

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

RICHARD R. COOCH  
RESIDENT JUDGE

NEW CASTLE COUNTY COURTHOUSE  
500 NORTH KING STREET, SUITE 10400  
WILMINGTON, DELAWARE 19801-3733  
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November 26, 2019

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**Re: Christopher F. Quinlan v. Megan M. Quinlan**  
**C.A. No. N19C-04-207 RRC**

Submitted: November 19, 2019

Decided: November 26, 2019

On Defendant's "Motion to Dismiss All Claims Without Prejudice to Re-Filing in Family Court." **GRANTED.**

On Defendant's "Motion for a Protective Order In Response to Plaintiff's Notice of Deposition." **GRANTED.**

Dear Counsel:

1. On April 22, 2019, Plaintiff, divorced from Defendant, filed a Complaint for "Waste & Damages, Negligence, and Trespass On The Case." Plaintiff alleged that "[u]pon [Plaintiff's] return to [40 Old Guyencourt Road, Wilmington, DE 19807] at the end of [Defendant's] sole use and possession of it, [Plaintiff] discovered [...] extensive water damage, plumbing damage, and damage to the floorings, walls, and furnishings."<sup>1</sup>

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<sup>1</sup> See Compl. at §§ 12, 13.

2. On June 3, 2019, Defendant filed a “Motion to Dismiss all Claims without Prejudice to Re-Filing in Family Court.” Later, on November 11, 2019, Defendant filed a “Motion for a Protective Order in Response to Plaintiff’s Notice of Deposition[,]” seeking to preclude Defendant’s deposition in this case which Defendant now seeks to dismiss (without prejudice to its potential refile in Family Court).
3. This Court will, due to its lack of jurisdiction, **GRANT** dismissal pursuant to 13 Del. C. Section 507(a).<sup>2</sup>
4. It follows that Defendant’s Motion for Protective Order is **GRANTED**.
5. In *Brown v. Rembert*, a case relied on by Defendant, the Court of Chancery dismissed the plaintiff’s claim for breach of fiduciary duties against defendant, his ex-wife, due to finding that Family Court had exclusive jurisdiction over agreements incident to marriage, regardless of whether the property in question was marital property.<sup>3</sup> In *Benge v. Oak Grove Motor Court, Inc.*, also relied on by Defendant, the Court of Chancery dismissed plaintiff’s claim for relief for lack of subject matter jurisdiction and found that “[t]he undisputed facts in the record demonstrate that the agreements that [plaintiff] seeks to rescind involve subjects within the jurisdiction of the Family Court.”<sup>4</sup> In *Matthaeus v. Matthaeus*, another case relied on by Defendant, this Court dismissed the plaintiff ex-husband’s claim for intentional infliction of emotional distress and related claims arising from defendant ex-wife’s alleged interference with his visitation rights established under a visitation agreement due to finding that the Family Court had exclusive jurisdiction over that issue. The *Matthaeus* Court stated, in pertinent part, that “Plaintiff’s contention that he may invoke the jurisdiction of this Court by simply crafting his complaint as a tort action is incorrect.”<sup>5</sup> This Court finds this language persuasive in determination of this matter.
6. Here, Plaintiff asserts a claim a claim for “Waste, Negligence, Trespass On The Case, and Damages” and asserts that, “[p]ursuant to the [Family Court Protection From Abuse] Orders, [Defendant] had a duty to insure that

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<sup>2</sup> “The [Family] Court shall have exclusive jurisdiction over the construction, reformation, enforcement and rescission of agreements made between future spouses, spouses and former spouses concerning the payment of support or alimony, the payment of child support or medical support, the division and distribution of marital property and marital debts and any other matters incident to a marriage, separation, or divorce.”

<sup>3</sup> *Brown v. Rembert*, 2008 WL 5182307 (Del. Ch. Dec. 11, 2008).

<sup>4</sup> *Benge v. Oak Grove Motor Court, Inc.*, 2006 WL 156840 at \*6.

<sup>5</sup> *Matthaeus v. Matthaeus*, 2003 WL 1826285 at \*5.

proper maintenance and upkeep of the Home occurred during her period of legally authorized and imposed sole use and possession.”<sup>6</sup> Additionally, “[t]he Waste caused to the Home by [Defendant’s] acts and omissions during her period of use and occupancy **pursuant to the PFA Orders** and her attendant tenancy pursuant thereto are extensive [...]”<sup>7</sup>

7. It is apparent to this Court that the Protection From Abuse (“PFA”) Order required Plaintiff to vacate the property in question and permitted Defendant sole and exclusive possession of the real property until Defendant moved out.<sup>8</sup> Clearly there was an agreement, reduced to an Order, that settled the issue of who was entitled to use of the property and until when. As such, the duties and obligations of the parties with regards to the use of the property, since the PFA Order apparently is silent on this issue, should be resolved by the same court. The interpretation of a PFA Order is within the jurisdiction of Family Court. Plaintiff is subject to the jurisdiction of Family Court in the interpretation of that Court’s Order.<sup>9</sup>
8. *Fenwick Waterman’s, LLC v. Littleton*, a case relied on by Plaintiff, is distinguishable from the matter at hand since that case involved an alleged theft of business insurance proceeds and the parties in that case attempted to introduce evidence on appeal that was not presented below. Here, this matter is not deficient in terms of the factual record or involves an alleged theft of business insurance proceeds, but rather involves alleged implied duties that were allegedly established by the PFA Order. The Family Court has jurisdiction in this matter.
9. Plaintiff has acknowledged that “if this Court should dismiss the action for lack of subject matter jurisdiction, then my client may simply transfer the case to the Family Court for full adjudication [pursuant to 10 *Del. C.* § 1902].”<sup>10</sup> This Court thus need not address the applicability of the “transfer statute.”<sup>11</sup>
10. As such, Defendant’s “Motion to Dismiss All Claims Without Prejudice to

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<sup>6</sup> Compl. at § 26 (emphasis added).

<sup>7</sup> Compl. at § 17 (emphasis added).

<sup>8</sup> Def.’s Mot. to Dismiss [...], Ex. A at p. 2 (May 22, 2017) (“Stipulation, Agreement, and Order Resolving Ancillary Matters”).

<sup>9</sup> “The [Family] Court shall issue a *capias* for Respondent, Christopher Quinlan, to appear and shall be detained subject to payment by Respondent of the sums as set forth herein to clear the *capias*. Respondent is on notice that he may be incarcerated at the court’s discretion unless substantial payment is made toward the sums owed to Petitioner.” Def.’s Supplemental Reply to Resp. to Mot. to Dismiss All Claims [...], Ex. A at p. 2 (Family Court Default Judgment, entered by Judge Buckworth, that held Christopher Quinlan in contempt of two prior Family Court Orders and issued a civil *capias* for Christopher Quinlan’s arrest.).

<sup>10</sup> Def.’s Letter to the Court at p. 1 (November 11, 2019).

<sup>11</sup> 10 *Del. C.* § 1902.

Re-Filing in Family Court” and “Motion for Protective Order In Response to Plaintiff’s Notice of Deposition” are both **GRANTED**.

**IT IS SO ORDERED.**



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Richard R. Cooch, R.J.

cc: Prothonotary