

**Matter of Brown v Mount Sinai Health Sys., Inc.**

2022 NY Slip Op 30063(U)

January 11, 2022

Supreme Court, New York County

Docket Number: 159924/2021

Judge: W. Franc Perry

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This opinion is uncorrected and not selected for official publication.

At IAS Part 23 of the Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 80 Centre Street, New York, New York, on the 11 day of January 2022.

P R E S E N T:

HON. HON. W. FRANC PERRY, III,

J U S T I C E.

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In the Matter of the Petition of  
ERACHIE BROWN,

Petitioner,

Index No.: 159924/2021

- against -

**ORDER**

MOUNT SINAI HEALTH SYSTEM, INC.,

Respondent.  
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Upon the Order To Show Cause, dated November 16, 2021, of the Hon. W. Franc Perry, III, upon the Petition of ERACHIE BROWN, dated the 1<sup>st</sup> day of November 2021, the Affidavit of Petitioner ERACHIE BROWN, sworn to on the 6<sup>th</sup> day of October 2021, the Affirmation, dated November 24, 2021, of Leila Cardo, in opposition to the Show Cause proceeding, and upon all the exhibits, pleadings, papers and proceedings heretofore had herein, and, after oral argument conducted virtually by Microsoft TEAMS meeting on November 30, 2021, Petitioner having appeared by Paul A. Marber (The Rosato Firm, PC) and Respondent having appeared by Leila Cardo (Rubin Fiorella Friedman & Mercantile, LLP, and upon reading and filing the decision of this Court, dated Jan. 11, 2022, it is hereby

**ORDERED**, that Petitioner's application is hereby granted, in part, as follows:

1. pursuant to CPLR 3102(c), within sixty (60) days of the date of this Order, Respondent MOUNT SINAI HEALTH SYSTEM, INC. is hereby directed to make available and allow Petitioner's attorneys, or their representatives, to examine, inspect, photograph and videotape the elevator, elevator shaftway, elevator machine room, elevator pit, elevator doors and other elevator components and appurtenances relating to the elevator involved in Petitioner's accident of August 14, 2020;

2. Pursuant to CPLR 3102(c), within forty-five (45) days of the date of this Order, Respondent MOUNT SINAI HEALTH SYSTEM, INC. is hereby directed to produce and allow Petitioner's attorneys, or their representatives, to review, copy and inspect the following:

(A) Copies of all contracts relating to the service, maintenance and repair of the **Elevator**<sup>1</sup> in effect on the date of Petitioner's accident (August 14, 2020) and for the six (6) months preceding that date.

(B) Copies of incident and/or accident reports regarding Petitioner's accident.

(C) Duplicate prints and/or electronic files of any photographs and videotapes relating to Petitioner's accident, to the extent in Respondent's possession.

3. Pursuant to CPLR 3102(c), Respondent MOUNT SINAI HEALTH SYSTEM, INC. is hereby directed to preserve for use in the anticipated plenary action, in addition to the foregoing, to the extent that same are currently in Respondent's possession<sup>2</sup>, the following:

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<sup>1</sup> It is understood that, unless the Respondent's records reflect otherwise, the "**Elevator**" involved in Petitioner's accident was the last elevator on the left as one enters the building located at 1000 Tenth Avenue from the Tenth Avenue entrance into the main lobby walking toward the elevator lobby, known as Elevator M6.

<sup>2</sup> Respondent MOUNT SINAI HEALTH SYSTEM, INC. reserves the right to object to the production of same in the anticipated plenary action.

(D) Copies of all documents relating to the inspection, maintenance and repair of the **Elevator** for the period of six (6) months preceding the date of Petitioner's accident, as well as those inspections and repairs made subsequent to the date of Petitioner's accident relating to conditions present at the time of her accident. The documents sought herein include, but are not necessarily limited to, the following:

(1) Work, service, maintenance, repair, test, modernization, conversion, replacement and other proposals/recommendations/evaluations/analyses issued by Mt. Sinai's elevator company, expert, consultant, architect or engineer;

(2) Work tickets, repair and service orders, maintenance reports, maintenance call slips, maintenance logs, shut down records, call back records, invoices, bills, contract payments;

(3) Inspection reports, including but not limited to the Local Law 10/81 Inspection Report, filed with the Department of Buildings and **Elevator** Equipment Use Permit;

(4) Violations received from the Department of Buildings, Division of **Elevators**, Environmental Control Board, and any other City agency, along with the work tickets and work orders relating to removal of those violations;

(5) Preventive maintenance schedule, if any, for the **Elevator**;

(6) Log book entries, security entries, reports, requests for service, and other documentation of complaints relating to the operation the **Elevator**.

(E) Copies of all documents relating to accidents/incidents, oral and/or written complaints, comments, questions, inquiries, notices of claim, claims made or legal actions, if any, known to Mt. Sinai concerning events involving the **Elevator** that occurred in the six (6) months prior to and including the date of and Petitioner's specific accident.

(F) Duplicate prints and/or electronic files of any photographs and videotapes relating to the (a) Petitioner's accident and (b) inspection, repair, maintenance and operation of the **Elevator** for the period of six (6) months preceding the date of

Petitioner's accident, as well as those photographs and videotapes subsequent to the date of Petitioner's accident concerning conditions present at the time of her accident.

(G). Copies of minutes, transcriptions, notes, memoranda and other recordings of all meetings at which the **Elevator** was a topic of discussion in the six (6) months preceding the date of Petitioner's accident, as well as recordings from post-accident meetings at which Petitioner's accident was discussed.

(H). Copies of the Building Log, if any, containing information about (a) the presence of and work by elevator maintenance personnel and inspectors, (b) complaints about the **Elevator** and (c) prior incidents involving the **Elevator** for the period of six (6) months preceding the date of Petitioner's accident, as well as those entries made subsequent to the date of Petitioner's accident concerning conditions present at the time of her accident.

(I). The names and addresses of witnesses to Petitioner's accident, to the extent reflected in the incident report (i.e., co-employee from 7G)

(J). The names and addresses of personnel who responded to the scene of Petitioner's accident (i.e., security officer Wallace).

and it is further

**ORDERED**, that all of the other requests in Petitioner's application are hereby denied; and it is further

**ORDERED**, that the Clerk of the Court is directed to enter this Order accordingly.

ENTER:



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HON. HON. W. FRANC PERRY, III, J. S. C.