

Alexander v New York City Health & Hosp. Corp.

2025 NY Slip Op 34958(U)

December 17, 2025

Supreme Court, New York County

Docket Number: Index No. 156315/2020

Judge: Hasa A. Kingo

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. HASA A. KINGO PART 05M

Justice

-----X

LISA ALEXANDER,

Plaintiff,

- v -

NEW YORK CITY HEALTH AND HOSPITAL
CORPORATION, CITY OF NEW YORK, LANCELOT
DEYGOO, NICOLE CONSTANTINE

Defendant.

-----X

INDEX NO. 156315/2020

MOTION DATE N/A

MOTION SEQ. NO. 004

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 004) 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 65

were read on this motion for DISCOVERY.

Defendants move, pursuant to CPLR § 3124, for an order compelling Plaintiff to provide legally sufficient written responses and responsive document production to Defendants’ Supplemental and Post-Deposition Demand for the Production of Documents (the “Post-EBT Demands”).

For the reasons that follow, the motion is granted to the extent set forth below.

BACKGROUND AND PROCEDURAL HISTORY

This action was commenced on August 12, 2020, alleging sex and gender discrimination, sexual harassment, hostile work environment, constructive discharge, and retaliation. Defendants served thirty-two Post-EBT Demands on July 8, 2024, seeking documents and evidence expressly tethered to Plaintiff’s deposition testimony, with quotations identified by page and line.

The motion papers reflect that Plaintiff did not timely provide substantive responses; Defendants served good-faith correspondence and pursued resolution through meet-and-confer efforts, including emails and in-person discussions.

After Defendants filed this motion, Plaintiff served “cursory” written responses on December 12, 2025, which Defendants promptly advised were inadequate, including because some responses were blank, certain documents could not be opened, and Plaintiff failed to provide a completed NYCERS release.

ARGUMENTS

Defendants contend that Plaintiff's December 12, 2025 responses remain deficient because Plaintiff: (i) provided boilerplate objections to thirty-one of thirty-two demands; (ii) failed to identify which produced documents correspond to which demands; (iii) failed to state whether responsive materials were withheld; (iv) failed to provide a privilege log; and (v) failed to respond at all to Demand No. 30. Defendants further argue the objections are facially untenable where the sought-after documents and electronically stored information ("ESI") relate directly to Plaintiff's own deposition testimony regarding the alleged discrimination.

Defendants also raise specific deficiencies: Plaintiff refused to conduct or produce an ESI collection of her Instagram account (posts, photographs, and comments) even though Plaintiff repeatedly claimed Defendant Deygoo obtained photos from Plaintiff's Instagram; Plaintiff asserted recordings/evidence were destroyed but produced no documentation supporting that claim; Plaintiff objected to quoted portions of her own deposition testimony as "overly broad, vague and ambiguous"; and Plaintiff failed to provide an executed NYCERS release necessary to obtain pension records relevant to claimed economic loss.

Finally, Defendants argue that Plaintiff's failure to timely object to the Post-EBT Demands constitutes a waiver of objections.

In response, Plaintiff argues the motion should be denied because Defendants allegedly failed to comply with the court's Part Rules governing discovery motions and because Plaintiff's supplemental responses purportedly render the motion moot. Plaintiff also requests a discovery conference (*see* generally NYSCEF Doc. No. 63.).

DISCUSSION

New York's disclosure provisions are designed to advance the truth-seeking function of litigation. CPLR § 3101(a) requires "full disclosure of all matter material and necessary in the prosecution or defense of an action." Where a party "fails to respond to or comply with any request, interrogatory, demand, or order," the requesting party may move to compel compliance under CPLR § 3124. A motion to compel must be accompanied by a good-faith affirmation pursuant to 22 NYCRR § 202.7, reflecting counsel's genuine efforts to resolve the dispute (*Fulton v Allstate Ins. Co.*, 14 AD3d 380, 382 [1st Dept 2005]).

And a court should not grant a motion to compel absent a demonstrated good-faith effort to resolve the dispute (*Jorge v City of New York*, 220 AD3d 593, 594 [1st Dept 2023]). Here, the record reflects sustained good-faith efforts by Defendants to obtain the Post-EBT discovery, through multiple communications over an extended period.

Plaintiff's contention that the motion is moot because she served supplemental responses is unavailing where those responses are facially deficient and omit required information. A deficient response is not compliance; nor does the service of cursory answers after motion practice has begun deprive the court of authority to compel legally adequate responses and productions.

Plaintiff's contention that Defendants failed to comply with the court's rules is likewise rejected on this record. Defendants demonstrated good-faith attempts to resolve the dispute without motion practice.

In any event, the court's paramount obligation in discovery supervision is to ensure that disclosure is exchanged in a manner consistent with CPLR article 31—i.e., that disclosure is meaningful, not performative, and that parties do not evade legitimate requests through delay or boilerplate objections.

The Post-EBT Demands were crafted to elicit the documentary and electronic evidence underlying Plaintiff's deposition testimony, including by quoting testimony and identifying page and line. Against that backdrop, Plaintiff's uniform objections—asserting, in substance, that requests are “unduly burdensome” and “not likely to lead to relevant information related to the claims”—are not credible as applied to requests that are expressly anchored to Plaintiff's own narrative of discrimination and her own sworn testimony about the very events and evidence at issue.

Discovery objections must be specific and tailored; they may not be used as a substitute for substantive compliance. A party who objects must still, at a minimum, identify what is being withheld on the basis of the objection and, where privilege is claimed, provide an adequate privilege log—so that the opposing party and the court can evaluate the claim without guesswork. Here, Plaintiff did not provide a privilege log and did not identify whether responsive materials were withheld. That is not a legally sufficient response. Additionally, Plaintiff's objection to quoted excerpts of her own deposition testimony as “overly broad, vague and ambiguous” is, on its face, incongruent.

The Post-EBT Demands do not ask Plaintiff to interpret an adversary's characterization; they ask Plaintiff to produce the evidence supporting what Plaintiff herself testified to—evidence that Plaintiff, as the witness, is uniquely positioned to identify, collect, and produce.

Plaintiff refused to conduct or produce an ESI collection of her Instagram account—even though Plaintiff repeatedly claimed Defendant Deygoo obtained photos from Plaintiff's Instagram. That position cannot be reconciled with the materiality of the issue Plaintiff injected into the case. If Plaintiff intends to rely on allegations concerning what was on her Instagram and how it was accessed or used, discovery targeted to the relevant Instagram content (within reasonable temporal and subject-matter limits) is “material and necessary” within the meaning of CPLR § 3101(a). To be clear: the court is not authorizing an unfocused fishing expedition into every aspect of Plaintiff's social media. But where a party places a discrete social media account at issue by alleging misuse of images from that account, the opposing party is entitled to obtain the relevant posts, photographs, comments, and related metadata to test those allegations, assess credibility, and evaluate damages and causation.

Plaintiff claimed that unspecified recordings and evidence were destroyed and/or no longer accessible, yet failed to produce documentation supporting that assertion. A party cannot defeat disclosure by invoking a conclusory claim of loss without providing particulars. If evidence was lost, the circumstances matter: what was lost, when, how, where it was stored, and what steps were

taken to preserve, retrieve, or restore it. Basic corroboration (e.g., device replacement records, carrier correspondence, platform notices, or backup/restore logs) is routinely available and must be produced if relied upon to explain nonproduction.

Plaintiff failed to provide an executed NYCERS release for her pension file. That omission is not a technicality. Where Plaintiff seeks economic damages and places her earnings, pension-related benefits, and employment-related financial circumstances at issue, Defendants are entitled to discovery necessary to test those claims. Without a routine release, Defendants cannot obtain the pension records needed to evaluate the veracity and magnitude of the claimed economic loss.

Defendants also argue that Plaintiff waived objections by failing to timely object to the Post-EBT Demands. On this record, the court agrees that Plaintiff's reliance on untimeliness and boilerplate objections cannot stand as a basis to withhold responsive discovery—particularly where Plaintiff ultimately served responses only after motion practice and still failed to provide the core information required to make the responses meaningful. In any event, even putting waiver aside, Plaintiff's responses are deficient on their face for failing to identify responsive documents by demand, failing to state whether anything was withheld, and failing to provide a privilege log.

