

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

JEFFREY GRUWELL,)
)
Plaintiff,) C.A. No. 07C-12-190 (JTV)
)
v.)
ALLSTATE INSURANCE)
COMPANY, MICHAEL PEDICONE,)
AND MICHAEL A. PEDICONE, P.A.,)
)
Defendants.)

Submitted: August 12, 2010
Decided: September 9, 2010

Kenneth M. Roseman, Esq., Wilmington, Delaware. Attorney for Plaintiff.

Kevin J. Connors, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Wilmington, Delaware. Attorney for Defendant Allstate Insurance Company.

Colleen D. Shields, Esq., Elzufon, Austin, Reardon, Tarlov & Mendell, P.A., Wilmington, Delaware. Attorney for Defendants Micheal Pedicone, and Michael A. Pedicone, P.A.

*Upon Consideration of Defendant Pedicone's
Motion to Compel Discovery*

GRANTED

VAUGHN, President Judge

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ORDER

Upon consideration of defendant Pedicone's Motion to Compel Discovery, defendant Allstate's opposition thereto, and the record of the case, it appears that:

1. The plaintiff, Jeffrey Gruwell, operated a motor vehicle in such a manner as to crash with two other vehicles, one after the other in quick succession, causing injury to three persons in one of the vehicles and one person in the other. Gruwell's vehicle was insured by Allstate Insurance Company. One of the injured parties was Melissa Crawford. She filed suit against Gruwell and obtained a judgment against him which significantly exceeded the limits of the Allstate policy. The other defendant in this case, Michael Pedicone, Esquire, represented Gruwell in the aforementioned suit.

2. In this action Gruwell alleges claims of bad faith against Allstate and legal malpractice against Pedicone. One of his claims is that Allstate failed, in bad faith, to settle claims by failing to interplead its policy.

3. Recently Crawford was deposed by counsel for Pedicone. During the deposition, it was revealed that she had received a monetary payment as a result of a settlement agreement between Gruwell and Allstate. It was also revealed that Crawford received this monetary payment pursuant to the terms of a separate agreement between her and Gruwell. Pedicone's counsel sought to question Crawford on the terms of the settlement agreement between Gruwell and Allstate, and Allstate objected. Allstate contends that the terms of the settlement agreement are confidential. The deposition was interrupted so that Allstate's objection could be addressed.

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4. Pedicone contends that the terms of the settlement agreement should be disclosed in the interest of justice. In support of this argument, he contends that the information in the agreement “is certainly relevant as it will reveal whether [a] critical factual witness, Melissa Crawford, has a financial incentive to align herself and her testimony to the detriment of Mr. Pedicone in the defense of Mr. Gruwell’s case against him or in the prosecution of his cross claim against Allstate.”¹

5. Allstate contends that it is inappropriate to disclose the terms of the settlement entered into between Gruwell and Allstate because the parties agreed to keep the terms confidential. Allstate submits that this was a valuable part of the consideration for the settlement agreement. Allstate also asserts: 1) “Disclosure of the terms would prejudice Allstate in defending against the present claims”; 2) “[T]he Release and Settlement Agreement is not relevant to the matters pending before this Court”; and 3) “Disclosure . . . would not lead to the discovery of admissible evidence relating to plaintiff’s claims, either against the Pedicone defendants or against Allstate.”²

6. “Parties to litigation do not have an absolute right to deny access to the terms of their settlement to the non-settling parties.”³ “Instead, it is necessary for the Court to balance the interests of the parties, in terms of both facilitating the settlement

¹ Ltr. from Ms. Shields, Esq., dated July 30, 2010.

² Ltr. from Mr. Connors, Esq., dated July 26, 2010.

³ *In Re: I/M of the Purported Last Will and Testament of Lucy B. Pietlock*, 2005 WL 2335460, at *1 (Del. Ch.) (citing *Council of Unit Owners of Sea Colony East v. Carl M. Freeman Assocs.*, 1990 WL 128185 (Del. Super.)).

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of litigation, on the one hand, and allowing access to admissible evidence or information that may lead to the discovery of admissible evidence on the other hand.”⁴

7. After balancing the interests of the parties, I find that the terms of the settlement agreement may lead to the discovery of admissible evidence, i.e., potential bias of Melissa Crawford. I also conclude that this interest outweighs the interest in favor of confidentiality of the agreement. Therefore, I order that Ms. Crawford answer the questions posed to her by counsel for Pedicone. Her obligation to answer is subject to a mutually agreed upon confidentiality agreement between the parties.

8. For the aforementioned reasons, the defendant’s Motion to Compel Discovery is hereby ***granted***.

IT IS SO ORDERED.

/s/ James T. Vaughn, Jr.

President Judge

cc: Prothonotary
Order Distribution
File

⁴ *Id.*