

**Eisenberg v Amazon Logistics, Inc.**

2025 NY Slip Op 32342(U)

July 2, 2025

Supreme Court, New York County

Docket Number: Index No. 150852/2022

Judge: Debra A. James

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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. DEBRA A. JAMES**

**PART 59**

*Justice*

-----X

ERIC EISENBERG,

Plaintiff,

- v -

AMAZON LOGISTICS, INC.,ALPHA CARTING COMPANY,  
BETA CARTING COMPANY, BERNARD WILSON,  
ANTONIO DOE, and KURT ROE,

Defendants.

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**INDEX NO.** 150852/2022

**MOTION DATE** 04/29/2025

**MOTION SEQ. NO.** 007

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 007) 253, 254, 255, 256, 257, 258, 259, 260, 261

were read on this motion to/for REARGUMENT/RECONSIDERATION.

ORDER

Upon the foregoing documents, it is

ORDERED that the motion of plaintiff for leave to reargue defendant Amazon Logistics, Inc.'s motion for a protective order (mot seq no 004) is granted; and it is further

ORDERED that, upon reargument, the Court modifies the prior order, dated January 30, 2025, and only to the extent that it vacates the "Protective Order" dated January 30, 2025, which is inapplicable to this action for intentional tort, but directs that any personal identifying information, such as social security numbers and home addresses be redacted from the records produced, and grants plaintiff leave to reissue and serve the Subpoena upon non-party N-Quad Logistics, Inc., delineating and itemizing the

records sought: the contract in effect on March 21, 2021, between Amazon Logistics, Inc. and N-Quad Logistics, Inc.; employee time and attendance records of defendant Bernard Wilson; reports or written correspondence, including e-mail messages concerning interaction between defendant Bernard Wilson and plaintiff on March 21, 2025; license agreements, in effect as of March 21, 2025, redacted for any proprietary information, that pertain to the use of "OPERATED BY:/AMAZON LOGISTICS, INC", on truck bearing New York license plate number 23901MM or on clothing worn by employees of N-Quad Logistics, Inc and/or defendant Amazon Logistics, Inc., present during the incident; any violations for idling truck issued to Amazon Logistics, Inc. and/or N-Quad Logistics, Inc. from December 1, 2025 through and including June 21, 2025; any directives issued to employees concerning New York City Citizens Air Complaint Program and the recording by third parties of vehicles or personnel delivering packages; and it is further

ORDERED, except as to the foregoing, the court adheres the order dated January 30, 2025, which directed that neither N-Quad Logistics, Inc. need not produce items numbers 10, 11 or 12; and it is further

ORDERED that except as exhibits to motions or for demands for bills of particulars and responses thereto (as latter constitute an amplification of the pleadings), counsel shall refrain from posting on NYSCEF discovery demands or responses thereto, as same

unnecessarily and improperly clutters the docket, and should be exchanged among the parties only. See In Re Westchester Rockland Newspapers, Inc., 66 AD2d 335, 338 (2nd Dept 1979); and it is further

ORDERED that counsel shall post on NYSCEF joint proposed discovery status conference order or dueling proposed discovery status discovery conference orders at least two days before October 9, 2025, on which date counsel shall appear via Microsoft Teams, unless, by joint request sent to IAS Part 59 Clerk (SFC-Part59-Clerk@nycourts), such appearance be waived by the court.

#### DECISION

Motion sequence numbers 004 was fully submitted and sub judice before Justice Headley, as of October 7, 2024, which was about three months before the herein action was assigned to the undersigned. On such basis Warburg, Pincus & Co v QoS Networks Ltd, 25 AD3d 468 (1<sup>st</sup> Dept 2006), wherein the subject case was never properly assigned to the judge that determined the motion, is distinguishable on its facts.

However, the decision and order dated January 30, 2025, of Headley, J., overlooked the controlling case law with respect to non-party subpoenas. In Kapon v Koch, 23 NY3d 32, 38 (2014), the Court of Appeals stated:

"An application to quash a subpoena should be granted '[o]nly 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'".

Defendant Amazon Logistics, Inc. failed to show that certain of the N-Quad Logistics, Inc. records sought were "utterly irrelevant to the proper inquiry", and therefore the order resolving Amazon Logistics, Inc.'s motion to quash should be modified accordingly. However, this court agrees with the prior decision to the extent that plaintiff's non-party Subpoena seeks "communications", as same is overbroad and must be redrafted to specifically delineate records likely to be in the possession of the non-party. See Sawyer v 1120 Fifth Avenue Corp, 238 AD3d 525 (1st Dept 2025). To the extent such records exist but the search for same is unsuccessful, non-party N-Quad Logistics, Inc. shall provide an affidavit of the custodian of records or other person with knowledge setting forth the specific details of such search pursuant to Jackson v City of New York, 185 AD2s 768 (1st Dept 1992).

*Debra A. James*

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<u>7/2/2025</u> DATE					<u>DEBRA A. JAMES, J.S.C.</u>
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE