

**Carlson v Chelsea Hotel Owner LLC**

2025 NY Slip Op 33195(U)

August 20, 2025

Supreme Court, New York County

Docket Number: Index No. 157608/2020

Judge: Lynn R. Kotler

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYNN R. KOTLER PART 08

Justice

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GRETCHEN CARLSON, PHILIP TAAFFE,

Plaintiff,

- v -

CHELSEA HOTEL OWNER LLC, SIR CHELSEA LLC, IRA
DRUKIER

Defendant.

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INDEX NO. 157608/2020

MOTION DATE 11/22/2024

MOTION SEQ. NO. 004

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 004) 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 202, 203, 204, 205, 206, 207

were read on this motion to/for DISCOVERY

Defendant Chelsea Hotel Owner, LLC ("CHO" or "defendant") moves to compel plaintiffs Gretchen Carlson ("Carlson") and Philip Taaffe ("Taaffe") (collectively "plaintiffs") to "provide the relevant discovery described in further detail below within fourteen days" or to "preclud[e] Plaintiffs from relying upon evidence or argument at trial that they have refused to search for or produce."

Plaintiffs oppose the motion, arguing that it is improper because the Chelsea Hotel cases are not consolidated; they have not refused to search for or produce any relevant evidence; and the motion is not accompanied by "the requisite good faith affirmation pursuant to 22 NYCRR 202.7[.]" The court's decision is as follows.

This is a five-year-old case where some discovery has taken place. It is unnecessary to recite the case history, as the parties and the court are well-aware of the alleged facts.

Since 2022, the court has "so ordered" six (6) discovery stipulations dated, May 18, 2022, May 9, 2023, December 8, 2023, March 7, 2024, June 20, 2024, and September 5, 2024, all containing the same language except for the discovery deadline date.

Defendant has sent plaintiff deficiency letters dated December 19, 2023 and June 28, 2024 outlining the ongoing deficiencies in plaintiff's interrogatory responses and document production of plaintiffs Carlson and Taaffe. The parties have held two (2) meet-and-confer calls on January 19 and January 22, 2024. All agreed-upon discovery deadlines have come and gone.

An email dated February 14, 2024, memorialized the meet-and-confer regarding outstanding discovery in January 2024, where the parties agreed that:

Plaintiff will provide the names of their children whom they anticipate calling as witnesses at the time of trial; provide contact information for individuals listed as having knowledge of their claims; plaintiff to supplement their responses to interrogatories regarding asbestos testing; provide copies of redacted tax returns; Plaintiffs will provide documents supporting their damages, including out-of-pocket expenses; [and] Plaintiffs will reproduce photos and videos with metadata.

Defendant contends, however, that it sent a subsequent letter dated June 28, 2024, that memorialized the parties' previous agreement, efforts to meet and confer on these issues and Plaintiffs' commitments to remediate their discovery responses and productions. Plaintiffs have thoroughly failed to comply with their discovery obligations under applicable law.

Plaintiffs have also failed to produce documents responsive to the following request in defendant's amended first set of requests for the production of documents dated May 31, 2022:

- i. Request No. 37, which seeks documents relating to plaintiffs' claims that any of the defendants acted with malice toward plaintiffs with respect to damages.
- ii. Request No. 58, which seeks documents supporting plaintiffs' contention that "CHO engaged in 'reckless, willful and/or wanton conduct' entitling you to punitive damages."
- iii. Request nos. 63-65, which seek photographs, videos or other images or depictions of the current deleterious conditions of the apartments or the Hotel, before such deleterious conditions arose of the apartments or the Hotel and at where the deleterious conditions arose in the apartments or the Hotel.

- iv. Request Nos. 71-72, which seek documents and communication concerning “any claim that Plaintiffs filed with any insurance company concerning or related to conditions or damage in the apartment or the Hotel and all renters or tenant insurance policies covering the apartment and all documents and communications concerning claims made against those policies during that time.”
- v. Request Nos. 74-76, which seek documents and communication concerning or related to the calculation of any damages, any expenses incurred by you and the value of the damaged property which you seek recovery in this action.

Plaintiffs have also failed to supplement interrogatory responses for the following interrogatories: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 23, and Druckier Interrogatory No. 10.

Plaintiffs have also failed to provide medical authorizations for healthcare providers identified in Interrogatories 19 and 25, more specifically Dr. Susan Haas and Dr. Jennifer Jorgensen, and for healthcare providers that treated plaintiff Gretchen Carlson during her time at Silver Hill Hospital in 2022 and Jane Gumpel, LCSW.

In addition, plaintiff Carlson testified in her deposition about an April 2018 diagram about pipe placement in her apartment. Plaintiffs are directed to produce a copy of the April 2018 diagram that was produced at the deposition or be precluded from offering evidence of the diagram at the time of trial.

Furthermore, defendant issued subpoenas dated September 23, 2023 to non-parties Jonathan Berg, Susan Berg, Emmanuel-Jean Baptiste, Deborah Martin and Gerald Decock. To date, no documents have been produced. As such, non-parties Jonathan Berg, Susan Berg, Emmanuel-Jean Baptiste, Deborah Martin and Gerald Decock are directed to produced documents responsive to said subpoenas within 30 days from the date of this decision/order.

As noted, the parties executed six (6) discovery stipulations over a three-year time period, participated in two meet-and-confers on January 19 and 2024, and communicated via email in February 2024 regarding outstanding discovery and a final deficiency letter dated June 28, 2024

prior to filing the instant motion. The discovery sought by defendant, consisting of responses to document demands and a supplemental interrogatory response, is simple and straightforward. There is, however, no indication in the record before the court that plaintiffs have even attempted to supplement their discovery responses to cure the deficiencies identified by defendant.

