

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT**

Harold Levinson Associates, Inc. v. Wong

128 A.D.3d 566 (1st Dep't 2015) · No. 15186 · Decided May 21, 2015

SUMMARY

The Appellate Division, First Department reversed an order quashing a third-party subpoena served by Harold Levinson Associates, Inc. on Robin Wong and Jade Kee Wholesale LLC. The court held that the defendants failed to show that the requested records were utterly irrelevant and had sufficient notice of the circumstances or reasons for the subpoena; it also held that a prior denial of broader discovery did not require quashing the narrower subpoena.

OPINION

PER CURIAM.

Harold Levinson Assoc., Inc. v Wong (2015 NY Slip Op 04391) Harold Levinson Assoc., Inc. v Wong 2015 NY Slip Op 04391 Decided on May 21, 2015 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on May 21, 2015 Tom, J.P., Friedman, DeGrasse, Richter, Kapnick, JJ. 15186 150969/13 [*1] Harold Levinson Associates, Inc., Plaintiff-Appellant, — vChristopher Wong, et al., Defendants, Robin Wong, et al., Defendants-Respondents.

Baker Botts L.L.P., New York (Joseph Perry of counsel), for appellant. Wickham, Bressler & Geasa, P.C., Mattituck (Eric J. Bressler of counsel), for respondents. Order, Supreme Court, New York County (Joan M. Kenney, J.), entered April 7, 2014, which granted the motion of defendants Robin Wong and Jade Kee Wholesale LLC to quash plaintiff's third-party subpoena, unanimously reversed, on the law, with costs, and the motion denied.

Defendants failed to establish that the records sought were "utterly irrelevant" to the instant action (Matter of Kapon v Koch, 23 NY3d 32, 34 [2014]), and they had sufficient notice of "the circumstances or reasons" underlying the subpoena request (CPLR 3101[a][4]; see Nacos v Nacos, 124 AD3d 462, 463 [1st Dept 2015]). Contrary to defendants' contention, the motion court's prior denial of plaintiff's motion to compel discovery as overbroad does not require granting the motion to quash, as the discovery sought in the subpoena at issue was narrower than the material previously sought.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT,
APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: MAY 21, 2015 CLERK

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