

**Robles v Otis El. Co.**

2025 NY Slip Op 34318(U)

November 12, 2025

Supreme Court, New York County

Docket Number: Index No. 153925/2020

Judge: Arlene P. Bluth

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

**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 11/12/2025

MOTION SEQ. NO. 002

**DECISION + ORDER ON  
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 81, 82, 83, 84, 85, 87

were read on this motion to/for EXTEND – TIME, COMPEL – DISCOVERY.

Upon the foregoing papers, plaintiff’s motion to extend the time to file the note of issue and to compel discovery from defendant is granted as described below.

**Background**

Plaintiff says he was injured while working at the St. Regis Hotel (“St. Regis”) at 2 East 55<sup>th</sup> Street in Manhattan, and that his injuries can be attributed to defendant, Otis Elevator Company (“Otis”), which operated the elevators in the building.

The parties were originally ordered to complete party depositions on or before April 27, 2023 (NYSCEF Doc. No. 39). After granting several extensions, in an order dated September 12, 2024, the Court noted the age of this case and the fact that discovery seemed to be drawing to a close and ordered that a note of issue be filed on or before December 30, 2024 (NYSCEF Doc. No. 52). The parties said that defendant’s deposition had to be delayed due to one of the attorneys being ill, so the Court granted an extension until March 31, 2025 to file the note of

issue (NYSCEF Doc. No. 57). Then defendant issued subpoenas to non-party St. Regis; these subpoenas were quashed and the note of issue deadline was extended to August 5, 2025 (NYSCEF Doc. No. 80).

Plaintiff brought the present motion on August 4, 2025 and seeks to further extend the deadline for the note of issue and to compel discovery from defendant. Plaintiff moves to extend the note of issue date for an additional 90 days claiming that it is owed responses to its February 11, 2025 post-EBT discovery demands. The responses to these demands are also the subject of the part of plaintiff's motion which seeks to compel discovery from defendant.

Defendant supports the part of plaintiff's motion seeking to extend the note of issue deadline, pointing to its own outstanding discovery from St. Regis. Furthermore, defendant does not object to providing responses to plaintiff's post-EBT demands. Defendant claims that the responses simply fell between the cracks and were delayed while defendant pursued responses to FOIL demands from the Department of Buildings. Defendant claims it received responses to its FOIL demands and will be incorporating those responses into the post-EBT responses. Defendant affirmed that it would respond to plaintiff's demands within the next thirty days – in its affirmation dated August 19, 2025 (NYSCEF Doc. No. 87); clearly, those thirty days have long passed. Defendant said it was weighing whether to re-serve amended subpoenas or to move to re-argue the motion that quashed its subpoenas – but said that it would take action imminently (*id.*).

No reply was submitted by plaintiff in further support of this motion, which makes sense because defendant did not oppose. This motion was returnable on August 20, 2025, but due to the undersigned's knee surgery, the motion was automatically adjourned to December 19, 2025. However, recovery from surgery was quicker than anticipated and when the Court noticed that

the note of issue deadline passed several months ago, the Court pulled this motion early, as it said it might do in NYSCEF Doc. No. 89.

## **Discussion**

### Compel

Defendant agreed that it would serve responses to plaintiff's February 11, 2025 post-EBT demands within thirty days in a document dated August 19, 2025. Thirty days from that date was September 18, 2025 – almost two months ago. The Court therefore grants the part of plaintiff's motion which seeks to compel responses to its post-EBT demands as unopposed. Since defendant said that it would serve its responses months ago, it should have already served them. In the event that defendant has not yet served its responses to plaintiff's post-EBT demands, the Court orders that defendant serve them on or before November 21, 2025. If defendant does not serve its responses by the deadline, then defendant might just be playing games and not acting in good faith and plaintiff may bring a motion for appropriate sanctions, including striking the answer.

### Extend Time

Both parties agree that there is still discovery that needs to be done on this case. Plaintiff asked for an additional 90 days to file the note of issue in its affirmation dated July 31, 2025. Plaintiff affirmed it needs the responses to its February 11, 2025 post-EBT discovery demands before it can file the note of issue. Defendant agreed to provide responses to the demands by September 18, 2025, and in the event that they did not do so, they have been ordered to serve the

responses on or before November 21, 2025 in the section above. Therefore, this issue should be resolved shortly, and a note of issue can be filed soon after.

Defendant also points to its own outstanding discovery – the information sought in its subpoenas to St. Regis. On August 19, 2025, defendant affirmed it would either re-serve the subpoenas upon St. Regis or that it would move to re-argue the decision which quashed the subpoenas. The Court notes that defendant did not file a motion to reargue, so it must have re-served the subpoenas or decided upon some other strategy.


Based on the above, the Court grants plaintiff's motion to the extent that the note of issue deadline is now December 5, 2025. Due to the automatic adjournment that the parties received, this means they will have had an extension of around 120 days to file the note of issue past August 5, 2025, when the note of issue was previously ordered due, and they only asked for another 90 days in the motion. The Court does not anticipate any complaints about that. This is also almost one year past the original deadline to file the note of issue, December 30, 2024. If no note of issue is filed on or before December 5, 2025, and no stay is in place, then the Court may assume the case is abandoned or settled and mark this matter as disposed.

Accordingly, it is hereby

ORDERED that the part of plaintiff's motion which seeks to compel responses to its February 11, 2025 post-EBT demands is granted. Defendant is ordered to serve responses to the demands on or before November 21, 2025; and it is further

ORDERED that the part of plaintiff's motion which seeks to extend the note of issue is granted; the note of issue is now due on or before December 5, 2025.

11/12/2025  
DATE

  
ARLENE P. BLUTH, J.S.C.

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