

Trushkevych v Urban Atelier Group, L.L.C.

2025 NY Slip Op 34873(U)

December 15, 2025

Supreme Court, New York County

Docket Number: Index No. 161378/2020

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

-----X

ANDRIY TRUSHKEVYCH,

Plaintiff,

- v -

URBAN ATELIER GROUP, L.L.C., 341 NINTH AVENUE,
L.L.C.,

Defendant.

-----X

INDEX NO. 161378/2020

MOTION DATE 06/10/2025

MOTION SEQ. NO. 003

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 003) 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88

were read on this motion to/for DISCOVERY.

Upon the foregoing documents, this motion is decided as follows. This is a labor law action for personal injuries sustained by plaintiff ANDRIY TRUSHKEVYCH (“Trushkevych”). Plaintiff moves for an order to strike the answer of URBAN ATELIER GROUP, LLC and 341 NINTH AVENUE, LLC (“UAG”, “341 NINTH”, or, collectively, “Defendants”) for failure to comply with discovery demands, or in the alternative, for an order compelling Defendants to comply with discovery demands dated January 18, 2022 and February 21, 2025. Defendants oppose the motion. The court’s decision is as follows.

Discussion

The CPLR affords parties the choice in the first instance about whom they will produce for deposition. (See CPLR 3106 [d].) 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]).

Trushkevych argues that 341 Ninth should be compelled to produce a witness with knowledge for deposition because defendant’s witness, Saliba, was unable to answer questions asked during his deposition regarding the ownership structure, lease agreements, contracts, and operation of the project. Defendants oppose the motion and argue that they produced a witness with knowledge and that plaintiff failed to ask questions relevant to “the accident itself, the work performed by the plaintiff, or any factual issues relevant to liability”.

Plaintiff has failed to identify what relevant information he needs from defendants or who he would like to depose for further deposition. Defendants’ witnesses have already testified as to UAG and 341 Ninth’s roles in the project, safety protocols, ownership structure, and the specifics of the accident and defendants have already provided “subcontract agreements, insurance disclosures, incident documentation, and project logs”. While defendant’s witness Saliba was unable to answer certain questions, that in and of itself does not warrant this court ordering defendants to produce an additional witness.

Based on the foregoing, that portion of plaintiff’s motion to compel a further deposition of defendants is denied.

Trushkevych argues that Defendants should be compelled to provide responses to his Post-EBT Demands dated February 20, 2025, Discovery Demands dated January 18, 2022 and that plaintiff failed to comply with Court orders. Defendants aver that they have provided responses to all outstanding discovery demands.

The three items from the Post-EBT Demands which Trushkevych seeks are (1) the consultant agreement between the construction manager UAG and the asbestos abatement

consultant Hillman, (2) a copy of the asbestos abatement plans prepared by Hillman, and (3) the identity of two HVAC subcontractors contracted by UAG.

Pursuant to CPLR 3101 (a), “[t]here shall be full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof.”

However, “[a] party seeking discovery must satisfy the threshold requirement that the request is reasonably calculated to yield information that is ‘material and necessary’” (*Forman v Henkin*, 30 NY3d 656, 661 [2018]).

In an order dated December 11, 2024, the court directed defendants to provide “complete copies of their primary, excess and/ or umbrella insurance policies and complete copies of any and all other insurance policies that provide coverage for the Defendants in connection with the claims asserted in this action on or before January 10, 2025.” (NYSCEF 54). A review of the record shows that defendants failed to produce copies of the insurance policies and provided letters from three insurance/claims examiners outlining policy limits, which is insufficient. The defendants are directed to comply with the court’s order dated December 11, 2024 within thirty days of this court’s order.

Next plaintiff seeks compliance with its Post-EBT Demand dated February 20, 2025. Defendants contend that the demands were objected to because they are overbroad and duly burdensome, not within defendants’ control and cumulative or irrelevant.

The court disagrees with defendants. Defendants’ seven (7) page Discovery Response dated March 18, 2025 contains nothing more boilerplate objections to every request. The defendants are directed to provide responses or an affidavit from the person who conducted the search and what efforts had been made to locate them within thirty days of this court’s order.

Plaintiff requests defendants comply with its Discovery Demand dated January 18, 2022. Defendants responded on September 17, 2024, (Exhibit F), by objecting and refusing to disclose the identity of witnesses; objecting to furnish the applications filed or the permits issued for the work done; objecting to disclose progress records or reports; objecting to furnish correspondence between the Defendants relative to the project; objecting to disclose inspection reports; objecting to furnish log entries and sign-in registers for the date of the accident and two weeks prior; objecting to furnish minutes of safety meetings; objecting to disclose safety reports; objecting to identify the site safety supervisor or entity providing site safety at the project. Defendants contend that they responded to plaintiff's discovery demand and annexed a 439 page document (NYSCEF 84).

The defendants are directed to provide responses within thirty days of this court's order of the following: the identity of witnesses, the applications filed or the permits issued for the work done, progress records or reports correspondence between the Defendants relative to the project inspection reports; log entries and sign-in registers for the date of the accident and two weeks prior; minutes of safety meetings; safety reports; identify the site safety supervisor or entity providing site safety at the project.

Plaintiff's request for sanctions is denied.

Plaintiff is directed to file its Note of Issue on or before February 1, 2026.

Conclusion

Accordingly, it is hereby

ORDERED that the motion is granted to the extent that defendants are to provide plaintiff with complete copies of the insurance policies within 30 days of entry of this Order; and it is further

ORDERED that defendants are to respond to plaintiff's Post EBT Demand dated February 20, 2025 and Discovery Demand dated January 18, 2022 within 30 days of the date of this order

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.



<u>12/15/2025</u>			<u>LYNN R. KOTLER, J.S.C.</u>	
DATE				
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input checked="" type="checkbox"/>	GRANTED IN PART
	<input type="checkbox"/>		<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
	<input type="checkbox"/>		<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE