Street, Room 412 on August 1, 2019 at 11:00 a.m.

This constitutes the decision and order of the court.



ROBERT R. REED, J.S.C.

6/24/2019  
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>		<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>		<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>	
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE