

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)

vs.)

C.A. No. 09-470-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., HARRISON CONDIT,)
and FORTUNE FINANCIAL SERVICES,)
INC.,)
Defendants;)

TRANSAMERICA LIFE INSURANCE)
COMPANY,)
Plaintiff,)

vs.)

C.A. No. 09-471-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ESTELLA)
RODRIGUES, EDWARD MAGGIACOMO,)
JR., LIFEMARK SECURITIES CORP., and)
PATRICK GARVEY,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)

vs.)

C.A. No. 09-472-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ADM ASSOCIATES,)
LLC, EDWARD HANRAHAN, THE)
LEADERS GROUP, INC., and CHARLES)
BUCKMAN,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)

Plaintiff,)

vs.)

C.A. No. 09-473-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., DK LLC, EDWARD)
HANRAHAN, THE LEADERS GROUP,)
INC., and JASON VEVEIROS,)

Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)

Plaintiff,)

vs.)

C.A. No. 09-502-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., NATCO PRODUCTS)
CORP., EDWARD HANRAHAN, and THE)
LEADERS GROUP, INC.,)

Defendants;)

TRANSAMERICA LIFE INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

C.A. No. 09-549-S

LIFEMARK SECURITIES CORP., JOSEPH)
CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC. and EDWARD)
MAGGIACOMO, JR.,)

Defendants; and)

Plaintiffs respectfully request a hearing on this motion and estimate that such hearing will last thirty minutes.

Respectfully submitted,

/s/ Michael J. Daly

Brooks R. Magratten, Esq., No. 3585

David E. Barry, Esq., *pro hac vice admitted*

Michael J. Daly, Esq. No. 6729

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Dated: December 4, 2010

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FOR THE DISTRICT OF RHODE ISLAND

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vs.)
) C.A. No. 09-470-S
JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., HARRISON CONDIT,)
and FORTUNE FINANCIAL SERVICES,)
INC.,)
Defendants;)

TRANSAMERICA LIFE INSURANCE)
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JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ESTELLA)
RODRIGUES, EDWARD MAGGIACOMO,)
JR., LIFEMARK SECURITIES CORP., and)
PATRICK GARVEY,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
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JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ADM ASSOCIATES,)
LLC, EDWARD HANRAHAN, THE)
LEADERS GROUP, INC., and CHARLES)
BUCKMAN,)
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WESTERN RESERVE LIFE ASSURANCE)
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C.A. No. 09-473-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., DK LLC, EDWARD)
HANRAHAN, THE LEADERS GROUP,)
INC., and JASON VEVEIROS,)

Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)

Plaintiff,)

vs.)

C.A. No. 09-502-S

JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., NATCO PRODUCTS)
CORP., EDWARD HANRAHAN, and THE)
LEADERS GROUP, INC.,)

Defendants;)

TRANSAMERICA LIFE INSURANCE)
COMPANY,)

Plaintiff,)

vs.)

C.A. No. 09-549-S

LIFEMARK SECURITIES CORP., JOSEPH)
CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC. and EDWARD)
MAGGIACOMO, JR.,)

Defendants; and)

WESTERN RESERVE LIFE ASSURANCE)	
CO. OF OHIO,)	
Plaintiff,)	
)	
vs.)	
)	C.A. No. 09-564-S
JOSEPH CARAMADRE, RAYMOUR)	
RADHAKRISHNAN, ESTATE PLANNING)	
RESOURCES, INC., HARRISON CONDIT,)	
and FORTUNE FINANCIAL SERVICES,)	
INC.,)	
Defendants.)	
)	

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’ OMNIBUS MOTION FOR
PROTECTIVE ORDER STRIKING DEFENDANT
ESTATE PLANNING RESOURCES, INC.’S INTERROGATORIES**

Defendant Joseph Caramadre seeks to exploit a perceived loophole in this Court’s Initial Case Management Order (“ICMO”) by having his closely held company, Estate Planning Resources, Inc. (“EPR”), serve interrogatories that he is prohibited from propounding as a condition of his temporary reprieve from participating in full discovery as a result of his acknowledged status as a target of an ongoing federal criminal investigation. Plaintiffs, Transamerica Life Insurance Company (“Transamerica”) and Western Reserve Life Assurance Co. of Ohio (“Western Reserve”) (together “Plaintiffs”), move pursuant to Fed. R. Civ. P. 26 for a protective order striking EPR’s interrogatories served in all seven cases. *See* Exhibit A.¹

BACKGROUND

Although relatively little discovery has been conducted to date, the topic has been the subject of considerable attention in these seven related cases. Even before any parties propounded any formal written discovery, Caramadre and his colleagues, Edward Hanrahan and

¹ Near identical sets of interrogatories were served by EPR in each of the seven above-captioned actions.

