

Knapp v New York Convention Ctr. Operating Corp.

2026 NY Slip Op 31513(U)

April 10, 2026

Supreme Court, New York County

Docket Number: Index No. 157322/2023

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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EMILY KNAPP,

Plaintiff,

- v -

NEW YORK CONVENTION CENTER OPERATING CORPORATION, NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION, CONCENTRIC SECURITY, LLC

Defendant.

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INDEX NO. 157322/2023

MOTION DATE 09/25/2025

MOTION SEQ. NO. 003

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 003) 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48

were read on this motion to/for DISCOVERY

Plaintiff commenced this action on July 21, 2023 against Defendants New York Convention Center Operation Corporation, and New York Convention Center Development Corporation (collectively, "New York Defendants"), after sustaining injuries following a trip and fall over a raised driveway barrier outside the Javits Center on September 9, 2022 (the "Accident"). Plaintiff alleges that as a result of the accident she suffered from, inter alia, a traumatic brain injury. The parties have been engaged in discovery, and Defendants allege that Plaintiff has failed to respond to their demands for social media and employment records, after serving demands on September 7, 2023, March 31, 2025, and August 7, 2025. On July 22, 2025, this Court issued a Status Conference Order, which stated that Defendants were to provide social media and employment records within thirty days. On September 9, 2025, this Court issued a

second Status Conference Order, granting Defendants permission to file the instant motion regarding the social media and employment records.

Defendants now move to compel production of the social media and employment records under CPLR § 3124. Specifically, Defendants seek identification of all social media profiles used by Plaintiff from September 9, 2021 through present, as well as screenshots of content relating to her claim, and a signed affidavit confirming authenticity of the screenshot and identifying any deleted content. Additionally, Defendants seek authorizations for employment records of Plaintiff's work with Glenn Ligon, her employer before and after the Accident, as well as copies of Plaintiff's employment records.

Defendants argue that Plaintiff alleges that she suffered a traumatic brain injury and that many aspects of her daily life have changed as a result of the Accident. As such, they argue that they are entitled to these social media content in order to rebut these claims.

As to Plaintiff's employment records, Defendants note that Plaintiff testified that, after the Accident, her employer accommodated her and allowed her to work from home if she needed to. Additionally, at the time of Plaintiff's deposition, she had increased her workload. Defendants assert that they are entitled to records regarding Plaintiff's successful return to work and increased workload in order to rebut Plaintiff's allegations that Plaintiff suffered cognitive and social limitations after her accident.

In opposition, Plaintiff argues that she testified at her deposition that she is not active on her social media accounts and therefore Defendants have not made a showing that the social media material is likely to yield relevant evidence. Additionally, Plaintiff argues that these demands are overbroad and that the temporal scope is excessive because Defendants seek social media content from one year before the accident. Plaintiff further argues that the demand for an

affidavit confirming the authenticity of screenshots and identifying deleted content is improper as there is no evidence that any content was deleted.

Plaintiff also argues that her employment records are not material and necessary because she has not made claims for lost earnings or loss of earning capacity. Instead, Plaintiff testified at her deposition that she returned to work shortly after the accident and has since increased her work schedule from three days a week to four days a week.

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.” However, “...unlimited disclosure is not mandated, and the rules provide that the court may issue a protective order ‘denying, limiting, conditioning or regulating the use of any disclosure device’ to ‘prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts’.” *Suchorzepka v Mukhtarzad*, 103 AD3d 878, 879 (2d Dept 2013), quoting *County of Suffolk v Long Is. Power Auth.*, 100 AD3d 944, 946 (2012), citing CPLR 3103. “The delicate balance between allowing liberal disclosure and protecting the parties from unnecessary intrusions, is left to the sound discretion of the lower courts.” *Sgambelluri v Recinos*, 192 Misc 2d 777, 779 (Sup Ct, Nassau County 2002), citing *Andon ex rel. Andon v 302-304 Mott St. Assoc.*, 94 NY2d 740, 745 (2000).

As an initial matter, Defendants assert that Plaintiff waived her right to object to these demands by failing to timely respond to Defendants’ initial discovery demands. However, as this Court granted Defendants leave to file the instant motion and Plaintiff timely filed an opposition, the Court will consider Plaintiff’s opposition.

In support of the motion, defendants rely on *Forman v Henkins*, 30 NY3d 656 (2018), where the Court of Appeals specified a two-prong test for “courts addressing disputes over the scope of social media discovery (*Id.* at 665). The Court of Appeals held that:

“courts should first consider the nature of the event giving rise to the litigation and the injuries claimed, as well as any other information specific to the case, to assess whether relevant material is likely to be found on the Facebook account. Second, balancing the potential utility of the information sought against any specific ‘privacy’ or other concerns raised by the account holder, the court should issue an order tailored to the particular controversy that identifies the types of materials that must be disclosed while avoiding disclosure of nonrelevant materials.”

(*Id.*). The Court in *Forman* also held that the “party seeking discovery must satisfy the threshold requirement that the request is reasonably calculated to yield information that is ‘material and necessary’” (*Id.* at 661).

Here, the Court finds that Defendants have failed to satisfy this threshold requirement. Defendants seek “all social media platform/profiles used by Plaintiff . . . including, but not limited to, Instagram, LinkedIn, and Strava” (NYSCEF Doc. No. 34 at 3). Specifically, Defendants seek social media information for one year before the accident to the present that relate to her claims, including “her quality of life before and after the subject accident, as well as her: physical activity, sensory capabilities, vocational and avocational activities, travel, mental well-being, social interactions, weight gain/loss, and any and all other potential symptoms that could be related to traumatic brain injury” (*Id.*). However, at Plaintiff’s deposition she testified that she was not very active on her social media accounts. As to Instagram, Plaintiff testified that she does not post very often (NYSCEF Doc. No. 40 at 82). As to LinkedIn, Plaintiff testified that she is not very active (*Id.*). As to Strava, Plaintiff testified that she tried it once and could not figure it out (*Id.* at 83). In light of Plaintiff’s testimony that she uses social media infrequently, Defendants have failed to point to any evidence suggesting that access to Plaintiff’s social media platforms would yield

material and necessary information (*Cf. Forman*, 30 NY3d at 658 [noting that plaintiff testified at her deposition that she posted “a lot” of photographs on Facebook]). Therefore, Defendants’ motion to compel is denied with respect to Defendants’ social media demand.

As to Defendants’ demand for authorizations and records relating to her employment with Glenn Ligon, the Court finds that this information not discoverable because it is not relevant to Plaintiff’s claims. Plaintiff has not asserted a claim for lost wages, or a claim for loss of earning capacity. Moreover, Plaintiff testified that she returned to work shortly after the accident and that, since returning, she has increased her work hours. As such, Plaintiff has not placed her employment at issue in this case and her employment records are not material and relevant to her claims. Therefore, Defendants’ motion to compel is denied with respect to the employment records demand.

Accordingly, it is

ORDERED that Defendants’ motion to compel is denied in its entirety.

This constitutes the decision and order of the Court.

4/10/2026
DATE


LESLIE A. STROTH, J.S.C.

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