

1591 Second Ave. LLC v Metropolitan Transp. Auth.
2022 NY Slip Op 30308(U)
January 31, 2022
Supreme Court, New York County
Docket Number: Index No. 161539/2015
Judge: Sabrina B. Kraus
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. SABRINA KRAUS PART 57TR

Justice

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1591 SECOND AVENUE LLC, 1593 SECOND AVENUE
LLC, 1595-1597 SECOND AVENUE LLC, 246 EAST 83
STREET LLC, 248 EAST 83 STREET LLC

Plaintiff,

- v -

METROPOLITAN TRANSPORTATION AUTHORITY, MTA
CAPITAL CONSTRUCTION COMPANY,

Defendant.

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INDEX NO. 161539/2015
MOTION DATE 1/31/2022
MOTION SEQ. NO. 009

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 009) 246, 247, 248, 249, 250, 251, 252, 253, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269 were read on this motion to/for ORDER OF PROTECTION.

Upon the foregoing documents, defendant’s motion is granted to the following extent:

Plaintiff is seeking ESI for a period from 2021 to date. The court limits the time period, for the purposes of an initial ESI production, to 2013 through 2018.

Additionally, the following searches in paragraph 3 of the demand shall also be limited as provided below:

- a) (“2avesubway.com” AND “86th St Station”) OR “2avesubway.com” AND (“Phillip Rice”);
- b) “2avesubway.com” AND (“1591 Second Ave” OR “1591 2nd Ave”);
- c) “2avesubway.com” AND (“1593 Second Ave” OR “1593 2nd Ave”);
- d) “2avesubway.com” AND (“1595 Second Ave” OR “1595 2nd Ave”);
- e) “2avesubway.com” AND (“1597 Second Ave” OR “1597 2nd Ave”);
- h) “Contract No. C-26008”;

- p) (“FTP” AND “86th St Station”);
- q) “2avesubway.com” AND “FTP” AND “Contract No. C-26008”;
- r) (*This subsection is eliminated in its entirety*);
- s) “Skanska” AND “Contract No. C-26008”;
- t) “Wang” AND “Contract No. C-26008”;
- u) (*This subsection is eliminated in its entirety*);
- v) (*This subsection is eliminated in its entirety*);
- w) (*This subsection is eliminated in its entirety*);
- x) (*This subsection is eliminated in its entirety*);
- y) J. D’Annunzio & Sons AND “Contract No. C-26013”;
- z) (*This subsection is eliminated in its entirety*);
- aa) (*This subsection is eliminated in its entirety*);
- bb) (*This subsection is eliminated in its entirety*);
- cc) (*This subsection is eliminated in its entirety*);
- dd) (*This subsection is eliminated in its entirety*);
- ee) Michael.Markowitz@2avesubway.com AND “86th St Station”;
- ff) “Melisa.Pemalete@2avesubway.com” AND “86th St Station”;
- gg) (*This subsection is eliminated in its entirety*);
- hh) “Kimberly.Hirt@2avesubway.com” AND “86th St Station”;
- ii) “AECOM” AND “Blast Plan”;
- jj) (*This subsection is eliminated in its entirety*);
- ll) (*This subsection is eliminated in its entirety*);
- mm) (*This subsection is eliminated in its entirety*); and

nn) (*This subsection is eliminated in its entirety*).

This order is made because the initial “demand” resulted in too much information to be practicably produced. Defendants, however, were unable to provide the court with specifics as to how the search might be productively limited at the time of oral argument, and further opined that they would not be able to stipulate to resolve the issue with plaintiff.

The court notes that to date defendants have failed to produce any ESI in this action.

Based on the foregoing, this order is without prejudice to plaintiff renewing its request for items of production which the court has stricken or seeking additional items after defendant has made an initial ESI production.

The balance of the relief sought by defendants has been considered and is denied in its entirety.

Wherefore it is hereby

ORDERED that defendant’s motion for a protective order is granted to the extent set forth above; and it is further

ORDERED that, within 20 days from entry of this order, defendant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk’s Office (60 Centre Street, Room 119); and it is further

ORDERED that such service upon the Clerk shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that this constitutes the decision and order of this court.



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1/31/2022

DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: