

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

RYAN LEE MILLER,
Plaintiff

vs.

TODD BARTLEY, et al.,
Defendants

: CV-20-00131

: CIVIL ACTION – LAW

OPINION AND ORDER

AND NOW, this 19th day of August 2022, following argument on Plaintiff's Motion for Permission to Serve Discovery Regarding Defendant Todd Bartley's and Defendant Colonial Radio Group of Williamsport, LLC's Wealth, the Court hereby issues the following OPINION and ORDER.

BACKGROUND

Plaintiff commenced this action on January 24, 2020, bringing counts for defamation, invasion of privacy, and intentional infliction of emotional distress against Defendants Todd Bartley ("Bartley"), Colonial Radio Group of Williamsport, LLC ("CRG"), and a number of other corporate media defendants. On October 11, 2021, Plaintiff filed Motions to Compel Discovery Responses from Bartley and CRG. These motions to compel included, *inter alia*, requests of Bartley and CRG to provide certain financial information. By Order of March 3, 2022, the Court granted in part Plaintiff's motions, ordering Bartley and CRG to provide certain financial information. The Court noted, however, that Pennsylvania Rule of Civil Procedure 4003.7 allows a party to discover "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 materials discovered." The Court declined to issue such an

order until Plaintiff explicitly requested wealth discovery and the parties had an opportunity to address the appropriate restrictions.

INSTANT MOTION AND ARGUMENT

On March 30, 2022, Plaintiff filed the instant motion seeking wealth discovery from Bartley and CRG pursuant to Rule 4003.7, asking the Court to allow wealth discovery limited to Bartley's and CRG's:

“[T]otal salary, total revenues, compensation or benefit received or anticipated as a result of the publications and broadcasts made on the website/radio station, income tax returns, current ownership of personal property, real estate, bank accounts, stocks, bonds, currency, and any and all other assets, owned by Defendant Bartley and Defendant CRG, whether individually or jointly with others.”

In his brief in support of the motion, Plaintiff noted that Pennsylvania Courts have routinely held that a defendant's wealth is admissible in claims for punitive damages, which are present in this case.¹

In their brief in opposition to the motion, Bartley and CRG first asked that the Court deny the motion outright, arguing that as a matter of law the Defendants' actions do not rise to the level of recklessness necessary to support a claim for punitive damages. In the alternative, Bartley and CRG argued that the “production of a limited number of Defendants' tax returns, along with a verified statement of Defendants' net worth,” would be sufficient to establish all financial information that would be relevant to a punitive damages determination.

¹ See, e.g., *Kirkbride v. Lisbon Contractors Inc.*, 555 A.2d 800, 803 (Pa. 1989) (“In making its determination [as to punitive damages], the jury has the function of weighing the conduct of the tort-feasor against the amount of damages which would deter such future conduct. In performing this duty, the jury must weigh the intended harm against the tort-feasor's wealth.”)

At argument, Plaintiff responded to Bartley's and CRG's first argument, contending that the claims in the Complaint are sufficient to support an award of punitive damages and thus justify wealth discovery. Plaintiff reiterated his requests for the particular items named in the motion, clarifying that they were seeking three to five years of income tax returns, which they described as a "typical" time period in cases in which wealth discovery is ordered.

Bartley and CRG first suggested that if the Court was unwilling to determine that punitive damages are not appropriate while discovery is ongoing, it could delay a decision on Plaintiff's motion until after the summary judgment stage. Bartley and CRG did acknowledge that it would be unusual, and potentially burdensome, for the Court to reopen discovery between the resolution of dispositive motions and trial.

In the event the Court did order wealth discovery, Bartley and CRG stressed two ways in which they believed Plaintiff's motion was overbroad. First, they suggested that discovery of property, accounts, and other assets owned by Bartley and CRG should not include those items owned jointly with non-parties. Second, they argued that Plaintiff's request for "any and all other assets" was overbroad, as it effectively removes any limits on the types of items Plaintiff seeks.