Given the protracted history of this discovery dispute and the continued incompleteness of Plaintiff's responses, the court concludes that an order compelling specific categories of compliance—by a date certain—is necessary and appropriate.

Accordingly, it is hereby

ORDERED that Defendants' motion to compel is granted to the extent set forth herein; and it is further

ORDERED that, within 45 days of today and no later than Friday, January 30, 2026, Plaintiff shall serve and file amended, verified, non-boilerplate written responses to Defendants' Post-EBT Demands, and produce responsive materials, as follows:

1. **Demand-by-demand specificity.** For each Post-EBT Demand, Plaintiff shall state, in a non-conclusory manner, whether she is producing documents and/or ESI responsive to that specific demand, and shall not rely on generic or global objections.
2. **Document-to-demand mapping.** To the extent Plaintiff produced documents, Plaintiff shall identify which documents (by Bates number or other stable identifier) are responsive to each specific Post-EBT Demand.
3. **Withheld materials disclosure.** If Plaintiff is withholding any responsive document/ESI based on any objection (including privilege), Plaintiff shall identify that responsive materials exist and are being withheld, and state the basis with particularity.
4. **Privilege log.** To the extent Plaintiff withholds any responsive material on privilege and/or work-product grounds, Plaintiff shall produce a privilege log adequate to permit

assessment of the claim, including at least: date, author, recipients, general subject matter, privilege asserted, and the demand(s) to which the withheld item is responsive.

5. **Demand No. 30.** Plaintiff shall provide a complete response or specific objection to Demand No. 30, which was previously left unanswered.
6. **Instagram ESI collection and production.** Plaintiff shall conduct a reasonable ESI collection from Plaintiff's Instagram account and produce responsive materials—including posts, photographs, and comments—to the extent sought by the Post-EBT Demands and as relevant to Plaintiff's allegations and testimony that Defendant Deygoo obtained photos from Plaintiff's Instagram.
7. **Claimed destruction/unavailability of recordings/evidence.** To the extent Plaintiff claims recordings or other evidence were destroyed and/or are no longer accessible, Plaintiff shall:
 - a. identify with particularity what items are claimed lost (including approximate dates, device/account/platform, and content description); and
 - b. produce any documentation supporting the claim of loss or inaccessibility (if any exists), including platform notices, device/service records, backup/restore logs, or comparable corroboration.
8. **NYCERS release.** Plaintiff shall produce an executed NYCERS release sufficient to permit Defendants to obtain Plaintiff's pension records relevant to the claims of economic loss.
9. **Format and accessibility.** Plaintiff shall reproduce any documents previously produced in a format that can be opened and reviewed in the ordinary course.
10. **Certification of completeness.** Plaintiff shall provide a written statement—signed by counsel—that a reasonable search was performed and that production is complete as to the Post-EBT Demands, subject only to specifically stated objections and any privilege log entries.

; and it is further

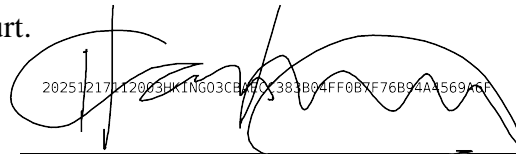
ORDERED that the foregoing deadlines are firm; and it is further

ORDERED that failure to comply may result in the court considering appropriate relief under CPLR § 3126 upon a proper application; and it is further

ORDERED that the conference previously scheduled for Tuesday, January 13, 2026, at 2:00 p.m., in the Differentiated Case Management Part, is vacated; and it is further

ORDERED that, in its place, the parties shall appear for a compliance conference on Tuesday, February 3, 2026, at 2:00 p.m., in the Differentiated Case Management Part, Room 103, located at 80 Centre Street, New York, New York 10013.

This constitutes the decision and order of the court.



20251217120031KINGO3CE...383B04FF6B9F76B94A4569A6F

HASA A. KINGO, J.S.C.

12/17/2025

DATE

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

OTHER