

**Bravo v 27 Park Place, LLC**

2025 NY Slip Op 33618(U)

September 29, 2025

Supreme Court, New York County

Docket Number: Index No. 153209/2024

Judge: Judy H. Kim

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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. JUDY H. KIM PART 04**

*Justice*

-----X

JOSE ANTONIO MENDOZA BRAVO,  
Plaintiff,

- v -

27 PARK PLACE, LLC, EMPIRE STATE DEVELOPMENT,  
LLC,

Defendants.

-----X

INDEX NO. 153209/2024

MOTION DATE N/A

MOTION SEQ. NO. 001

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 9, 10, 11, 12, 13, 14, 15, 17, 18

were read on this motion to/for CONTEMPT.

Plaintiff moves for an order holding non-party TLD Services, Inc. (“TLD”) in contempt of Court for failing to comply with his subpoena duces tecum, dated April 9, 2025 (“Subpoena”) or, in the alternative, compelling TLD to respond to the Subpoena

**BACKGROUND**

Plaintiff Jose Antonio Mendoza Bravo, an employee of nonparty and contractor or subcontractor TLD, was injured while performing construction work at a building located at 27 Park Place, 5<sup>th</sup> Floor, New York, New York (“Premises”) (*see* New York State Courts Electronic Filing System [NYSCEF] Doc. No. 001, Complaint). Defendants 27 Park Place, LLC and Empire State Development, LLC (construction manager) own the Premises, and each is alleged to be the general contractor, construction manager and was hired by owners as the construction manager

and primary general contractor for the work at the Premises (see id.).

On April 5, 2024, plaintiff commenced the instant action against defendants, seeking to recover damages. Plaintiff alleges that on or around September 21, 2023, while working at the Premises, he sustained severe personal injuries (see id.; see also NYSCEF Doc. No. 11, Affirmation of C. Michelle Clemmens, Esq. at ¶ 5).

On May 28, 2024, defendants answered (see NYSCEF Doc. No. 2, Answer).

As part of discovery, plaintiff served a document subpoena upon his employer, TLD (see NYSCEF Doc. No. 13, Subpoena Duces Tecum, dated April 9, 2024). Plaintiff sent a follow-up good faith letter to TLD on August 13, 2024, requesting a response to its Subpoena (see NYSCEF Doc. No. 14). To date, TLD has failed to comply (see NYSCEF Doc. Nos. 10 and 11).

Consequently, plaintiff moves for an order (a) holding TLD in contempt of court pursuant to CPLR § 2308 or in the alternate, (b) compelling TLD to comply with plaintiff's subpoena duces tecum pursuant to CPLR §§ 2308 (a) and 3124.

Neither defendants nor TLD appear or otherwise oppose the motion.

### DISCUSSION

Plaintiff moves for contempt against non-party TLD for failure to comply with plaintiff's Subpoena Duces Tecum, dated April 9, 2023 (NYSCEF Doc. No. 13), as well as to compel TLD to produce records responsive to said Subpoena. The motion is submitted without opposition. An application for civil contempt requires proof that “a lawful order of the court, clearly expressing an unequivocal mandate, was in effect” (*El-Dehdan v El-Dehdan*, 26 NY3d 19, 29 [2015]). Further, it “must appear, with reasonable certainty, that the order has been disobeyed,” that “the party to be held in contempt must have had knowledge of the court's order,” and “that the movant

was thereby prejudiced” (*id.*). The party applying for a contempt finding has the burden to prove these elements by “clear and convincing evidence” (*id.*). Both the CPLR and the Judiciary Law provide that the failure to appear and give testimony when subpoenaed to do so shall be punishable as a contempt of court (CPLR 2308[a] [“Failure to comply with a subpoena issued by a judge, clerk or officer of the court shall be punishable as a contempt of court”]; Judiciary Law § 753[A] [5] [punishing for civil contempt “(a) person subpoenaed as a witness, for refusing or neglecting to obey the subpoena, or to attend, or to be sworn, or to answer as a witness”]).

The court declines to hold TLD in contempt, as plaintiff fails to demonstrate by clear and convincing evidence that TLD disobeyed a court order or that it is prejudiced at this juncture. However, plaintiff has established that the information sought in its requests in the Subpoena are material and necessary in the prosecution of this action (NYSCEF Doc. No. 13). As stated above, information sought therein regarding plaintiff’s incident on September 21, 2023 and/or relating to the work at the Premises for a six month period immediately preceding and including the date of the incident are clearly relevant to its claim. Neither the defendants nor the subpoenaed non-party and employer have opposed the Subpoena. Accordingly, the motion to compel is granted. TLD shall, on or before November 7, 2025, provide responses and produce all documents responsive to the Subpoena.

Accordingly, it is hereby

**ORDERED** that plaintiff’s motion to compel is granted in part, to the extent that non-party TLD is directed to respond to plaintiff’s Subpoena Duces Tecum, dated April 9, 2024 on or before November 7, 2025 and is otherwise denied; and it is further