ANALYSIS

The Court agrees with Plaintiff that wealth discovery is appropriate at this stage. Plaintiff's claims for punitive damages survived the pleading stage, and it would be unwieldy and burdensome for the parties to engage in all discovery except wealth discovery, proceed through the summary judgment stage, and then reopen discovery for the limited purpose of seeking wealth discovery.

The Court agrees with Bartley and CRG that a defendant's net worth is an appropriate measure of wealth, and that discovery that is not tailored to determining net worth runs the risk of needlessly violating a defendant's privacy.² It does not follow, however, that a plaintiff wishing to ascertain a defendant's net worth must blindly accept the defendant's representation of such. In *Sprague*,³ the defendant attempted to introduce certain evidence regarding its financial condition despite the fact that the parties stipulated prior to the defendant's net worth prior to trial. The holding of *Sprague* was that a "a simple statement regarding a defendant's total net worth provides a sufficient yardstick by which a jury may set a suitable punishment when it finds that punitive damages are appropriate"; in so holding, the court precluded the defendant's attempt to introduce select information concerning its net worth as "confus[ing]" to the jury.⁴ *Sprague* does not discuss, however, how the parties in that case arrived at the stipulated figure, and does not suggest that wealth discovery is unavailable when the defendant offers to unilaterally provide a verified statement of its worth. In short, the question of what figure is ultimately submitted to the factfinder is different from the question of what information the parties may acquire to determine that figure in the first place.

The Court must also address two additional concerns. First, Defendant has asked the Court to exclude jointly-owned assets from discovery. The Court declines to do so. A defendant's net worth is relevant to the amount of punitive damages because "the purpose of punitive damages is to punish past conduct and to deter

² See, e.g., *Sprague v. Walter*, 656 A.2d 890, 920 (Pa. Super. 1995).

³ *Id.*

⁴ *Id.*

future repetition.”⁵ A defendant with a high net worth, but whose assets are primarily jointly owned, may not be sufficiently deterred from future malfeasance by a punishment that takes into account only the small sliver of its assets that are solely owned. Plaintiff has agreed that all wealth discovery “shall not be disseminated or used by Plaintiff and/or his representatives for any purpose other than prosecuting, defending, and/or preparing for trial in this action”; this precaution is sufficient to protect the privacy interests of non-parties with whom Bartley or CRG jointly own assets, and the Court will include this precaution in its Order.

Second, Bartley and CRG argue that the phrase “any and all other assets” improperly removes any limitations on discovery. However, the goal of wealth discovery is to ascertain a defendant’s net worth, which Black’s Law Dictionary defines as “the excess of total assets over total liabilities.”⁶ In order to establish Bartley’s and CRG’s net worth, their ownership of “any and all assets” must be taken into account.

ORDER

For the foregoing reasons, the Court GRANTS Plaintiff’s request for wealth discovery, limited to Plaintiff’s proposed discovery of:

“[T]otal salary, total revenues, compensation or benefit received or anticipated as a result of the publications and broadcasts made on the website/radio station, income tax returns, current ownership of personal property, real estate, bank accounts, stocks, bonds, currency, and any and all other assets, owned by Defendant Bartley and Defendant CRG, whether individually or jointly with others.”

Wealth discovery is further limited as follows:

⁵ *DiSalle v. P.G. Pub. Co.*, 544 A.2d 1345, 1368 (Pa. Super. 1988).

⁶ Black’s Law Dictionary (11th ed. 2019), worth; *see Sprague*, 656 A.2d at 920.

- Discovery concerning salaries, revenues, compensation, benefits received, and income tax returns shall be limited to January 1, 2018 to the present.
- Plaintiff shall not disseminate or otherwise use any wealth discovery for any purpose other than prosecuting, defending, or preparing for trial in this action.

IT IS SO ORDERED.

BY THE COURT,



Eric R. Linhardt, Judge

ERL/jcr

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