

D'Angelo v City of New York

2026 NY Slip Op 30139(U)

January 13, 2026

Supreme Court, New York County

Docket Number: Index No. 150011/2018

Judge: Carol Sharpe

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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. CAROL SHARPE PART 52M

Justice

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MARY D'ANGELO,

Plaintiff,

- v -

CITY OF NEW YORK, FIRE DEPARTMENT OF THE CITY
OF NEW YORK, JAMES P. BOOTH, ROBERT COLON

Defendant.

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INDEX NO. 150011/2018

MOTION DATE 01/31/2025

MOTION SEQ. NO. 005

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 005) 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151

were read on this motion to/for DISCOVERY.

Plaintiff, Mary D'Angelo, pursuant to CPLR 3124, filed this motion to compel defendants, the City of New York ("City"), the Fire Department of the City of New York ("FDNY"), and Robert Colon, as EMS Division Chief of EMS Operations of FDNY (collectively, "City Defendants"), to produce certain documents requested by plaintiff following the depositions of two defendant witnesses, which City Defendants have failed to produce despite good faith attempts made to obtain them. The motion is granted to the extent not previously provided, which shall include the unredacted documents which are subject to the Confidentiality Order dated March 4, 2021(So-Ordered July 8, 2021(NYSCEF Doc. #47)).

Plaintiff filed a summons and complaint against City Defendants on December 29, 2017, and a first amended complaint on February 21, 2018, alleging discriminatory employment practices based on her race, ethnicity, gender, and perceived mental impairment; retaliation; hostile work environment; and constructive termination from her position as an EMS paramedic with FDNY in violation of the New York City Human Rights Law, N.Y.C. Admin. Code sec. 8-107 et

seq. Plaintiff alleges that during the 13 years she worked at the FDNY she was subjected to harassment, intimidation, threats, physical assault, and vandalism and destruction of her workstation and equipment, and that City Defendants did nothing to address the issues in violation of its Workplace Violence Prevention Policy (“WVPP”). Issue was joined by filing of City Defendants’ answer on April 3, 2019. In a decision dated December 19, 2018, plaintiff’s claim for retaliation and all claims against defendant James P. Booth were dismissed (NYSCEF Doc. # 95).

In support of the motion, plaintiff submitted Plaintiff’s Supplemented Request for Documents Identified During Depositions of Colon and Pharreaux dated July 8, 2024 (NYSCEF Doc. #140); an Affirmation of Good Faith; and multiple Stipulations and Orders dated December 18, 2024, June 5, 2024, and August 28, 2024 (NYSCEF Doc. #143, #144 and #145). The documents sought in this motion are:

- 1) The EMS Operating Guide Procedure 113-08;
- 2) The Unusual Occurrence Operating Guide containing changes and amendments since 2016;
- 3) Minutes from the meetings of the Work Place Violence Committee, including those involving employees assigned to EMS Stations 22 and 23, for the period commencing January 1, 2025, through December 31, 2017, which include certain recommendations regarding counseling, mediation, referrals to the Bureau of Investigations and Trials or the EEO Office of FDNY, as well as the race and gender of any perpetrator; and
- 4) A spreadsheet containing the reported workplace violence incidents for the period commencing January 1, 2015, through December 31, 2017. (NYSCEF Doc. #140, pp. 6-8)

Plaintiff argues that the documents are necessary to properly prosecute plaintiff’s claims that City Defendants did not follow proper procedures under the WVPP and treated plaintiff’s claims of workplace violence differently than those of other employees outside of her protected class. Additionally, plaintiff seeks this information to see how the perpetrators of such violence were treated, not just the complainants and noted in the reply that any information would be

protected pursuant to the Confidentiality Order previously issued to protect the information City Defendants would provide.

City Defendants object to the motion on the grounds that it is overly broad and burdensome, and that plaintiff is not entitled to the documents she is seeking as her particular case was not addressed because plaintiff retired, among other reasons.

It was established at the oral arguments held on June 11, 2025, that City Defendants previously provided plaintiff with the EMS Operating Guide Procedure 113-08; the Unusual Occurrence Operating Guide; a redacted version of the Workplace Violence Committee Meeting minutes where plaintiff's incident was discussed; and the related spreadsheet of reported workplace violence containing plaintiff's alleged incident. The outstanding discovery are the unredacted Workplace Violence Committee Meeting minutes, the spreadsheet of reported workplace violence incidences, and any amendments of the Unusual Occurrence Operating Guide and the Operation Gide Procedure 113-08 made from 2016 to present.