An affidavit regarding the unavailability of documents that are the subject of a discovery order must document a thorough search conducted in good faith, and should include details such as “where the subject records were likely to be kept, what efforts, if any, were made to preserve them, whether such records were routinely destroyed, [and] whether a search [was] conducted in every location where the records were likely to be found” (*Jackson v City of New York*, 185 AD2d 768, 770 [1st Dept. 1992]).

Here, the affidavit submitted by Carlson contains absolutely no specific information regarding the search(es) she conducted or any relevant information as to the discovery requests. In fact, the Carlson affidavit is exactly the same as the Jobe, Poss, Susan Berg and Caster affidavits except for the person’s signature. The Carlson affidavit lacks any relevant information regarding where, when, or what was searched, or any indication of how plaintiff conducted the search(es). Moreover, there is no affidavit from plaintiff Philip Taaffe that he conducted any search for any responsive documents. This type of gamesmanship, which is nothing more than a poorly designed strategy to thwart defendant’s discovery efforts, impairs the efficient functioning of the courts and the adjudication of claims.

Based on the foregoing, defendant’s motion is granted to the following extent:

- 1) Plaintiffs shall supplement their respective responses to defendant’s discovery requests, more specifically Plaintiff will provide the names of their children whom they anticipate calling as witnesses at the time of trial; provide contact information for individuals listed as having knowledge of their claims, to wit: Cindy Feinberg, Susan Haas, UConn Health Center (Dr. Jennifer Jorgensen), Armond Bytton, Ian Pai, Scott Griffin, Maria Mecerino; plaintiff to supplement their responses to interrogatories regarding asbestos testing; provide copies of redacted tax returns; Plaintiffs will provide documents supporting their damages, including out-of-pocket expenses; [and] Plaintiffs will reproduce photos and videos with metadata.

- 2) Plaintiffs shall supplement their responses to defendant's Interrogatories Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 23 and Druckier Interrogatory No. 10.
- 3) Plaintiff shall produce a copy of the April 2018 diagram for the pipe placement in her apartment.
- 4) Plaintiffs shall supplement their respective responses to defendant's amended first set of requests for production of documents, more specifically their Responses to Request Nos. 37, 58, 63-65, 71-72 and 74-76.
- 5) Plaintiff Carlson shall produce medical authorizations for healthcare providers, Dr. Susan Haas, Dr. Jennifer Jorgensen, Jane Gumpel, LCSW and any healthcare provider who treated plaintiff Carlson at Silver Hill Hospital.
- 6) Non-parties Jonthan Berg, Susan Berg, Emmanuel-Jean Baptiste, Deborah Martin and Gerlad Decock are directed to produced documents responsive to said subpoenas dated September 23, 2023 within 30 days from the date of this decision/order.

The balance of defendant's motion for sanctions is denied.

Accordingly, it is hereby

**ORDERED** that defendant's motion is granted to the extent that, within thirty (30) days of the date of this order, plaintiffs shall (1) supplement their respective responses to defendant's discovery requests, more specifically plaintiffs will provide the names of their children whom they anticipate calling as witnesses at the time of trial; provide contact information for individuals listed as having knowledge of their claims, to wit: Cindy Feinberg, Susan Haas, UConn Health Center (Dr. Jennifer Jorgensen), Armond Bytton, Ian Pai, Scott Griffin, Maria Mecerino; plaintiff to supplement their responses to interrogatories regarding asbestos testing; provide copies of redacted tax returns; Plaintiffs will provide documents supporting their damages, including out-of-pocket expenses; [and] Plaintiffs will reproduce photos and videos with metadata; 2) Plaintiffs shall supplement their responses to defendant's Interrogatories Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 23, and Druckier Interrogatory No. 10.; 3) Plaintiff Carlson shall produce a copy of the April 2018 diagram for the pipe placement in her

apartment; 4) Plaintiffs shall supplement their respective responses to defendant’s amended first set of requests for production of documents, more specifically their Responses to Request Nos. 37, 58, 63-65, 71-72 and 74-76; 5) Plaintiff Carlson shall produce medical authorizations for healthcare providers, Dr. Susan Haas, Dr. Jennifer Jorgensen, Jane Gumpel, LCSW and any healthcare provider who treated plaintiff Carlson at Silver Hill Hospital; 6) Non-parties Jonathan Berg, Susan Berg, Emmanuel-Jean Baptiste, Deborah Martin and Gerald Decock are directed to produced documents responsive to said subpoenas dated September 23, 2023; and the motion is otherwise denied; and it is further

**ORDERED** that, on or before September 29, 2025, the parties shall file a joint letter on NYSCEF under index number 157608/2020 detailing for the court the status of discovery compliance; and it is further

**ORDERED** that the parties shall appear at 80 Centre Street, New York, New York for an in-person compliance conference on September 30, 2025, at 2:30 pm.

Any requested relief not expressly addressed herein has nonetheless been considered and is hereby expressly denied and this constitutes the Decision and Order of the court.

8/20/2025  
DATE

LYNN R. KOTLER, J.S.C.

CHECK ONE:  CASE DISPOSED  DENIED  NON-FINAL DISPOSITION

APPLICATION:  GRANTED  GRANTED IN PART  OTHER

CHECK IF APPROPRIATE:  SETTLE ORDER  SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN  FIDUCIARY APPOINTMENT  REFERENCE