Raymour Radhakrishnan (together “Targets”), filed motions to stay all discovery in these civil actions until completion of a parallel federal grand jury criminal investigation.² The Targets also lamented over the myriad investigations that several state and federal agencies had launched against them and Caramadre’s company, EPR, concerning potential violations of federal securities laws, as well as other laws and regulations. *See Consolidated Memorandum of Law in Support of [Targets’] Motion to Stay* (hereafter “Stay Memo”) at p.7.³ The Targets complained that participation in discovery during the criminal and regulatory investigations would be “fundamentally unfair” and impose “onerous practical burdens” on them. *Id.* at 10-12. They also contended that forced participation in discovery would violate their Fifth Amendment rights against self incrimination. *Id.* at 13-15.

Plaintiffs responded to the Targets’ motions by pointing out that their constitutional and other concerns did not necessitate or warrant a stay of discovery.⁴ Nevertheless, Plaintiffs proposed that if the Court were inclined to impose some form of a stay, then a temporary stay that would delay “testimonial discovery” (i.e., depositions, interrogatories and requests for admissions) might be appropriate in order to address the Targets’ concerns regarding protection of their core Fifth Amendment rights.

Ultimately, the Court did not rule on the Targets’ motions. Rather, the Court brokered a discovery agreement between the parties that would carry them through the end of 2010. In the ICMO entered with the consent of the parties on September 10, 2010 (“Order”), the Court specified that the parties could propound requests for document production, but limited other discovery with respect to the Targets. *Id.* at ¶¶ 3 and 4. Specifically, the Court ordered that:

² Motions were filed on June 16, 2010 in all cases.

³ The consolidated memorandum was filed in all cases on June 16, 2010.

⁴ Plaintiffs filed their objections to the motions to stay on July 13, 2010.

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no Target Defendant shall propound interrogatories or requests for admission, or notice any such deposition, nor shall any Target Defendant, whether on his own behalf or on behalf of an organization . . . be required to respond to any such interrogatories or requests for admission, nor be noticed or subpoenaed for any deposition, orally or in writing, until further order of the Court. . . .

Because the ICMO temporarily immunizes the Targets from providing testimony “on behalf of an organization,” Plaintiffs are effectively precluded from seeking testimonial discovery from EPR, and EPR is effectively shielded from providing testimonial discovery, because Caramadre, as the principal and controlling shareholder of EPR, would without doubt seek immediate shelter from such discovery directed to EPR under the above-cited provisions of the ICMO. It was specifically because of the intimate relationship between Caramadre and EPR (and other corporate defendants) that the Targets required that the ICMO provide protection to the Targets from having to provide testimony “on behalf of an organization.”⁵

After taking full advantage of Plaintiff’s good faith willingness and effort to find a middle ground that would accommodate the Targets’ expressed concerns regarding the burdens on and threat to their Constitutional rights posed by any testimonial discovery, and after having induced Plaintiffs to agree to delay “testimonial discovery” of any Targets or organization on whose behalf a Target would normally be expected to testify (*e.g.*, Caramadre on behalf of his company, EPR) in return for the Targets’ agreement to the same limitation, Caramadre had his company, EPR, propound interrogatories to Plaintiffs. *See* Exhibit A. Despite multiple requests that EPR withdraw the interrogatories based on the temporary discovery limitations set forth in

⁵ Plaintiffs are highly confident that if they were to seek testimonial discovery of any kind from EPR, *e.g.*, by way of a Fed. R. Civ. P. 30(b)(6) deposition or interrogatories, such discovery efforts would be met by a swift invocation by EPR of the protections afforded the Targets by the ICMO and an assertion that Caramadre, as the principal and controlling owner of EPR, cannot be required to respond on behalf of EPR.

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the ICMO so as to maintain the fair and equitable balance sought to be accomplished by the parties' negotiation and the ICMO, EPR refused to do so.

ARGUMENT

Rule 26(c) permits the Court to control the exchange of discovery by, among other things, issuing protective orders "forbidding the disclosure or discovery" or "specifying terms, including time and place, for the disclosure or discovery." Consistent with this, Fed. R. Civ. P. 16(c)(2)(F) encourages the Court to enter orders "controlling and scheduling discovery."

EPR is acting in bad faith by propounding interrogatories at this time. The existing limitations on discovery are the product of Plaintiffs' cooperation and willingness to allow Caramadre (and the other Targets) to avoid immediate full blown discovery. Caramadre's and the other Targets' motion for a complete stay of discovery had minimal legal merit at the time it was filed - particularly given the fact that they were not (and still are not) under indictment. *See* Objection to Motion for Stay.⁶ Nevertheless, rather than press their valid and compelling legal arguments in opposition to the Targets' request for a stay, Plaintiffs agreed to a protocol that would effectively limit the discovery that could be sought from, and initiated by, the Targets to document discovery through the end of 2010, with the understanding that discovery issues would be reevaluated at a status conference in January. Because the Targets cannot be compelled to testify "on behalf of any organization," EPR is effectively shielded from further discovery because of Caramadre's status as principal owner of the company. Caramadre and EPR are now attempting to make an end run around the intent and spirit of the parties' negotiation and the

⁶ Plaintiffs filed the Objection in all cases on July 13, 2010.

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Order entered by this Court in order to gain an unfair tactical advantage and conduct one-sided discovery.⁷

Although it is true that the Order does not specifically state that **EPR** cannot propound interrogatories, Plaintiffs respectfully submit that this was undoubtedly the intent and spirit of the fair and balanced arrangement that the Court and the parties contemplated. Corporate technicalities aside, Caramadre and EPR are one in the same. It is patently unfair for Caramadre and EPR to engage in full discovery simply by using this closely held corporate entity as a straw man, while at the same time hiding behind a discovery shield that was intended, at least by the Plaintiffs, as a good faith and mutual compromise.

There is no prejudice to EPR by holding it to the same standards as Caramadre and the other Targets. The Court has not yet established a discovery deadline. In light of the existing restrictions on discovery and amount of work to be done, this case cannot possibly be reached for trial for several months at the earliest. EPR will have plenty of time to propound interrogatories once Caramadre and the other Targets begin to participate fully in the discovery process. In these circumstances, there is no legitimate basis or need for EPR to serve broad and burdensome interrogatories at this time. To allow EPR to do so would be to substantially alter the balance sought to be achieved by the Court and parties by the entry of the ICMO, and to gut the spirit and intent of that Order. If EPR and Caramadre are permitted to make an end run around the limitations on testimonial discovery, then Plaintiffs request that the ICMO be amended to permit Plaintiffs to immediately initiate testimonial discovery directed to EPR, including but not limited to interrogatories, and that EPR and Caramadre not be permitted to hide behind the protections

⁷ Plaintiffs believe that the EPR interrogatories are quite clearly targeted to develop information for use in defense of potential criminal proceedings involving the Targets and that this end gives rise to the Targets' effort to circumvent the equitable discovery balance and limitations established by the ICMO.

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afforded by the ICMO by asserting that responding to such discovery will prejudice the rights of Caramadre or any other Target employed by or associated with EPR.

CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court enter a protective order striking EPR's interrogatories. Alternatively, Plaintiffs request that the Court modify and amend the ICMO to permit full discovery to be directed to EPR so as to maintain the equity and balance sought to be achieved by that Order.

Respectfully submitted,

/s/ Michael J. Daly

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Dated: December 4, 2010

CERTIFICATE OF SERVICE

I certify that the within document was electronically filed with the clerk of the court on December 4, 2010, and that it is available for viewing and downloading from the Court's ECF system. Service by electronic means has been effectuated on all counsel of record.

/s/ Michael J. Daly