

STATE OF MICHIGAN
SIXTEENTH JUDICIAL CIRCUIT COURT

KAMRAN BOUSHERI; KAMRISA
INVESTMENTS, LLC; ~~SIP BY SIP~~
~~LIQUOR SHOP, INC.~~; and SIP SIP
LIQUOR SHOP, INC,

Plaintiffs,

Case No. 2023-001430-CB

vs.

LEO'S REAL ESTATE #3, LLC; DYNASTY
LIQUOR, INC; TANYA NISSU; MONTHIR
SHAMON NISSU; and YOEEL STEPHAN,

Defendants.

OPINION AND ORDER

This matter is before the Court on Defendants' Motion for Reconsideration of this Honorable Court's March 1, 2024 Order Denying Motion for Protective Order¹ and Defendants' Motion to Quash a Portion of Plaintiffs' Subpoena.

I. Background

This case involves an alleged breach of a Purchase Agreement and Covenant Not to Compete.

On July 14, 2020, Plaintiffs entered into a Purchase Agreement ("Agreement") with Defendants for the purpose of purchasing Defendants' grocery/liquor store. Comp. Ex. A. This agreement included a Covenant Not to Compete in which the parties agreed not to compete within a 5-mile radius for 5 years after closing. *Id.* However, the Agreement explicitly states: "Notwithstanding the foregoing, the location at 2590 Puritan St., Detroit, Michigan is excluded from the Covenant Not to Compete." *Id.* The parties further agreed that Defendants would: not solicit Plaintiffs' employees, provide inventory worth a minimum of \$350,000 at closing,

maintain the store in good working condition with no known defects, and deliver the store free and clear of any liens or encumbrances. *Id.*

On July 23, 2020, Plaintiff Sip Sip Liquor Shop, Inc (“Sip Sip”) substituted into the Agreement for Plaintiff Sip by Sip Liquor Shop, Inc (“Sip by Sip”), terminating Sip by Sip as Buyer 2. Def. Ex. 2.

Plaintiffs filed their Complaint on April 28, 2023. On December 6, 2023, a First Amended Complaint was filed asserting: Count I: Breach of Contract; Count II: Tortious Interference; Count III: Fraud in the Inducement; Count IV: Fraudulent Misrepresentation (Revised); and Count V: Slander/Business Defamation.

On May 15, 2023, Defendants filed a motion for partial summary disposition which was granted in part and denied in part, dismissing Count III and Sip by Sip.

On January 22, 2024, Defendants filed a motion for protective order which was denied by this Court in an Order Granting Admission Pro Hac Vice and Denying Motion for Protective Order entered on March 1, 2024. In that Order, the Court stated that “Plaintiffs served discovery requests upon Defendants on January 18, 2024, which are relevant and necessary for the resolution of the matter at hand.” The Court further stated that “Defendants objected to several of the Plaintiffs’ discovery requests on grounds of irrelevance and undue burden.” “However, the Court overrules these objections as the requested discovery is pertinent to the issues in dispute.”

On February 26, 2024, Defendants filed their motion to quash and brief in support which was set for hearing on March 4, 2024 and adjourned to April 8, 2024. On March 21, 2024, Defendants filed another motion to quash and brief in support which appear substantially similar

¹ As there is more than one motion in the record with this title, this Opinion is limited to the motion challenging the subpoena to Comerica Bank.

to the motion and brief filed on February 26, 2024. On March 22, 2024, Defendants filed the instant motion for reconsideration and brief in support. The record reflects no response having been filed to any of these motions despite Plaintiffs having been given an explicit opportunity to respond to the motion for reconsideration. These motions were heard on April 8, 2024 and taken under advisement.

II. Standard of Review

In a motion for reconsideration, the moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F). It is within the court's sound discretion to determine whether to grant a motion for reconsideration. *People v Walters*, 266 Mich App 341, 700 NW2d 424 (2005).

III. Law & Analysis

A. Motion for Reconsideration

Although the Motion for Reconsideration was filed after the Motion to Quash, the Court notes that the Motion to Quash relies on its requested Protective Order in requesting the motion to quash. Accordingly, the Court will first address whether it properly denied Defendants' Motion for Protective Order before addressing the Motion to Quash.

Defendants continue to argue that the personal bank records of the individual Defendants are not relevant to the issues contained in Plaintiffs' First Amended Complaint. Specifically, Defendants aver that there is no information in the personal bank records of Defendants Tanya Nissu ("Tanya") and Monthir Shamon Nissu ("Monthir") which would aid Plaintiffs in proving liability and damages. In response, Plaintiffs have argued that they believe there is hidden ownership of the selling liquor store and they believe the personal bank statements would prove

this claim. At the hearing, Plaintiffs referred to a liquor store across the street from the purchased liquor store, alleging that there is some connection between it and the individual defendants.

The Court determined that the records were relevant; Defendants have simply asked the Court to change its mind without making a valid legal argument regarding the objections it is raising. While Defendants cited to one court rule and one case from 1986 which discusses privileged communications and confidentiality but not the relevance of personal bank records in a case such as this, there is no application of any law to the facts of this case.

Accordingly, the Court does not find that it palpably erred in denying Defendants' motion for protective order and declines to alter the disposition of that request.

B. Motion to Quash

Plaintiffs issued a subpoena to Comerica Bank ("Comerica") requesting that Comerica produce bank statements of Tanya, Monthir, Leo's Real Estate #3, LLC ("Leo's"), and Dynasty Liquor, Inc. ("Dynasty") for the years 2017-2022.

Defendants' objections with regard to the personal bank statements of Monthir and Tanya relate back to the denied Motion for Protective Order, and Defendants have argued no issues not previously addressed in either the Motion for Protective Order or the Motion for Reconsideration, above.

Defendants also object to the request that Comerica produce post-closing bank statements of Leo's and Dynasty on the basis that they are not relevant. However, Defendants have made no legal argument or addressed why these documents would be irrelevant to this action.

Accordingly, the Court has no basis on which to quash the objected to portion of the Comerica subpoena.

IV. Conclusion

For the reasons set forth above, Defendants' motions are DENIED. Pursuant to MCR 2.602(A)(3), this *Opinion and Order* neither resolves the last pending claim nor closes the case.

IT IS SO ORDERED.



HONORABLE RICHARD L. CARETTI
Circuit Court Judge

DATE: May 14, 2024

cc: Shawn L. Desai, Esq.
Alan C. Applebaum, Esq.