

**Best Work Holdings (N.Y.) LLC v Ma**

2024 NY Slip Op 33371(U)

September 24, 2024

Supreme Court, New York County

Docket Number: Index No. 654826/2022

Judge: Arlene P. Bluth

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART 14

*Justice*

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BEST WORK HOLDINGS (NEW YORK) LLC,

Plaintiff,

- v -

JIA IVY MA, YUN TOMMY LI

Defendant.

-----X

INDEX NO. 654826/2022

MOTION DATE 09/23/2024

MOTION SEQ. NO. 006

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 006) 111, 112, 113, 114, 115, 116, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158

were read on this motion to/for QUASH SUBPOENA, FIX CONDITIONS.

Defendant Ma's motion to quash two subpoenas is denied.

**Background**

Plaintiff owns 72 Wall St, a large building, and alleges that defendant Jia Ivy Ma (hereinafter "Ma") worked for both plaintiff's parent company and plaintiff. It claims that during a renovation project she engaged in fraud by creating fake contracting companies and invoices. Specifically, plaintiff contends that Ma created companies with names similar to contractors who actually did work for plaintiff and that defendant Li (who held himself out as a contractor) submitted fake invoices as part of this scheme.

Ma now moves to quash subpoenas issued by plaintiff to JPMorgan Chase, N.A. and TD Bank. She insists that the subpoena seeks many financial documents associated with Ma and business entities. Ma claims that the information demanded is extensive and contains personal

information. She argues that the information demanded is irrelevant to plaintiff's causes of action in this case. Ma claims that the requests are broad and unduly burdensome and so they should be quashed or narrowed.

In opposition, plaintiff observes that it simply wants to follow the money. It claims that plaintiff used fake invoices and phony companies to defraud it and it seeks relevant information concerning Ma's purportedly fraudulent scheme. Plaintiff contends that Ma utilized multiple bank accounts to perpetrate this fraud and that it has traced part of the money trail to the aforementioned banks. It observes that it seeks records related to five "shell" companies, three of which were incorporated by Ma and two of which were incorporated by defendant Li or with Li's assistance.

Plaintiff claims that it requested this information from both defendants but, so far, they have not produced much. It insists that defendant Ma produced 8 pages in response to a demand, none of which included bank information. Plaintiff also contends that its second set of requests to Ma sought information about Ma's shell corporations and bank accounts and that Ma did not object, thereby waiving any objection to these requests. Plaintiff observes that it previously subpoenaed various banks and has now obtained over 6,000 pages of documents; it argues these records detail a sprawling fraud by defendants. Plaintiff details instances in which companies belonging to defendant Li issued checks in various amounts to companies purportedly owned by Ma and to individual accounts held by Ma (*see* NYSCEF Doc. No. 128 at 5-7).

In reply, Ma contends that the requests seek information that is utterly irrelevant and that concerns about confidentiality cannot be mitigated. She argues that plaintiff did not present evidence that the documents requested are tied to the alleged fraud.

## Discussion

“The words material and necessary as used in section 3101 must be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity. Section 3101(a)(4) imposes no requirement that the subpoenaing party demonstrate that it cannot obtain the requested disclosure from any other source. Thus, so long as the disclosure sought is relevant to the prosecution or defense of an action, it must be provided by the nonparty” (*Matter of Kapon v Koch*, 23 NY3d 32, 38 [2014] [internal quotations and citations omitted]).

Here, there is little question that the information sought by plaintiff is relevant. Plaintiff contends that defendants engaged in a fraudulent scheme by creating fake companies and invoices and directing plaintiff to pay these invoices. Obtaining information about Ma’s personal bank accounts and corporate accounts related to these alleged shell companies is a necessary part of plaintiff’s case. To be sure, plaintiff seeks extensive records in the subpoenas; but plaintiff simply wants to ensure that its discovery efforts cover the breadth of the purported fraudulent scheme. Put another way, plaintiff cannot learn the scope of the alleged fraud without demanding extensive bank information and related documents. Plus, as plaintiff points out and Ma does not dispute, defendants have not produced much discovery relating to these requests.

The Court finds, although not dispositive to the outcome, that Ma has standing to oppose the subpoenas as they seek information that relates to her bank accounts and entities with which she may be involved (plaintiff admits that two of the companies were created by defendant Li).

With respect to the confidentiality issue, the Court is unable to find that these concerns compel the Court to grant the instant motion. There are, of course, rules concerning redaction of such personal information (*see* 22 NYCRR 202.5[e]). But the fact is that this case is being

litigated in court and so the presumption is that there must be public access to the docket. The undersigned, typically, declines to sign or so-order confidentiality orders except where the parties can show a strong need for such an order (that usually involves cases relating to intellectual property disputes). There is no apparent need for a confidentiality order in this case.

The Court also rejects Ma's claim that the subpoenas are overbroad. Plaintiff established in its opposition the basis for requesting this information by providing (and attaching as exhibits) the evidence it has obtained so far and explaining how these subpoenas are relevant to this case. Ma's objections were simply too vague or insufficient to compel the Court to grant the motion or narrow these subpoenas. And while Ma has standing to bring the instant application, she cannot make burdensome arguments as she will not be producing these records. The Court observes that the financial institutions who were subpoenaed did not submit anything in connection with this motion.

### **Summary**

In a case alleging fraud where the defendants failed to produce discovery, the plaintiff has every right to seek information directly from third parties; here, the third parties are financial institutions. Such records may confirm plaintiff's suspicions or might cast doubt about plaintiff's allegations. Plaintiff's burden to justify these subpoenas is merely to show that they seek relevant information. It has done that in these papers.


Defendant Ma's argument in reply that plaintiff did not provide evidence that ties these requests to the fraud attempts to place an unrealistic burden on plaintiff. Plaintiff cannot demonstrate what the evidence produced by these subpoenas will show before it has obtained these documents pursuant to the subpoenas. While the Court understands that defendants are usually not enthusiastic about having their financial information disclosed to a plaintiff, the

plaintiff here thoroughly demonstrated why these records are material and necessary for its prosecution of this case.

Accordingly, it is hereby

ORDERED that defendant Ma's motion to quash subpoenas is denied.

See NYSCEF Doc. No. 105 concerning the next conference.

9/24/2024					
DATE			ARLENE P. BLUTH, J.S.C.		
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/>	DENIED	<input type="checkbox"/>
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER	<input type="checkbox"/>
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>
				OTHER	<input type="checkbox"/>
				REFERENCE	<input type="checkbox"/>