CPLR 3124 provides that “[i]f a person fails to respond to or comply with any request, notice, interrogatory, demand, question or order under this article, except a notice to admit under section 3123, the party seeking disclosure may move to compel compliance or a response.”

CPLR 3101(a) provides that “[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...”. “The words, “material and necessary”, are, in our view, to be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity. The test is one of usefulness and reason” (*Allen v Crowell-Collier Publishing Co.*, 21 NY2d 403, 406, 235 NE2d 430, 432, 288 NYS2d 449, 452 [1968]; *see Forman v Henkin*, 30 NY3d 656, 661, 93 NE3d 882, 887, 70 NYS3d 157, 162

[2018]). "...[W]e emphasize that discovery determinations are discretionary; each request must be evaluated on a case-by-case basis with due regard for the strong policy supporting open disclosure" (*Andon v 302-304 Mott St. Assocs.*, 94 NY2d 740, 747, 731 NE2d 589, 594, 709 NYS2d 873, 878 [2000]). "Under our discovery statutes and case law, competing interests must always be balanced; the need for discovery must be weighed against any special burden to be borne by the opposing party" (*O'Neill v Oakgrove Constr., Inc.*, 71 NY2d 521, 529, 523 NE2d 277, 281, 528 NYS2d 1, 5 [1988]; see *Kavanagh v Ogden Allied Maint. Corp.*, 92 NY2d 952, 705 NE2d 1197, 683 NYS2d 156 [1998]).

The party seeking the information must show that the request is intended to yield information that is material and necessary to the prosecution of the case (see *Forman*, 30 NY3d at 661; *Gruber v Glam, Inc.*, NY Misc LEXIS 60096 [Sup Ct, NY County 2021]; *State Artist Mgmt., LLC v Alquist*, NY Misc LEXIS 9933 [Sup Ct, NY County 2025]). "New York discovery rules do not condition a party's receipt of disclosure on a showing that the items the party seeks actually exist; rather, the request need only be appropriately tailored and reasonably calculated to yield relevant information. Indeed, as the name suggests, the purpose of discovery is to determine if material relevant to a claim or defense exists. In many if not most instances, a party seeking disclosure will not be able to demonstrate that items it has not yet obtained contain material evidence" (*Forman*, 30 NY3d at 664). "A showing of disparate treatment -- that is, a showing that an employer treated plaintiff 'less favorably than a similarly situated employee outside his protected group' -- is a recognized method of raising an inference of discrimination for the purposes of making out a prima facie case." *Mandell v. County of Suffolk*, 316 F.3d 368, 379 (2d Cir. 2003)" (*Ruiz v County of Rockland*, 609 F3d 486, 493 [2d Cir 2010]). Furthermore, discovery is different from admissibility at trial. As such "admissibility at trial is not dispositive on a

discovery motion [internal citation omitted]” (*Gerardo v Breton*, 212 AD3d 461, 462, 179 NYS3d 896 [1st Dept 2023]).

Here, the Court finds that plaintiff is entitled to the unredacted documents.

The Court also acknowledges that all claims against defendant James P. Booth were previously dismissed under the Decision and Order dated December 19, 2018, and therefore the caption should be amended accordingly. It is hereby

ORDERED, that plaintiff’s motion to compel City Defendants to produce the remaining materials requested in Plaintiff’s Supplemented Request for Documents Identified During Depositions of Colon and Pharreaux dated July 8, 2024, is granted to the extent such documents have not already been provided, which shall be unredacted and subject to the Confidentiality Order; it is further

ORDERED, that the caption in this action is amended as follows, and all future filings shall bear said amended caption:

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Mary D’Angelo,

Plaintiff,

Index No: 150011/2018

-against-

City of New York, Fire Department of
the City of New York, and Robert Colon,
EMS Division Chief of the EMS
Operations of the Fire Department of
the City of New York,

Defendants.

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; it is further

ORDERED, that plaintiff, within twenty (20) days of the date of this Order and file proof of service within (10) days from effectuating said service, shall serve this Order with Notice of Entry upon all parties, the Clerk of the Court, and the Clerk of the General Clerk’s Office, who is directed to update the Court’s records to reflect the amended caption; and it is further

ORDERED, that service of this Order upon the Clerk of the Court shall be made in hard-copy format if this action is a hard-copy matter or if it is an e-file case, shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the “E-filing” page on the court’s website).

This constitutes the Decision and Order of the Court.

ENTER:

1/13/2026
DATE

Carol Sharpe 1/13/26
HON. CAROL SHARPE J.S.C.
HON. CAROL SHARPE
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"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE