State of New York
Court of Appeals

Summaries are prepared based on the parties' briefs and are for background purposes only.

To be argued Tuesday, September 9, 2025

Matter of Wagner v NYCDOE (222 AD3d 420 [AD1])
Court PASS Docket No. APL-2024-00061

In 2022, Jimmy Wagner submitted a FOIL request to the New York City Department of seeking "all emails between the DOE from April 2021 until August 2022 from the following domain: @scheinmanneutrals.com."

DOE told Wagner that the request "was not reasonably described" and asked him to "provide names and/or titles of senders/receivers (including email addresses, if possible) beyond the domain provided and key terms to be searched." DOE also suggested that Wagner narrow the timeframe.

Wagner administratively appealed and DOE denied the request, stating that it "attempted multiple electronic searches for emails within the specified time frame from @scheinmanneutrals.com to DOE's domain name @nyc.schools.gov" and that search "commenced, persisted, and then timed out the next business day." DOE noted that, in response to an opportunity to clarify or narrow the scope of the search, Wagner asked that the search be performed as requested.

Supreme Court rejected Wagner's challenge to DOE's denial. The court relied on Public Officers Law § 89 (3) (a), which provides, in part, that "when an agency has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, it shall be required to do so." Applying this provision, the court held that DOE acted reasonably to try and accommodate the request.

The Appellate Division affirmed DOE's denial of the FOIL request on the grounds that it did not seek "a record reasonably described" (Public Officers Law § 89 [3] [a]). The court recounted that Wagner sought all emails during a 17-month period between any DOE email address and any email address from a neutral arbitrator's firm, DOE maintains over 1 million email mailboxes, and DOE searched its database as requested and the searches timed out. The Appellate Division concluded "the descriptions provided are insufficient for purposes of extracting or retrieving the requested document[s] from the virtual files through an electronic word search . . . [by] name or other reasonable technological effort." And the court pointed out that Wagner, when asked twice to provide a narrower timeframe, names or titles of DOE employees who might be custodians of the emails sought, and key terms to be searched, simply refused.