

Robles v Otis El. Co.

2025 NY Slip Op 32705(U)

July 29, 2025

Supreme Court, New York County

Docket Number: Index No. 153925/2020

Judge: Arlene P. Bluth

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

PRESENT: HON. ARLENE P. BLUTH **PART 14**

Justice

-----X

ALFREDO ROBLES,

Plaintiff,

- v -

OTIS ELEVATOR COMPANY,

Defendant.

-----X

INDEX NO. 153925/2020

MOTION DATE 07/25/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79

were read on this motion to/for ORDER OF PROTECTION.

Non-party St. Regis Hotel¹ (“St. Regis”)’s motion to quash subpoenas issued by defendant is granted.

Background

In this personal injury action, St. Regis seeks to quash two subpoenas served upon it by defendant. St. Regis complains that defendant seeks improperly overbroad discovery, including that it have access to test the entire hotel’s elevator system on each of the 20 floors of the hotel. It observes that the numerous and vague requests do not contain any documentation to explain why defendant needs this information. St. Regis argues that defendant merely alludes to a purported incident but did not provide any details about the incident to help focus St. Regis’ search for relevant documents and potential witnesses. It also emphasizes that the time periods for some of the document requests sought by defendant go back five years prior to the incident.

¹ The subpoena was addressed to St. Regis but mentions Starwood Hotels and Marriott. The specific entities are not dispositive for purposes of this motion.

In opposition and in support of its cross-motion to compel compliance with these subpoenas, defendant argues that it provided the requisite notice to St. Regis. It claims that it told St. Regis that the case involved “an alleged incident involving plaintiff, an employee of St. Regis” as well as the date and the specific elevator. Defendant claims it merely seeks the deposition of a witness from St. Regis with knowledge, documents and information relevant to this action and an inspection of the elevator. Defendant insists it does not seek multiple witnesses or many years worth of records. It argues that St. Regis improperly seeks to quash two separate subpoenas issued in another pending action in New York County. Defendant admits that it served 19 requests for documents or information but points out that 17 of these requests refer to the date of plaintiff’s incident.

Plaintiff also submits an affirmation in which he joins in defendant’s cross-motion to compel St. Regis to comply.

In reply, St. Regis questions the demand for invasive elevator testing throughout the hotel given that defendant was, and remains, the elevator maintenance company where plaintiff’s incident allegedly occurred. It emphasizes that the subpoenas did not provide any underling facts about the case.

Discussion

As an initial matter, the Court observes that the first two exhibits submitted by St. Regis are from a different matter (158447/2022) pending before a different judge and therefore not within this Court’s purview. The only subpoenas at issue under this index number are exhibits C and D, NYSCEF Doc. Nos. 62 and 63. In this Court’s view, the central issue on this motion is whether the subpoenas provided the requisite notice.

NYSCEF Doc. No. 62 requests a deposition about “the premises of the subject location including but not limited to the elevators thereat, as well as an alleged incident involving ALFREDO ROBLES on September 22, 2019.” While it mentions a specific elevator, it also requests a witness with knowledge about “the operation, inspection, repair, maintenance, and service for the elevators located at the premises” (*id.*). Schedule A to this subpoena includes 19 requests the vast majority of which, as defendant correctly points out, relate to the incident in question. The second subpoena demands an inspection of the specific elevator in question “to include the exterior of the elevator at the corridor on each floor of the premises, as well as the interior of the elevator car, car top and machine room, including access to the motor, controller and associated equipment thereto for inspection and testing to include the closing speed and force of the elevator car and hoistway doors and manual or electronic detector and door opening systems” (NYSCEF Doc. No. 63).

“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, 988 NYS2d 559 [2014]). “Although the nonparty bears the initial burden of proof on a motion to quash, section 3101 (a) (4)'s notice requirement nonetheless obligates the subpoenaing party to state, either on the face of the subpoena or in a notice accompanying it, “the circumstances or reasons such disclosure is sought or required.” The subpoenaing party must include that information in the notice in the first instance” (*id.* at 39).

There is little doubt that the subpoenas failed to satisfy the above notice requirement. It is not up to a non-party like St. Regis to expend its own resources to review the docket of a case to figure out the details of an alleged incident and how to adequately respond to broad subpoenas. As St. Regis aptly observed in reply, “What this incident is, is never spelled out. Was the plaintiff assaulted within an elevator? Did the elevator sustain a free fall? Was there a fire in the elevator? Was this a trip and all over a mislevel? Was there a sharp object protruding that lacerated the plaintiff? Did the elevator stall causing plaintiff to be trapped for a period of time?” (NYSCEF Doc. No. 79, ¶ 7).

Only in opposition and in support of its cross-motion did defendant finally explain that plaintiff claims he fell while attempting to exit the elevator on the nineteenth floor when the elevator unexpectedly jumped up. That is not sufficient to provide St. Regis with the proper notice as it was not provided in the first instance. A vague reference to “an incident” from more than five years ago is not adequate notice particularly given the breadth of the document demands. And, of course, how is St. Regis going to produce a witness with the requisite knowledge for a deposition if it does not know what this case is about? Additionally, given the details revealed in defendant’s opposition, it is unclear why defendant needs to inspect the exterior of the elevator on every floor in the hotel when plaintiff apparently fell on a specific floor. There may be a reason, but none is included in the subpoena.

Summary

It is axiomatic that this State has a liberal policy regarding discovery and demanding information from the place where plaintiff was injured is a routine request. But this subpoena does not adequately describe the nature of plaintiff’s incident. To be sure, defendant need not provide every possible detail about the case. But given that St. Regis is a non-party, defendant

had “to apprise a stranger to the litigation the “circumstances or reasons” why the requested disclosure was sought or required” (*Kapon*, 23 NY3d at 39). This subpoena necessarily required St. Regis to either allow a stranger access to voluminous records, guess what the stranger may want or demand more information. Those are not proper tasks for a non-party, and so, unfortunately, St. Regis had to hire lawyers to protect their rights from invasive and overly broad subpoenas.

Finally, the Court observes that the timing of these subpoenas is curious, to say the least. In connection with a discovery stipulation dated February 19, 2025, this Court ordered that a note of issue be filed by March 31, 2025 (NYSCEF Doc. No. 57). Bizarrely, these subpoenas sought a deposition on April 8, 2025 and an inspection of the elevator on April 4, 2025—after the note of issue deadline. It is unclear why, at the close of discovery, defendant is suddenly demanding all sorts of discovery from St. Regis, a party it has presumably known about throughout the more than five years this case has been pending. The Court observes that plaintiff’s deposition, where he discusses his employment for St. Regis, was held in December 2023.

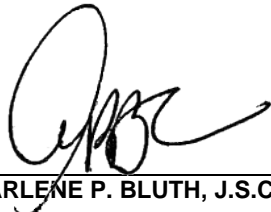
Moreover, the aforementioned stipulation specifically provided that any extension of the note of issue deadline must be sought via a motion. No such motion has been made and no note of issue has been filed. Plaintiff is directed to file a note of issue on or before August 5, 2025 or the case may be marked as disposed.

Accordingly, it is hereby

ORDERED that the motion of non-party St. Regis for a protective order is granted with respect to the two subpoenas issued in this matter; and it is further

ORDERED that the defendant’s cross-motion is denied; and it is further

ORDERED that the note of issue must be filed by August 5, 2025 or the case may be marked as disposed.

<u>7/29/2025</u> 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 type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input checked="" type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE