

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

ALYSSA AMBER BONNET,

Plaintiff,

v.

DIG INN RESTAURANT GROUP LLC and
DIG INN 2884 BROADWAY LLC,

Defendants.

Index No. 811929/2023E**PLAINTIFF'S FIRST SET OF
DISCOVERY REQUESTS**

Plaintiff Alyssa Amber Bonnet (Bonnet), by her undersigned attorney, serves the following first set of discovery requests on Defendants Dig Inn Restaurant Group LLC and Dig Inn 2884 Broadway LLC, pursuant to CPLR 3101, 3120, and 3130, and in accordance with the Preliminary Conference Order and Case Scheduling Order entered January 19, 2024.

Responses to these requests are due within 20 days of service hereof unless otherwise agreed in writing by the parties.

In answering these requests, Defendants are required to produce responsive documents and information in their possession, custody, or control. Any objections must be stated with reasonable particularity.

Each response to requests for production of documents must state: (i) whether the objection(s) interposed pertains to all or part of the request being challenged; (ii) whether any documents or categories of documents are being withheld, and if so, which of the stated objection(s) forms the basis for the responding party's decision to withhold otherwise responsive documents or categories of documents; and (iii) the manner in which the responding party intends to limit the scope of its production.

Each interrogatory must be answered separately and fully, under oath. These requests are continuing in nature and must be amended or supplemented in accordance with CPLR 3101(h).

These discovery requests are intended, and should be construed, to demand disclosure of all matter that is material and necessary to the prosecution or defense of this action. Note: These discovery requests are not intended, and should not be construed, to demand disclosure of privileged attorney-client communications and/or attorney work product involving present defense counsel (Gordon Rees Scully Mansukhani, LLP).

These requests are based upon, and assume familiarity with, the allegations set forth in Plaintiff's Complaint filed September 5, 2023, and in Defendants' Answer filed December 5, 2023.

The term "concerning" as used herein means "relating to, referring to, describing, evidencing, or constituting." The term "identify" as used herein means to provide the person's full name, job title, and current or last known contact information (mailing address; home, work, and/or mobile telephone numbers; and personal and/or work email addresses).

Unless otherwise specified, the relevant time period for these discovery requests is August 16, 2021, to December 31, 2023.

Request for the Production of Statements

Pursuant to CPLR 3101(e), Plaintiff demands the production of any statements by Bonnet.

Request for the Production of Films, Photographs, Videotapes, Audiotapes

Pursuant to CPLR 3101(i), Plaintiff demands the production of any films, photographs, videotapes, and/or audiotapes, including transcripts or memoranda thereof, and including out-takes, involving Bonnet.

Requests for the Production of Documents

Pursuant to CPLR 3120, Plaintiff demands the production of the following documents (defined to the fullest extent permissible under the Rule, including but not limited to paper and electronic documents, handwritten, typed, and word processed documents, computer forms, files, and databases, emails, text messages, instant messages, voice messages, photographs, audio recordings, video recordings):

1. Bonnet's complete personnel files and records.
2. Bonnet's job application (including online, email, and in-person submissions).
3. Job posting and position description for position(s) applied for by Bonnet.

