

Syku v American Honda Motor Co., Inc.

2025 NY Slip Op 33701(U)

October 2, 2025

Supreme Court, New York County

Docket Number: Index No. 156651/2018

Judge: Leslie A. Stroth

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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. LESLIE A. STROTH PART 12M

Justice

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INDEX NO. 156651/2018

SOKOL SYKU,

MOTION DATE 09/12/2024

Plaintiff,

MOTION SEQ. NO. 002

- v -

AMERICAN HONDA MOTOR COMPANY, INC., HONDA OF AMERICA, MFG., INC., MASON ST. IMPORT CARS, LTD.

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112

were read on this motion to/for QUASH SUBPOENA, FIX CONDITIONS

This case involves injuries allegedly sustained by Plaintiff when the trunk of his car allegedly swung down and fell on Plaintiff.

In motion sequence 002, Plaintiff moves to quash the subpoenas issued upon third parties Daniel Syku, Nikolaus Syku and Gabriella Syku dated August 6, 2024. The subpoenas seek testimony from Plaintiff's family members, Daniel Syku, Nikolaus Syku and Gabriella Syku who Defendants allege all witnessed or had knowledge of Plaintiff's injuries. Defendants cross-move to compel compliance with the subpoenas and for updated employment records of Plaintiff Sokol Syku.

CPLR 3101 governs the general rule that discovery requires the disclosure of all materials and information which is material and necessary to the claims and defenses in an action. CPLR 2304 provides the mechanism to quash a subpoena which "should be granted 'only 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” (*Anheuser-Busch, Inc. v Abrams*, 71 NY2d 327 [1988]). The burden of establishing the irrelevancy of the discovery sought, rests with the witness who moves to quash (*Kapon v Koch*, 23NY3d 32, 39 [2014]).

22 NYCRR 202.21(d) provides that, “[w]here unusual or unanticipated circumstances develop subsequent to the filing of a note of issue and certificate of readiness which require additional pretrial proceedings to prevent substantial prejudice, the court, upon motion supported by affidavit, may grant permission to conduct such necessary proceedings.”

“Post-note discovery ... may only be sought under two procedural circumstances set forth in 22 NYCRR 202.21 ... [O]ne method of obtaining post-note discovery is to vacate the note of issue within 20 days of its service ... by merely showing that discovery is incomplete and the matter is not ready for trial. The second method, beyond that 20 days, requires that the movant, pursuant to 22 NYCRR 202.21(d), meet a more stringent standard and demonstrate ‘unusual or unanticipated circumstances and substantial prejudice’ absent the additional discovery (*see Tirado v. Miller*, 75 A.D.3d 153 [2d Dep’t 2010]).

First, as it relates to the subpoenas. The subpoenas were issued over 16 months from Plaintiff’s filing of the Note of Issue. It is uncontroverted that no party sought to vacate the note of issue, so the Court must apply the more stringent standard requiring “unusual or unanticipated circumstances.” Defendants point to email exchanges between counsel in which some post-note discovery was exchanged and that Plaintiff’s attorney accepted service as proof that the subpoenas should not be quashed. Defendants further point to deposition testimony of Agron Djurasevic, which occurred on May 14, 2024 for the proposition that the parties had previously agreed to post-note discovery. However, Plaintiff demonstrates that such agreement had no bearing on the requested subpoenas of Plaintiff’s children. Moreover, as the children are third-

parties, the court is not inclined to compel post-note subpoenas given that the identities of the children were known and that no additional information obtained in post-note discovery tended to corroborate anything amounting to “unusual or unanticipated circumstances.” As such, Plaintiff’s motion to quash the subpoenas directed at Daniel Syku, Nikolaus Syku and Gabriella Syku is granted, and Defendants’ cross-motion to compel the subpoenas is denied.

As it relates to Defendants’ cross-motion to compel production of Plaintiff’s employment records, the court is inclined to grant such, as the deposition testimony of Djurasevic raised new questions related to Plaintiff’s suspension and potential damages. As the information obtained in that deposition was only made known post-note, the Court finds that such constitutes “unusual or unanticipated circumstances” and Plaintiff is directed to disclose updated employment records including Plaintiff’s personnel file after January 1, 2022 through the present including those related to Plaintiff’s alleged suspension. Additionally, Plaintiff is under a continuing obligation to comply with its pre-note obligation to provide employment records, as Plaintiff’s responses are no longer “correct and complete” pursuant to CPLR 3101(h) given that additional time has passed and that there may be a previously unknown change to Plaintiff’s employment status not yet disclosed given the deposition testimony.

The court has considered the remaining arguments of the parties and finds such unavailing.

Accordingly; it is hereby

ORDERED that Plaintiff’s motion to Quash is granted as it relates to the subpoenas of Daniel Syku, Nikolaus Syku and Gabriella Syku; and it is further

ORDERED that Defendant’s cross-motion to compel is granted in part, to the extent that Plaintiff is directed to disclose updated employment records including Plaintiff’s personnel file

after January 1, 2022 through the present including those related to Plaintiff's alleged suspension, and is otherwise denied.

The foregoing constitutes the decision and order of the court.

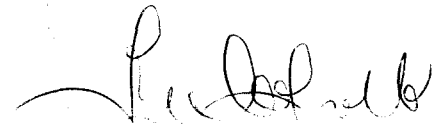
10/2/2025
DATE

CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION

APPLICATION: GRANTED DENIED GRANTED IN PART OTHER

CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER

INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE


HON. LESLIE A. STROTH
J.S.C.