

Crandall v Equinox Holdings, Inc.
2021 NY Slip Op 31063(U)
April 5, 2021
Supreme Court, New York County
Docket Number: 157373/2018
Judge: Arlene P. Bluth
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARLENE P. BLUTH PART IAS MOTION 14

Justice

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INDEX NO. 157373/2018

SHANE CRANDALL,

MOTION DATE 03/30/2021

Plaintiff,

MOTION SEQ. NO. 002

- v -

EQUINOX HOLDINGS, INC. D/B/A EQUINOX FITNESS CLUB D/B/A EQUINOX, EQUINOX GREENWICH AVENUE, INC., NICK HAMMOND, JOSE TAVERAS, MARTIN 'DOE', 'JOHN DOE'

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114

were read on this motion to/for DISCOVERY.

The motion by plaintiff to compel defendants to comply with various discovery demands is decided as described below.

In this case, plaintiff alleges that he was the victim of sexual assault in a steam room at the Greenwich Avenue Equinox by an unknown third party. Plaintiff contends that defendants have refused to turn over discovery concerning defendants' knowledge about similar incidents that purportedly occurred at Equinox gyms across the city. Plaintiff argues that it was considered an epidemic amongst Equinox staff. He points to another case in which there was an alleged sexual harassment incident at a Blink Fitness, which plaintiff says is owned by Equinox.

Plaintiff seeks incident reports relating to sexual assault, groping and sexual misconduct at all Equinox gyms. He demands the contact information, including, names, addresses and emails of all complainants, persons and witnesses who made complaints and received a

“template response” email that plaintiff says was generated by Equinox after these incidents. Plaintiff also demands information about prior insurance claims made against Equinox for similar incidents.

In opposition, defendants claim that there is no basis for plaintiff’s demand that it turn over information for every Equinox gym. They argue that discovery should be limited to similar incidents that happened at the same location. Defendants argue that plaintiff’s discovery demands seek information about alleged consensual sexual activity, information which they consider irrelevant.

In reply, plaintiff insists it wants discovery from the approximately 35 Equinox locations in New York City and argue that the cases cited by defendants do not bar plaintiff’s requested discovery.

Discussion

“Disclosure in civil actions is generally governed by CPLR 3101(a), which directs: ‘[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.’ . . . A party seeking discovery must satisfy the threshold requirement that the request is reasonably calculated to yield information that is “material and necessary”—i.e., relevant—regardless of whether discovery is sought from another party” (*Forman v Henkin*, 30 NY3d 656, 661 [2018] [internal quotations and citations omitted]).

As an initial matter, the Court rejects plaintiff’s demand that the Court reject defendants’ memorandum of law because it exceeded this part’s page limits. The memo of law has only five pages of text and, therefore, satisfies this part’s rules.

The Court decides the motion as follows: Plaintiff is entitled to discovery relating only to the Equinox gym at issue here. He did not cite any binding case law for the proposition that he is

entitled to incident reports from every Equinox gym in New York City. That request is the essence of an overbroad request. There is no reason to believe that such discovery would yield facts that would shed light on plaintiff's claim. It appears plaintiff is attempting to argue that because similar incidents allegedly occurred at other Equinox gyms, that somehow means that it was foreseeable that it would happen at the gym at issue here. Such evidence is utterly irrelevant to defendants' potential liability of the incident that allegedly occurred in this case.

To grant plaintiff's motion would mean that every incident at an establishment with multiple locations would entitle a plaintiff to discovery at every location. An assault at a bank branch in Midtown would permit discovery of prior assaults at all of that bank's branches in the five boroughs. There is nothing material or relevant about such a request.

The case plaintiff relies upon, *Jacqueline S. by Ludovina S. v City of New York* (81 NY2d 288, 598 NYS2d 160 [1993]), is easily distinguished. In that case, a plaintiff sued the City after suffering a vicious attack from another resident in her apartment building. The Court of Appeals emphasizes that the issue of foreseeability, whether the defendant should have known about previous criminal activity, was not limited to the specific building in which plaintiff lived. Instead, foreseeability could include the entire housing complex (which consisted of 22 buildings).

That case has no bearing on the instant circumstances. The gyms from which plaintiff seeks discovery are scattered throughout the city. They are not part of a single complex from which certain types of criminal activity might be foreseeable to render defendants liable. Plaintiff did not cite a sufficient reason why these gyms, scattered throughout the city, should be considered one entity for purposes of discovery.

To be clear, the Court finds that plaintiff is entitled to information about similar incidents at the specific gym at issue. Plaintiff may serve additional discovery requests that conform to this ruling.

Accordingly, it is hereby

ORDERED that the motion by plaintiff for discovery is denied to the extent that the sought information relating to other Equinox gyms.

Remote Conference: April 15, 2021 at 11:30 a.m.

4/5/2021
DATE

ARLENE P. BLUTH, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
	<input type="checkbox"/>	DENIED	<input checked="" 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