

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SANG B. PARK,)
Plaintiff,) Civil Action No. 15-678
) Chief Magistrate Judge Maureen P. Kelly
vs.)
)
MARCELO AHN; THE WALLACE,) Re: ECF Nos. 71 and 73
)
Defendants.)

MEMORANDUM ORDER

The case concerns a breach of contract claim stemming from Plaintiff Sang B. Park's payment of \$300,000 payment to Defendant Marcelo Ahn for the opening of a restaurant. Presently before the Court are two Motions in Limine filed by Defendants Ahn and The Wallace seeking: (1) to exclude communications regarding settlement dialogue, ECF No. 71; and (2) to exclude evidence and argument regarding Defendants' finances and business operations, ECF No. 73.

The first Motion in Limine seeks to exclude from evidence an e-mail sent by Defendant Ahn to Plaintiff's son in which Defendant offers to repay Plaintiff's investment in exchange for Plaintiff discontinuing the instant lawsuit. ECF No. 71. Defendants assert that this evidence is barred by Federal Rule of Evidence 408, which generally prohibits the introduction of evidence of offers to compromise. ECF No. 72 at 1-2. In response to the Motion in Limine, Plaintiff argues: (1) that the e-mail does not qualify as a settlement offer because it is not directed to Plaintiff or his counsel; (2) that the e-mail is not an offer of compromise and settlement; and (3) even if the e-mail does qualify as a settlement offer, it is nonetheless admissible as a concession and offer to pay. ECF No. 78 at 1-3.

In support of Plaintiff's argument, he cites to Molinos Valle Del Cibao v. Lama, 633 F.3d 1330, 1353-55 (11th Cir. 2011), for the proposition that "[w]here a party does not dispute a claim, such as where the validity of the monetary claim and the amount are admitted, as is evidence[d] in this e-mail, Rule 408, does not bar evidence relating to the concessions or any offer to pay." ECF No. 78 at 3. However, this case is clearly distinguishable from Molinos in that Defendants here dispute the essential nature of the monetary claim, *i.e.*, whether the payment was an investment or a loan.

After review of the e-mail, the Court finds that it does qualify as a settlement offer and that it is not admissible as a concession. Accordingly, Defendants' first Motion in Limine, ECF No. 71, will be granted.

In Defendants' second Motion in Limine, ECF No. 73, they move to exclude all evidence regarding Defendants' finances and current business operations. ECF No. 73. Defendants claim that this evidence is irrelevant and prejudicial. ECF No. 74 at 1. In response to this Motion in Limine, Plaintiff argues that the financial records of Defendants are relevant and probative in that, throughout this dispute, Defendants have repeatedly represented that they would repay Plaintiff upon achieving financial success with the restaurant. Plaintiff further argues that financial records are relevant to establish the corporate structure of the Libra Restaurant Group, LLC, the entity in which Defendants claim Plaintiff invested. The Court agrees that evidence regarding Defendants' finances and current business operations is relevant and that its probative value outweighs its potential for prejudice. Accordingly, Defendants' second Motion in Limine, ECF No. 73, will be denied.

AND NOW, this 19th day of July, 2017, IT IS HEREBY ORDERED that Defendants' Motion in Limine to exclude communications regarding settlement dialogue, ECF No. 71, is

GRANTED and Defendants' Motion in Limine to exclude evidence and argument regarding Defendants' finances and business operations, ECF No. 73, is DENIED.

BY THE COURT:

A handwritten signature in cursive script, reading "Maureen P. Kelly", is written over a horizontal line.

MAUREEN P. KELLY
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: All Counsel of Record via CM-ECF