

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

HARVEST BIBLE CHAPEL,
THROUGH JAMES SCOTT MILHOLLAND,
COO; RONALD DUITSMAN, ELDER)
BOARD CHAIRMAN; WILLIAM)
SPERLING, ELDER BOARD MEMBER;)
AND, JAMES S. MACDONALD, BOTH)
INDIVIDUALLY AND AS SENIOR)
PASTOR OF HARVEST BIBLE)
CHAPEL,)

Plaintiffs,)

vs.)

No.: 2018 L 011219

RYAN MICHAEL MAHONEY,)
MELINDA MAHONEY,)
SCOTT WILLIAM BRYANT, SARAH BRYANT,)
and JULIE STERN ROYS.)

Hon. Diane Joan Larsen

Defendants.)

EMERGENCY MOTION
PURSUANT TO ILLINOIS SUPREME COURT RULE 201(C)

NOW COME PLAINTIFFS, by and through The Law Office of Michael J. Young, and respectfully moves this Court pursuant to Illinois Supreme Court Rule 201(c), for a Protective Order preventing the abuse of Discovery by the defendants and in support states as follows:

1. The Complaint on this matter was filed on October 16, 2018.
2. The Complaint is primarily based upon false and inaccurate information disseminated by defendants or published through defendant's website "The Elephant's Debt."
3. Prior to answering the charges that are in the Complaint, the defendants have independently elected to attempt having the Complaint dismissed on technical grounds.

4. The defendants have filed three separate Motions To Dismiss through their choice of legal representation. While not an unorthodox or unexpected course of action it does present particular complications within the context of this case. The defendants each have individual pecuniary interests in publicizing as much discovery as possible even while attempting to dismiss the overall case on technical grounds.

5. The defendants have declared on their website, "The Elephant's Debt," that they will publish all documents to keep their donors and financial backers apprised of the legal situation.

6. The defendant Roys is in the process of writing a journalistic article about Plaintiffs and has been reaching out to associated persons in order to gain information relating to Plaintiffs not otherwise readily available.

7. It is for improper purposes that defendants make sweeping requests for information at this stage while attempting to dismiss based upon technical grounds. It is hard pressed to see how the scope and relevance of documents that need be requested can be concisely ascertained while three separate legal teams are pursuing varying legal theories for dismissal.

8. While this issue alone is not atypical, the case at bar needs to be looked at in the light that the defendants have pecuniary interests in obtaining such information, regardless of the pertinence such information has to defending the claims against them. Be it as sourcing for future articles or for further fodder on their website; which to date, by their own admission has raised over \$10,000.00 by specifically drawing additional public attention to the ongoing case.

9. Further, compounding the need to protect information from anterior motives the defendants have issued subpoenas seeking information from out of state non-parties and have received information pursuant to the subpoenas that contains confidential information. For example, some of the materials contain [REDACTED]

[REDACTED] The materials also contain other confidential material including

attorney work-product.

10. This Court has the power and duty to protect the confidential information that is obtained through discovery. Specifically, Illinois Supreme Court Rule 201(c)(1), provides, “[t]he court may at any time on its own initiative, or on motion of any party or witness, make a protective order as justice requires, denying, limiting, conditioning, or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or oppression.” Ill. Sup. Ct. R. 201(c)(1).

11. Trial courts are invested with considerable discretion to supervise the course of discovery as the court deems appropriate. Skolnick v. Alzheimer & Gray, 191 Ill.2d 214, 223, 730 N.E.2d 4, 12 (2000) (Citing Atwood v. Warner Electric Brake & Clutch Co., 239 Ill.App.3d 81, 88, 179 ILL.Dec. 18, 605 N.E.2d 1032). Protective orders are part of the arsenal of tools a court may use to oversee discovery and prevent harassment. Kunkel, 179 Ill.2d at 531, 689 N.E.2d at 1052; Hall v. Sprint Spectrum L.P., 368 Ill.App.3d 820, 823, 858 N.E.2d 955, 958 (2006).

12. Rule 201(c)(1) does not set out any specific requirements for protective orders. There is only the broad standard “as justice requires.” The committee comments to Rule 201 note that subparagraph (c)(1) provides for “broad discretion to make protective orders.” Statland v. Freeman, 112 Ill.2d 494, 499, 493 N.E.2d 1075, 1077-78 (1986).

13. In Hall, the parties entered into a stipulated protective order under which either party could label documents as “Confidential” or “Attorneys [sic] Eyes Only.” The protective order limited access to the documents according to how they were labeled and provided that the labeled documents were to be used solely for the lawsuit. Hall v. Sprint Spectrum L.P., 368 Ill.App.3d 820, 821, 858 N.E.2d 955, 957 (2006).

14. In an action concerning a construction contract, the circuit court entered a protective order restricting access, reproduction, and retention of any financial documents and information so disclosed in that action. Brostron v. Warmann, 190 Ill.App.3d 87, 89, 546 N.E.2d 3, 5 (1989).

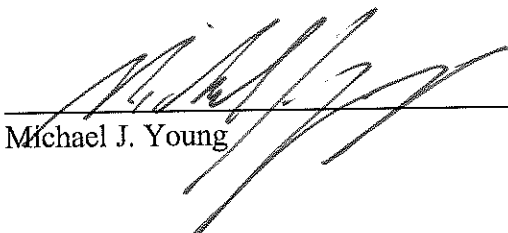
15. Although a common law presumption and statutory right exists allowing the public to inspect and copy public records and documents and this principle is essential to the functioning of our democracy, access to them may be denied where the material becomes a vehicle for improper purposes. Skolnick, 191 Ill.2d 214, 730 N.E.2d 4; Nixon v. Warner Communications, Inc., 435 U.S. 589, 597, 98 S.Ct. 1306, 55 L.Ed.2d 570 (1978); 705 ILCS 105/16(6) (West 2001); Jackson v. Jackson, No. 02 L 577, 2002 WL 32301735, at *3 (Ill. Cir. Ct. June 19, 2002).

16. In choosing to define the scope of discovery regarding confidential information, The Court should determine when a discovery request for confidential information causes such unreasonable annoyance, expense, embarrassment, disadvantage, or oppression that justice requires denial of the discovery request. Int'l Truck & Engine Corp. v. Caterpillar, Inc., 351 Ill.App.3d 576, 578-79, 814 N.E.2d 182, 184 (2004).

17. The defendants have explicitly stated that they intend to publicize both sensitive and confidential materials that are produced via discovery. There is also the reasonably implied assertion that discovery materials will be utilized in forthcoming publications by defendants in lieu of traditional sources. This ulterior use of discovery places Plaintiffs at a drastic disadvantage when attempting to pursue their lawful action as this use of discovery can be leveraged to deter further litigation. Plaintiffs understand that discovery is a natural and integral part of this process and do not wish to impede meaningful lawful discovery. Plaintiffs do however, wish to circumvent potential misappropriation and monetization of the legal process.

Wherefore, this Court should put in place safe guards in the form of a Protective Order, to prevent abuse of the discovery process..

Respectfully submitted,


Michael J. Young

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