

Callahan v Spectrum N.Y. Metro, LLC

2025 NY Slip Op 33265(U)

September 2, 2025

Supreme Court, New York County

Docket Number: Index No. 452416/2022

Judge: Lynn R. Kotler

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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. LYNN R. KOTLER PART 08

Justice

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JEANNE CALLAHAN,

Plaintiff,

- v -

SPECTRUM NEW YORK METRO, LLC f/k/a TIME
WARNER CABLE NEW YORK CITY LLC, BOARD OF
MANAGERS OF INTERNATIONAL PLAZA
CONDOMINIUM and INTERNATIONAL
PLAZA CONDOMINIUM,

Defendant.

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INDEX NO. 452416/2022
MOTION DATE 05/15/2025
MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 004) 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 146, 148, 152, 153

were read on this motion to/for DISCOVERY

Upon the foregoing documents, this motion is decided as follows. Defendants CHARTER COMMUNICATIONS, INC., and SPECTRUM NEW YORK METRO, LLC f/k/a TIME WARNER CABLE NEW YORK CITY LLC (collectively, "Spectrum") move to compel an additional deposition of Defendants/Second Third-Party Plaintiffs BOARD OF MANAGERS OF INTERNATIONAL PLAZA CONDOMINIUM and INTERNATIONAL PLAZA CONDOMINIUM (collectively, "International Plaza"). Third-Party Defendants/Second Third-Party Defendants HYLAN DATACOM & ELECTRICAL INC., HYLAN DATACOM & ELECTRICAL LLC, and OLD HDE INC. (collectively, "Hylan") joins Spectrum's motion to compel. International Plaza opposes. For the reasons that follow, the motion is denied.

Background

On September 24, 2019, plaintiff tripped and fell on a raised sidewalk vault located at 303 East 43rd Street, New York, New York (the "Subject Premises"). The installation of the

sidewalk vault was performed by Hylan in the late 1990's. Since then, Hylan has not performed any additional work on the sidewalk vault.

In 2010, an entity named Great American Contracting allegedly performed work on the sidewalk vault.

On October 25, 2024, a deposition was held with Gabriel Aguilar ("Aguilar") on behalf of International Plaza. Aguilar testified that he had worked for International Plaza for 12 years doing maintenance and working as the doorman. Aguilar testified that he was not aware of any sidewalk work done by Great American Contracting or anyone else prior to September 24, 2019.

Spectrum now seeks to depose a representative of International Plaza with knowledge of work performed on the sidewalk, namely Board President David Eshaghian ("Eshaghian").

Discussion

When making a motion to take additional depositions, the moving party must make "a 'detailed showing' of the necessity for taking additional depositions, in that [they] demonstrated that the employees already deposed had insufficient information and there was a substantial likelihood that those sought to be deposed possess information necessary and material to the prosecution of the case" (*Alexopoulos v Metropolitan Transp. Auth.*, 37 AD3d 232, 233 [1st Dept 2007]).

International Plaza argues that there is no evidence they were involved in any contracting work on the sidewalk, and that the only evidence any work was done is a contracting permit for Great American Contracting. The permit states the work was performed in front of the Subject Premises but does not specify where the work was performed or if it involved the sidewalk vault. Moreover, the permit is for "CONCRETE", whereas the sidewalk vault was surrounded by red brick.

More convincingly, International Plaza has provided an affirmation by Eshaghian who states that he has been a member of the Board of Managers of International Plaza Condominiums (the “Board”) since 1999, and Board president for one and a half years, and that he has no independent recollection of any sidewalk work being done on the sidewalk in front of the Subject Premises or of the Board retaining a company named Great American contracting to perform any sidewalk work. Moreover, as Board president, Eshaghian has access to all records and files maintained by the Board and conducted a search of the records and “was unable to find any record of the Board conducting or hiring any contractor to perform a sidewalk repair project in or around 2010. [The] search also yielded no results for any sidewalk repair work performed... prior to September 24, 2019.” Eshaghian also searched for any records related to plaintiff’s fall and found no results.

Spectrum argues that Eshaghian’s affidavit is not satisfactory and that his statements “have more holes than a strainer” and asks the Court to “share suspicion”. Eshaghian’s statements reflect that a thorough search was conducted and there is no evidence International Plaza had involvement with any work conducted by Great American Contracting. Spectrum has put forth no evidence other than speculation linking International Plaza to the Great American Contracting permit. Suspicion alone is not sufficient to warrant a further deposition.

Hylan’s argument that a further deposition is relevant to their case because work may have been performed on or around the sidewalk vault after their installation is similarly based on speculation and is not compelling.

Because Spectrum and Hylan have failed to show a substantial likelihood that International Plaza or Eshaghian possesses information necessary and material to the prosecution of the case, the motion is denied.


Conclusion

Accordingly, it is

ORDERED that CHARTER COMMUNICATIONS, INC., and SPECTRUM NEW YORK METRO, LLC f/k/a TIME WARNER CABLE NEW YORK CITY LLC's motion to compel a further deposition of BOARD OF MANAGERS OF INTERNATIONAL PLAZA CONDOMINIUM and INTERNATIONAL PLAZA CONDOMINIUM is denied.

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

9/2/2025
DATE


LYNN R. KOTLER, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	
APPLICATION:	<input type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE