

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

BRENNAN'S INC.

PLAINTIFF

VS.

CIVIL ACTION NO. 3:06CV694TSL-JCS

BERT CLARK BRENNAN  
AND BLAKE W. BRENNAN

DEFENDANTS

ORDER

This cause is before the court on the motion of defendant/counter plaintiffs Bert and Clark Brennan to compel and the motions of Brennan's, Inc. to bifurcate and for a protective order or alternatively .

By their motion to compel, Bert and Clark Brennan seek an order requiring, among other things, plaintiff Brennan's, Inc. to provide financial information alleged to be relevant to their counterclaim for punitive damages predicated on their claim that plaintiff/counterdefendant tortiously interfered with their business activities. By its motion to bifurcate, Brennan's Inc. seeks to bifurcate the compensatory and punitive damages phases of the trial, such that it would not be required to provide its discovery of its financial information until such time as a jury found it to be liable for compensatory damages. By its motion for a protective order or, alternatively, to stay discovery of its financial information, Brennan's Inc. requests a ruling that it not be required to provide its financial information, or alternatively, that it not be required to provide its financial information until such time as it is found liable by a jury for compensatory damages.

Brennan Inc.'s motions to bifurcate and for a protective order are not well taken. However, given the current posture of this case, pursuant to the undersigned's long standing practice, in order to protect a party's sensitive financial information, prior to a ruling by the district court that the matter should be set for trial, a party is usually not required to provide its financial information bearing on the question of punitive damages. Accordingly, as relates to Requests for Production Number 11, 14 and 17, Bert and Clark Brennan's motion to compel is granted to the extent that, in the event that Judge Lee determines that genuine issues of material fact necessitate a trial on Bert and Clark Brennan's counterclaim, on the opening day of trial Brennan's Inc. shall bring and have available a copy of the corporation's 2008 Tax Return, any loan documents which would bear on current net worth (limited to 2005 to present), as well as any other documents (such as financial statements) prepared by accountants or auditors, indicating current net worth (limited to 2005 to present). The responsive materials shall be retained by Brennan's Inc. unless ordered released to Bert and Clark Brennan by Judge Lee. Bert and Clark Brennan's motion to compel, as it relates to financial information, is denied as to Interrogatories 4 and 5 and Requests for Productions 15, 16, 18 and 19.

Regarding the portions of Bert and Clark Brennan's motion to compel which do not relate to Brennan's Inc.'s financial information, the court finds that the motion as to:

- (1) Interrogatory No. 1 is denied; Brennan's Inc. represents that it has completely responded to this request;
- (2) Requests for Admission Nos. 5 and 6 is denied; Brennan's Inc. represents that it will provide an updated response to these requests;
- (3) Requests for Production Nos. 1 and 2 is denied;
- (4) Request for Production No. 3 is denied;

(5) Request for Production No. 12 is denied; and

(6) Request for Production No. 13 is granted to the extent that Brennan's Inc. shall provide to Bert and Clark Brennan on or before October 5, 2009, a copy of any and all corporate minutes authorizing the corporation's lawsuit against Bert and Clark Brennan.

SO ORDERED this the 25<sup>th</sup> day of September, 2009.

    /s/ James C. Sumner  
UNITED STATES MAGISTRATE JUDGE