

IN THE COURT OF COMMON PLEAS OF
SUSQUEHANNA COUNTY, PENNSYLVANIA

CABOT OIL & GAS CORPORATION :
and GASSEARCH DRILLING :
SERVICES CORPORATION, :
Plaintiffs, :
:

v. :

No. 2017 - 936 C.P. :

CHARLES F. SPEER, SPEER LAW :
FIRM, P.C., EDWARD CIARIMBOLI, :
CLANCY BOYLAN, FELLERMAN & :
CIARIMBOLI, and RAYMOND :
KEMBLE :
Defendants. :

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10/31/19 Atty Barette, Doherty, Hayes, Kotsatos

ORDER

AND NOW this 31st day of October, 2019, after consideration of the Lawyer Defendants motion for reconsideration of this court's August 7, 2019 order, and after conducting a hearing and oral argument on the same, **IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Lawyer Defendants' motion for reconsideration is **DENIED**. See Pennsylvania Rule of Civil Procedure 4003.7; Ogozaly v. American Honda Motor Co. Inc., 67 Pa. D.&C. 4th 314, 332 (Lacka. Cty. Ct. Common Pleas 2004) ("We must determine whether [plaintiff] has demonstrate a prima facie right to recover punitive damages under Pennsylvania law so as to be entitled to wealth discovery under Rule 4003.7."); Merrifield v. Gavern, 10 Pa. D.&C. 4th 541, 542 (Lacka. Cty. Ct. Common Pleas 1991) (collecting cases that support the proposition supporting the compulsion of discovery of a defendant's financial information where a viable claim for punitive damages has been made); Sprague v. Walter, 23 Pa. D.&C. 3rd 638 (Phila. Cty. Ct. Common Pleas 1982) ("Where the pleadings and the general status of the case

indicate that a bona fide claim for punitive damages is presented then such pre-trial discovery must be allowed.”)¹

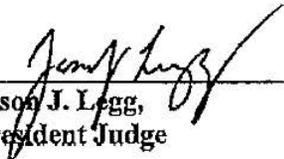
2. The Lawyer Defendants shall produce documents responsive to Plaintiffs’ Request for Production of Documents Nos. 48 – 50 (“Net Worth Discovery”) within 60 days of the date of this order.
3. The Net Worth Discovery is designated as confidential.
4. Plaintiffs’ counsel will not copy, disclose or utilize the contents of the Net Worth Discovery for any purpose without leave of court.
5. Plaintiffs’ counsel shall not disclose the Net Worth Discovery in any manner to any persons or entities, including plaintiffs, unless Plaintiffs’ counsel obtains court approval for the disclosure.

¹ Punitive damages may be imposed where a defendant’s conduct rises to the level of “outrageous” behavior, which has been further explained to constitute conduct that is “intentional, willful, wanton or done with a bad motive or with a reckless indifference to the interests of others.” Ogozaly, 67 Pa. D.&C.4th at 333 (citations and internal quotations omitted). In this case, the record currently establishes that defendant Raymond Kimble (Kimble), while represented by separate legal counsel, entered into settlement negotiations with plaintiff Cabot Oil & Gas Corporation (Cabot) to amicably resolve litigation centered around allegations that Cabot had contaminated Kimble’s well water. A settlement agreement was reached between Cabot and Kimble. During the period where Kimble was considering the settlement offer, defendant Charles Speer (Speer) began to secretly represent Kimble and Speer was aware of the settlement agreement between Cabot and Kimble. Thereafter, the Lawyer Defendants, with full knowledge of the prior settlement between Cabot and Kimble, initiated a separate federal litigation by Kimble against Cabot involving similar claims as those resolved through the settlement agreement. Eventually, the Lawyer Defendants were forced to voluntarily abandoned the second litigation.

Kimble contends that the Lawyer Defendants acted without his permission, consent or knowledge in filing the second federal litigation – while the Lawyer Defendants contest the former client’s claims of ignorance. Regardless of the extent of Kimble’s knowledge of the second federal litigation against Cabot, the Lawyer Defendants knowingly and intentionally initiated the second federal litigation with full knowledge of the prior settlement agreement between Kimble and Cabot. At the time of oral argument, counsel for the Lawyer Defendants provided no good faith basis to support the belief that the second federal litigation was not barred by the settlement agreement between Cabot and Kimble. Even if such proof were eventually submitted, a question of fact would remain as to whether the Lawyer Defendants initiated the second federal litigation in good faith or whether it was an effort to extort additional monies from Cabot for claims that had already been settled with Kimble. A determination that a prima facie case for punitive damages exists only acknowledges that the evidence submitted by the plaintiff – if believed by a jury – would support a claim for punitive damages. On the current record, plaintiffs have submitted evidence of intentional, willful and wanton conduct by the Lawyer Defendants in filing a second federal litigation with full knowledge of the prior settlement agreement between Cabot and Kimble. As such, the record supports plaintiffs’ request to proceed with wealth discovery under Rule 4003.7.

6. The Net Worth Discovery shall be retained by Plaintiffs' counsel through the pendency of this litigation and, upon termination of this litigation, Plaintiffs' counsel shall destroy the Net Worth Discovery and file a verified statement that the Net Worth Discovery was destroyed.
7. Following the termination of this litigation, the provisions of this order relating to the confidentiality of the Net Worth Discovery shall remain in full force and effect and continue to be binding.

BY THE COURT:



Jason J. Legg,
President Judge

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