4. Documents describing pay and benefits for Dig employees in positions like the one(s) applied for by Bonnet.
5. All documented communications with Bonnet concerning her job application (including telephone calls, emails, text messages, and attachments).
6. All documented communications with Bonnet concerning her new employee orientation/training (including telephone calls, emails, text messages, and attachments).
7. All documented communications with Bonnet concerning the COVID-19 vaccination requirement for employees (including telephone calls, emails, text messages, and attachments).
8. All text messages and attachments between David “DC” Cooper and Bonnet (including the text messages referred to in Complaint ¶¶ 26, 35, 37, 40).
9. All internal documentation and communications, including handwritten notes, computer entries, memoranda, emails, and text messages, concerning Bonnet’s job application and/or her request for a religious exemption to the COVID-19 vaccination requirement.
10. Policies, procedures, and practices for protecting employees and customers from COVID-19 (including NY HERO Act safety and health plan, NY Forward written safety plan, posted signage).
11. Policies, procedures, and practices for requiring COVID-19 vaccination for employees.
12. Policies, procedures, and practices for providing reasonable accommodations based on religion and/or disability (medical) to the COVID-19 vaccination requirement for employees.
13. All documents supporting Defendant’s Third Defense (documentary evidence).
14. All documents supporting Defendant’s Fourth Defense (waiver).
15. All documents supporting Defendant’s Fifth Defense (estoppel).
16. All documents supporting Defendant’s Seventh Defense (laches).
17. All documents supporting Defendant’s Eighth Defense (unclean hands).

18. The “written administrative regulations, orders, ruling approvals, interpretations, and/or administrative practices or policies pursuant to federal, New York State, and New York City laws” referred to in Defendant’s Tenth Defense.
19. All documents supporting Defendant’s Fifteenth Defense (after-acquired evidence).
20. All documents supporting Defendant’s Twenty-Fifth Defense (frivolous and bad faith litigation).
21. All other documents that Defendants rely upon in defense of this action.

Interrogatories

Pursuant to CPLR 3130, Plaintiff demands the production of the following information:

1. Identify all persons who participated in, attended, and/or witnessed the interview of Bonnet on or about November 9, 2022, as alleged in Complaint ¶ 18.
2. Identify all persons who participated in, attended, and/or witnessed the interview of Bonnet on or about November 15, 2022, as alleged in Complaint ¶ 21.
3. Identify all persons with whom David “DC” Cooper communicated/consulted/conferred concerning Bonnet’s COVID-19 vaccination status and/or request for a religious exemption.
4. Identify all other persons with personal knowledge of the allegations, claims, and/or defenses in this action, including describing the knowledge each person possesses.
5. If Defendants contend that Bonnet lacked a bona fide, good faith religious objection to the COVID-19 vaccines, identify, with as much specificity as possible, the basis for this contention.
6. If Defendants contend that it would have caused an undue hardship to grant Bonnet a religious exemption to the COVID-19 vaccination requirement, identify, with as much specificity as possible, the nature, scope, and cost of this alleged undue hardship.

7. Identify each DIG restaurant in New York City that was open for business during any part of the relevant time period, including the location name, physical street address, and dates of operation.
8. State whether and to what extent Defendants have records and information concerning the numbers of employees (full-time and/or part-time) working at each DIG restaurant in New York City, on a daily, weekly, and/or monthly basis.
9. State whether and to what extent Defendants have records and information concerning any employees (full-time and/or part-time) working at each DIG restaurant in New York City, who were identified (on any basis) as having COVID-19.
10. State whether and to what extent Defendants have records and information concerning the COVID-19 vaccination status of employees (full-time and/or part-time) working at each DIG restaurant in New York City.
11. State whether and the manner in which Defendants checked the COVID-19 vaccination status of customers at each DIG restaurant in New York City, after March 7, 2022 (when New York City ended its vaccine mandate for retail businesses).
12. State whether and to what extent Defendants have records and information concerning any job applicants for positions at any DIG restaurant in New York City, (a) who requested a reasonable accommodation based on religion to the COVID-19 vaccination requirement for employees and (b) whose requests were approved or denied.
13. State whether and to what extent Defendants have records and information concerning any job applicants for positions at any DIG restaurant in New York City, (a) who requested a reasonable accommodation based on disability (medical) to the COVID-19 vaccination requirement for employees and (b) whose requests were approved or denied.
14. State whether and to what extent Defendants have records and information concerning any employees (full-time and/or part-time) working at each DIG restaurant in New York City, (a) who requested a reasonable accommodation based on religion to the COVID-19 vaccination requirement for employees and (b) whose requests were approved or denied.

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