

Roberti v Madison Sq. Garden Co.
2023 NY Slip Op 30110(U)
January 12, 2023
Supreme Court, New York County
Docket Number: Index No. 160511/2018
Judge: Judy H. Kim
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. JUDY H. KIM **PART** **05RCP**

Justice

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DAVID ROBERTI,

Plaintiff,

- v -

THE MADISON SQUARE GARDEN COMPANY, NAOMI
STACKPOLE, JOHN DOE, CITY OF NEW YORK, JOEL
MOTTOLA,

Defendants.

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INDEX NO. 160511/2018

MOTION DATE 06/10/2022

MOTION SEQ. NO. 005

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 005) 161, 162, 163, 164, 165, 166, 167, 172

were read on this motion to STRIKE.

Plaintiff commenced this action on November 12, 2018, alleging that on November 12, 2017, he was wrongfully arrested by Police Officer Joel Mottola based upon the complaint of Naomi Stackpole, an employee of defendant the Madison Square Garden Company (“MSG”) (NYSCEF Doc. No. 1 [Compl. at ¶7]). Plaintiff was subsequently charged in the Criminal Court of the City of New York with criminal trespass in the third degree (Id.).

On the date of his arrest, plaintiff received a ticket to a “Dead & Company” performance at the Madison Square Garden arena (the “Garden”) from a friend (Id. at ¶26). Plaintiff arrived late to the performance and entered the Garden through one of its “many nondescript and camouflaged side doors,” which was, at the time, open and unguarded (Id. at ¶¶27-28). Plaintiff asserts that when he entered the Garden, he had a ticket to the show for Section 104, Row 7, Seat 15, which he found and occupied (Id. at ¶¶29-31). When the lights came on at intermission, however, “ushers and/or security personnel” appeared and “demanded that plaintiff step out into the aisle and

produce a ticket” for his seat (Id. at ¶33). Plaintiff maintains that he produced this ticket, but that MSG employees took it from him and escorted him to the office of the Garden’s security department (Id. at ¶¶35-36). Plaintiff expressed his willingness to leave the Garden but was kept in the office of the security department against his wishes (Id. at ¶37). After plaintiff was taken to the security department office, Stackpole informed Police Officer Mottola that plaintiff had entered the Garden through an emergency exit door without a ticket to the show and that MSG wishes to press charges against him (Id. at ¶39). Plaintiff claims that Stackpole knew at the time that she made this statement that plaintiff did, in fact, have a ticket to the show (Id. at ¶40). Plaintiff was arrested and charged with criminal trespass in the third degree based on this false statement (Id. at ¶43).

Plaintiff’s complaint asserts claims against: (1) MSG for false arrest, malicious prosecution, and vicarious liability; (2) Stackpole for false arrest, defamation per se, defamation per quod, and malicious prosecution; (3) Police Officer Mottola and John Does 1-7 (who are as-yet-unidentified MSG employees) for false arrest and false imprisonment; and (4) the City of New York (the “City”) for vicarious liability and violations of 42 USC §1983 based on the City’s alleged policy of charging any person identified by MSG employees as being in the Garden without license or permission with criminal trespass even though such charges are not warranted as the Garden is not “fenced or otherwise enclosed in a manner designed to exclude intruders” (Id. at ¶¶63-132).

On October 1, 2021 plaintiff served MSG and Stackpole (the “Moving Defendants”) with Interrogatories and Demands for Discovery and Inspection (collectively, the “Demands”). The Moving Defendants now move, pursuant to CPLR §3103(a), to strike the Demands on the grounds that they are overbroad, seek information that is irrelevant to this matter and, in the case of the

Interrogatories, go beyond the twenty-five interrogatory limit set forth in 22 NYCRR §202.20. For the reasons set forth below, the motion is granted in part.

DISCUSSION

CPLR §3103(a) provides, in pertinent part, that: “[t]he court may at any time on its own initiative or on motion of any party of or any person from whom or about whom discovery is sought, make a protective order denying, limiting, conditioning, or regulating the use of any disclosure device. Such order shall be designed to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts.”

The Court agrees with the Moving Defendants that such relief is warranted here, as the vast majority of the Demands served on MSG and Stackpole seek information irrelevant to plaintiff’s false arrest and malicious prosecution claims against them. However, certain specific requests for information concerning plaintiff’s entry into the Garden, the actions of Stackpole and other MSG personnel in connection with plaintiff’s detention and arrest—including information necessary to identify the “John Doe 1-7” defendants involved in plaintiff’s detention and arrest—as well as specific MSG training and general policies relating to that detention and arrest are relevant to these claims.

In light of the foregoing, it is

ORDERED that the branch of the Madison Square Garden Company’s motion for a protective order as to plaintiff’s Interrogatories is granted as to Interrogatory Numbers 1-10, 12-17, 23-27 and otherwise denied; and it is further

ORDERED that the branch of the Madison Square Garden Company’s motion for a protective order striking plaintiff’s Demands for Discovery and Inspection is granted as to Demand

Numbers 4-15, 17, 19-21, 23-38, 40-49, 51-68, 71-76, and 78-83 and otherwise denied; and it is further

ORDERED that demand number 16 of the Demands served on Madison Square Garden Company shall be modified to read:

The name of all persons employed by You who had any role in or who witnessed the incident described in the incident report created by Naomi Stackpole on November 12, 2017 concerning plaintiff including but not limited to all persons who observed plaintiff remotely via any video cameras, all persons present in the aisle adjacent to section 104 of the main arena at approximately 9:50 pm, all persons who physically escorted plaintiff to the event office, and all persons present in the event office between 9:50 pm and the time plaintiff was removed from the Building by police officer Joel Mottola;

and it is further

ORDERED that Stackpole's motion for a protective order striking the Interrogatories served on her is granted as to Interrogatory Numbers 1-6, 13, 17, 19-22, and 24-30, 33-45 and otherwise denied; and it is further

ORDERED that Stackpole's motion for a protective order striking the Demands for Discovery and Inspection served on her is granted as to Demand Numbers 1, 2, 4-8 and otherwise denied; and it is further

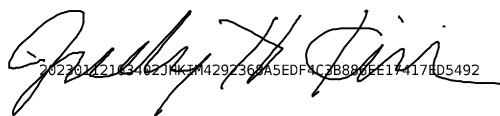
ORDERED that the Madison Square Garden Company and Naomi Stackpole are directed to respond to plaintiffs' Interrogatories and Demands for Discovery and Inspection, to the extent set forth above, within sixty days of the date of this decision and order; and it is further

ORDERED that within twenty days of the date of this decision and order, counsel for Madison Square Garden Company is directed to serve a copy of this decision and order, within notice of entry, upon plaintiff as well as on the Clerk of the Court (60 Centre St., Room 141B) and the Clerk of the General Clerk's Office (60 Centre St., Rm. 119); and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk’s Office 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 “Efiling” page on this court’s website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that, because the documents e-filed as NYSCEF Document Numbers 45 and 78 contain Confidential Personal Information as defined by NYCRR §202.5(e), the New York County Clerk’s Office is hereby directed to restrict the public’s access and public viewing of said documents and said documents may only be accessed and viewed by the parties, parties’ counsel of record, and court personnel.

This constitutes the decision and order of the Court.



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1/12/2023

DATE

HON. JUDY H. KIM, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE