

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL**

RAJA RAJAN,	:	February Term 2021
	:	
Plaintiff,	:	
	:	
v.	:	No. 269
	:	
ALASTAIR CRAWFORD, SHADRON	:	
STASTNEY, ASAF GOLA and KEVIN	:	Commerce Program
GOLLOP,	:	
	:	
Defendants.	:	Control Number 22083539
	:	
	:	2674 EDA 2022

OPINION

Wright Padilla, S.J.

November 21, 2022

This Opinion is submitted relative to Defendant Alastair Crawford’s (“Defendant Crawford”) appeal of a discovery order dated and docketed on October 5, 2022. For the reasons discussed below, this appeal should be quashed. Alternatively, this court’s order dated and docketed on October 5, 2022 should be affirmed.

This action arises from a larger commercial dispute between Stream TV Networks, Inc. (“Stream”), Plaintiff Raja Rajan (“Plaintiff Raja Rajan”), former stockholder, officer and director of Stream, and its secured creditors and equity investors. Defendant Crawford is an equity investor in Stream. On February 3, 2021, Plaintiff Rajan commenced this action against Defendant Crawford. On March 10, 2021, the case was removed by Defendant Crawford to the Eastern District of Pennsylvania but remanded on February 2, 2022, after Plaintiff Rajan amended the complaint and added additional defendants which destroyed diversity jurisdiction.

As it pertains to Defendant Crawford, Plaintiff Rajan purports to state claims for defamation, abuse of process, tortious interference with contractual relations and civil conspiracy

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related to other actions filed by Plaintiff Rajan, Defendant Crawford and others regarding the control of Stream's assets.

On August 19, 2022, Plaintiff Rajan filed a motion to compel. The motion asks the court to approve his proposed protective order to address the production of confidential documents, to compel production of documents and answers to interrogatories and to permit wealth discovery. On September 2, 2022, Defendant Crawford filed a response to the motion. On October 4, 2022, the court heard oral argument on the motion and on October 5, 2022, the court entered an order granting Plaintiff Rajan's motion to compel in part. Specifically, the court approved Plaintiff Rajan's proposed protective order, ordered Defendant Crawford to provide responsive documents and certain responsive answers to discovery requests in part, and granted Plaintiff Raja permission to seek wealth discovery from Defendant Crawford.¹ On October 19, 2022, Defendant Crawford filed this timely appeal.

DISCUSSION

I. This appeal should be quashed as the order being appealed is not a collateral order.

Pennsylvania law makes clear that an appeal may be taken from: (1) a final order or an order certified as a final order (Pa.R.A.P. 341); (2) an interlocutory order as of right (Pa.R.A.P. 311); (3) an interlocutory order by permission (Pa.R.A.P. 312, 1311, 42 Pa.C.S.A. § 702(b)); or (4) a collateral order (Pa.R.A.P. 313).² Generally, discovery orders are deemed interlocutory and not

¹ The court sustained some of Defendant Crawford's objections to the request for production of documents and interrogatories.

² *Berkeyheiser v. A-Plus Investigations, Inc.*, 936 A.2d 1117, 1123 (Pa.Super. 2007) citing *Stahl v. Redcay*, 897 A.2d 478, 485 (Pa.Super.2006), appeal denied, 591 Pa. 704, 918 A.2d 747 (2007) (quoting *Pace v. Thomas Jefferson University Hosp.*, 717 A.2d 539, 540 (Pa.Super.1998)).

immediately appealable because they do not dispose of the litigation.³ Here, the October 5, 2022 order is not a final order as defined by Pa. R. R. P. 341 because it does not dispose of any of the parties' claims. Nor is the October 5, 2022 order an appealable order as of right as the order does not satisfy any exceptions provided for in Pa. R. A. P. 311 (a). Moreover, Defendant Crawford never sought permission to appeal the subject matter of the order.

Lastly, the order dated October 5, 2022 is not a collateral order under Pa. R. A. P. 313. A collateral order is defined as one that: "1) is separable from and collateral to the main cause of action; 2) involves a right too important to be denied review; and 3) presents a question that, if review is postponed until final judgment in the case, the claim will be irreparably lost."⁴ Here, Defendant Crawford's appeal does not involve issues that are "separable from and collateral to the main cause of action." To the contrary, this appeal involves discovery responses to interrogatories and document requests which may be relevant to the subject matter of the claims alleged in the amended complaint and are permissible under the Rules of Civil Procedure.⁵ It is the policy of this court to allow the liberal and free exchange of discoverable materials in an effort to expedite litigation and to adhere to the spirit of the discovery rules. Consequently, Defendant Crawford's appeal is not separable or collateral to the underlying action. As such, the appeal should be quashed.

³ See, *Meyer-Chatfield Corp. v. Bank Fin. Servs. Grp.*, 143 A.3d 930 (Pa. Super. 2016).

⁴ *Andrews v. Devereux Foundation*, 262 A.3d 468 (Pa. Super. 2021) quoting *In re Bridgeport Fire Litigation*, 51 A.3d 224, 230 n.8 (Pa. Super. 2012); Pa.R.A.P. 313(b).

⁵ Pa. R. Civ. P. 4003.1 and 4003.7.

II. Alternatively, this court's order dated October 5, 2022 should be affirmed.

The Rules of Civil Procedure permit discovery that is broad and liberal. Pa. R. Civ. P. 4003.1 states, in relevant part: “[A] party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking a discovery or to the claim or defense of any other party”⁶ As it pertains to this court's order directing Defendant Crawford to respond to specific document requests and interrogatories, Plaintiff Rajan has a right to receive responses to these requests. The court considered Defendant Crawford's objections to the documents requests and interrogatories and sustained several of the objections.⁷ The remainder of the objections after consideration were overruled and the court ordered a response as the responses may lead to the discovery of relevant evidence that relates to Plaintiff Rajan's claims.

The October 5, 2022 order also ordered that Plaintiff Crawford's proposed protective order be used for the production of confidential information. The protective order contains all the necessary safeguards to avoid intrusions into the parties' individual privacy interests including but not limited to propriety information and confidential business and personal financial information. In addition to the designation of the document as “confidential”, the protective order also permits the redaction of any information a designating party believes is confidential and limits who may have access to those documents identified as confidential. Upon review of the protective order, the court was satisfied that the privacy interests of Plaintiff Rajan and Defendant Crawford were safeguarded.

⁶ Pa.R.C.P. 4003.1.

⁷ N.T. October 4, 2022 p. 17-20.

The court considered Defendant Crawford’s objections to Plaintiff Rajan’s proposed protective order based on the General Data Protection Regulation (“GDPR”) and found them to be without merit. The GDPR does impose strict privacy restrictions on the processing of electronically stored information in the European Union and the equivalent regulation in the United Kingdom. While the court recognizes the implications of the GDPR and Defendant Crawford’s obligation to comply with the GDPR and its equivalent, Defendant Crawford failed to prove to the court that the protective order proposed by Plaintiff Rajan would create compliance problems in this case. The protective order approved by the court takes into consideration the GDPR and its UK equivalent and imposes safeguards, including designating documents as confidential, redaction and limiting those who may have access to the designated confidential documents. The GDPR and its UK equivalent does not excuse Defendant Crawford from complying with Pennsylvania law. Foreign law “do[es] not deprive an American court of the power to order a party subject to its jurisdiction to produce evidence even though the act of production may violate that [foreign law].”⁸ As the protective order adequately addresses Defendant Crawford’s privacy concerns under the GDPR, its UK equivalent and Pennsylvania law, Defendant Crawford’s objection was overruled.⁹

⁸ *Giorgi Global Holdings, Inc. et. al. v. Smulski*, 2020 WL 2571177 (E.D. Pa. May 21, 2020) (citations omitted).

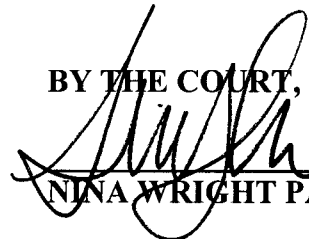
⁹ Additionally, the court notes whether the GDPR and its UK equivalent applies to any document production in this case is premature as Defendant Crawford has not responded to discovery. Moreover, the exemption contained in Article 49(1) of the GDPR may apply. Article 49(1) specifically contains an exemption that allows for the production of information that is “necessary for the establishment, exercise or defense of legal claims.” Article 49(1)(e), *EU General Data Protection Regulation (GDPR)*: Regulation (EU) 2016/679, OJ 2016 L 119/1. The European Union, in its GDPR implementation guidelines to member nations, states that information disclosed “for the purpose of formal pre-trial discovery procedures in civil litigation” would fall under Article 49. Guidelines 2/2018 on derogations of Article 49 under Regulation (EU) 2016/679, p. 11. *Arigna Technology Limited v. Nissan Motor Company, Ltd.*, 2022 WL 3020136, at *1–2 (E.D.Tex., 2022).

Lastly, the October 5, 2022 order properly grants Plaintiff Rajan permission to inquire into Defendant Crawford's wealth. Pa. R. Civ. P. 4003.7 provides that any party may obtain information concerning the wealth of a defendant in a claim for punitive damages only upon order of court setting forth appropriate restrictions as to the time of the discovery, the scope of the discovery, and the dissemination of the material discovered. Here, the claims alleged in the amended complaint permit the award of punitive damages. As such, discovery on Defendant Crawford's wealth is permissible with the limitations imposed by the court, that is the information received would only be used for purposes of this action. In addition to this limitation, the protective order also confers upon Defendant Crawford additional privacy measures to ensure the information is kept confidential and protected.

CONCLUSION

Based on the foregoing, Defendant Crawford's appeal of this court's order dated October 5, 2022 should be quashed. In the alternative, this court's order date October 5, 2022 should be affirmed.

DATE: November 21, 2022

BY THE COURT,

NINA WRIGHT PADILLA, S.J.