

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

2025 NY Slip Op 30815(U)

March 11, 2025

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

-----X

BEST WORK HOLDINGS (NEW YORK) LLC,

Plaintiff,

- v -

JIA IVY MA, YUN TOMMY LI

Defendants.

-----X

INDEX NO. 654826/2022

MOTION DATE 03/07/2025

MOTION SEQ. NO. 007

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 007) 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187

were read on this motion to/for Protective Order.

Plaintiff’s motion for a protective order barring defendants from deposing Lei Luo is denied.

Background

Plaintiff owns 72 Wall St, a 72-story 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 and that defendant Li (who held himself out as a contractor) submitted fake invoices as part of this scheme.

In this motion, plaintiff seeks a protective order barring defendants from taking the deposition of Lei Luo on the ground that she lacks relevant knowledge about this case. It contends that by the time the alleged fraud began in April 2020, Ms. Luo no longer supervised the renovation project. Plaintiff argues that a different employee, Ning Wang, took over this

responsibility (on behalf of plaintiff's parent company) in September 2019. Plaintiff acknowledges that defendants have sought the deposition of Ning Wang as well as the deposition of a corporate representative of plaintiff. It contends that it chose Mr. Tianquan (Vincent) Mo as the person who will testify as the corporate representative.

Plaintiff includes an affirmation from Hong Liu, an employee of the parent company, who contends that Ms. Luo ceased her involvement in the renovation project in September 2019 and that Ning Wang took over (NYSCEF Doc. No. 172). Hong Liu also argues that defendant Ma reported directly to Ning Wang (*id.*).

In opposition, defendant Tommy Li contends that plaintiff hired him and his company in June 2015 to remove the internal structures of the building so that only the frame would be left. He insists that Ms. Luo utilized his company to manage contractors in connection with the renovation and that he functioned as, essentially, a general contractor. Mr. Li admits that Lei Luo left this project at the end of 2019 and was replaced by Nin Wang.

Defendant Li insists that Lei Luo remains a corporate officer of plaintiff's parent company and that she was in charge of the project from 2016 through September 2019. He insists that she participated in plaintiff deciding to use Mr. Li's company as the de facto general contractor.

Plaintiff did not submit a reply.

Discussion

“An application to quash a subpoena should be granted only where the futility of the process to uncover anything legitimate is inevitable or obvious ... or where the information sought is utterly irrelevant to any proper inquiry. It is the one moving to vacate the subpoena

who has the burden of establishing that the subpoena should be vacated under such circumstances” (*Matter of Kapon v Koch*, 23 NY3d 32, 38-39, 988 NYS2d 559 [2014]).

The Court denies the motion. Clearly, Ms. Luo was actively involved in the renovation project in the years and months leading up to when the alleged fraud began. Defendant Li’s affirmation constitutes a legitimate reason for Ms. Luo’s deposition as he contends that Ms. Luo was part of the decision to hire Mr. Li’s company as the general contractor for the renovation project—the very project that plaintiff now claims defendants used to siphon money from plaintiff.

That Ms. Luo may have moved on right before the alleged fraud began does not compel a different outcome as there is a liberal policy of regarding disclosure in this state (*Kapon*, 23 NY3d at 38). In other words, Ms. Luo will surely have personal knowledge regarding relevant issues in this case. That she may not be able to speak on all issues is not a reason to grant a protective order. And the Court observes that Ms. Luo did not submit her own affidavit or affirmation in connection with this motion.

The Court also finds that Ms. Luo’s residence in China is not a reason to grant the instant motion. That she may be forced to travel to the United States to take this deposition is simply an unfortunate byproduct of commencing an action in the United States. The fact is that plaintiff started a case against defendants in New York arising out of a renovation of a New York building. Therefore, a witness with personal knowledge (albeit one that works for plaintiff’s parent company) who participated in that renovation project should, in the ordinary course, be deposed.

Summary

The Court recognizes plaintiff’s argument that Ms. Luo ceased to work on the renovation project by the time the fraud allegedly began. But, on this record, she was overseeing Mr. Li’s work for plaintiff just a few months prior to when the purportedly fraudulent scheme commenced. That constitutes a good reason to take her deposition. This is not a situation in which a party seeks to depose a person who ceased involvement years and years ago or the party seeking the protective order can show the proposed witness has nothing to do with case whatsoever. Given the binding caselaw promoting full disclosure “of any facts bearing on the controversy,” this Court has little choice but to deny the instant motion.

Accordingly, it is hereby

ORDERED that plaintiff’s motion for a protective order is denied.

See NYSCEF Doc. No. 168 regarding the next steps in discovery—the Court previously ordered that a note of issue be filed by May 1, 2025.

3/11/2025
DATE


ARLENE P. BLUTH, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	
<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/> DENIED

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER

APPLICATION:

<input type="checkbox"/>	SETTLE ORDER
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN

<input type="checkbox"/>	SUBMIT ORDER
<input type="checkbox"/>	FIDUCIARY APPOINTMENT
<input type="checkbox"/>	REFERENCE

CHECK IF APPROPRIATE: