

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

LL CAPITAL PARTNERS I, LP, SIF V,	:	OCTOBER TERM, 2021
LLC, and TAMMAC HOLDINGS	:	
CORPORATION,	:	NO. 01400
	:	
Plaintiffs,	:	COMMERCE PROGRAM
	:	
v.	:	1405 EDA 2023
	:	
ROBERT TAMBUR, individually and as	:	
Trustee for ROBERT S. TAMBURRO	:	
2005 IRREVOCABLE TRUST and LIZA	:	
TAMBUR ROLAND 2005	:	
IRREVOCABLE TRUST, VIRGINIA S.	:	
TAMBUR, ROBERT S. TAMBURRO,	:	
LIZA TAMBUR ROLAND, JEFFREY	:	
POTH, JAMES MAHON, JAMES	:	
JOHN MAHON V, AC2B	:	
CONTRACTING SERVICES, and	:	
MARIE KENNEDY,	:	
	:	
Defendants.	:	

**FILED**  
2023 JUL -7 AM 10:06  
JUDICIAL RECORDS  
1ST JUDICIAL DISTRICT PA

**OPINION**

Six of the defendants in this action, specifically, Robert Tambur, individually and as Trustee for Robert S. Tamburro 2005 Irrevocable Trust and Liza Tambur Roland 2005 Irrevocable Trust, Virginia S. Tambur, Robert S. Tamburro, and Liza Tambur Roland (collectively, the “Tambur Defendants”), have appealed from this court’s Order docketed on May 5, 2023, in which the court denied their Motion to Stay this civil action pending resolution of an alleged federal criminal investigation.

The other five defendants, Jeffrey Poth, James Mahon, James John Mahon V, AC2B Contracting Services, and Marie Kennedy, did not join the request for a stay, and the plaintiffs

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LL Capital Partners I, LP, SIF V, LLC, and Tammac Holdings Corporation, actively opposed the request for stay.

The Tambur Defendants apparently fear that the fraud and other wrongdoing of which they are accused in the Complaint in this civil action may rise to the level of a federal crime for which one or more of them may eventually be indicted. No such indictments have been issued yet, so the Tambur Defendants can only speculate regarding the nature of the federal investigation.

In support of their Motion, the Tambur Defendants allege that **plaintiff**, Tammac Holdings Corporation, was subpoenaed by the U.S Attorney's Office and the Federal Bureau of Investigation, and its CEO, who is not a party here, was apparently interviewed by representatives of those investigatory agencies in October or November of 2022.<sup>1</sup> Since none of the Tambur Defendants have themselves been subpoenaed or interviewed, they necessarily have not been able to proffer any evidence of the specific subject matter of those investigations, nor how long such investigations may take, nor whether such investigations may result in any criminal prosecutions. Yet they desire this court to issue an indefinite stay of this civil action, which is progressing towards trial, slowly but surely.<sup>2</sup>

In deciding whether to stay a civil case pending the resolution of a related criminal case, courts consider many factors, including: (1) the extent to which the issues in the civil and criminal cases overlap; (2) the status of the criminal proceedings, including whether any defendants have been indicted; (3) the plaintiff's interests in expeditious civil proceedings weighed against the prejudice to the plaintiff caused by the delay; (4) the burden on the defendants; (5) the

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<sup>1</sup> See Excerpts from Deposition of Troy Cavallaro taken on March 1, 2023, and attached to the Tambur Defendants' Motion to Stay as Exhibit 3.

<sup>2</sup> As a result of numerous discovery disputes and delays, discovery is now scheduled to end on November 6, 2023, and this 2021 case will be tried in or about June of 2024. See Revised Case Management Order docketed on June 21, 2023.

interests of the court; and (6) the public interest.<sup>3</sup>

In this case, consideration of those six factors does not support staying this action at this time. With respect to the first factor, there is no actual criminal “case” to compare to this civil case, so the court and the parties can only guess whether there is any overlap between the allegations in the Complaint in this action and the investigations undertaken by the F.B.I. and U.S. Attorney. Second, the criminal “proceeding” appears to be in its investigatory infancy, no one has been indicted,<sup>4</sup> and it is quite possible no one ever will be. Third, plaintiffs necessarily have an interest in moving these proceedings forward to their natural conclusion. This case has already been delayed due to numerous discovery disputes, and, even without the requested stay, this case will not be resolved within the two-year time frame recommended by the American Bar Association (“ABA”).<sup>5</sup>

Fourth, the burden on the Tambur Defendants at this juncture apparently takes the form of a fear that they may say or produce something in discovery here that will cause the criminal investigators to focus their attentions upon the Tambur Defendants. However, those defendants have already invoked their rights not to incriminate themselves in this civil matter,<sup>6</sup> so that

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<sup>3</sup> Keese v. Dougherty, 230 A.3d 1128, 1133 (Pa. Super. 2020) citing In re Adelphia Communications Sec. Litig., No. 02-1781, 2003 WL 22358819 (E.D. Pa. May 13, 2003).

<sup>4</sup> Significantly, in Keese, the Superior Court directed that “[o]n remand, the trial court shall consider the indictments now filed against Appellants[.]” 230 A.2d at 1134.

<sup>5</sup> Under the ABA’s time-to-disposition standards, all civil trials should be held within 24 months of the date the case is first filed. *See Model Time Standards for State Trial Courts* (2011), available at: <https://ncsc.contentdm.oclc.org/digital/collection/ctadmin/id/1836>.

<sup>6</sup> In a letter dated February 28, 2023, counsel for defendants stated that: “Our office recently learned of an ongoing federal criminal investigation involving one or more parties to the within action and/or one or more of the allegations in Plaintiffs’ Complaint. . . . Thus, this correspondence shall serve as notice that Robert L. Tambur, Virginia S. Tambur, Robert S. Tamburro, and Liza Tambur Roland protectively invoke and assert their rights under the Pennsylvania and United States Constitutions, including but not limited to, their rights under Article 1, Section 9 of the Pennsylvania Constitution and the Fifth Amendment of the United States Constitution.” Tambur Defendants’ Motion to Stay, Ex. 2.

burden has been lessened. The Tambur Defendants also made no showing that they are unable to defend themselves properly in this action, since the defenses they raise are focused on plaintiffs' knowledge and actions, rather than their own.<sup>7</sup>

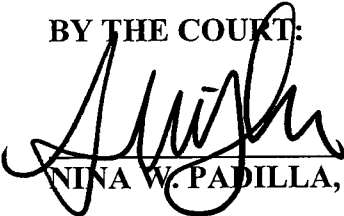
Fifth and sixth, at this juncture, the interests of the court and the public are to have this civil action proceed to its resolution, unless and until such time as it may interfere with the prosecution of criminal indictments against any parties to this action. Should current circumstances change, any party is welcome to file a renewed Motion to Stay, which the court will analyze anew under the Adelphia factors outlined above.

### CONCLUSION

For all of the foregoing reasons, the court respectfully requests that its May 5<sup>th</sup> Order be affirmed on appeal.

**Dated: July 7, 2023**

BY THE COURT:



NINA W. PADILLA, J.

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<sup>7</sup> See *id.* (Defendants “note that Plaintiffs’ time-barred and released claims stem from their own malfeasance, lack of due diligence, and questionable decisions to expand and evolve a business model in the climate of a global pandemic.”)