

JEFFERY B. RINER, et al.	:	
Plaintiffs,	:	
	:	
v.	:	C.A. No. PC-11-6458*
	:	
COOPER TIRE & RUBBER COMPANY;	:	
TOWN FAIR TIRE CENTERS, INC.; and	:	
TOWN FAIR TIRE CENTERS OF	:	*Consolidated for Pretrial Purposes
RHODE ISLAND, LLC,	:	
Defendants.	:	

DECISION

PROCACCINI, J. Plaintiffs Jeffery B. Riner, Carissa Hagen, Donna J. Gentes, and Francis P. O'Donnell, et als. (Plaintiffs) have brought claims against Defendant, Cooper Tire & Rubber Company (Defendant or Cooper Tire), alleging that a passenger tire manufactured and distributed by Cooper Tire was defectively designed.¹ Plaintiffs contend that they were traveling in a vehicle equipped with the defectively designed tire when the tread of the tire separated, causing the vehicle to roll over. Plaintiffs suffered injuries stemming from the rollover and contend that their injuries are a direct and proximate result of the defective condition of the tire. Plaintiffs argue that Defendant is strictly liable for their injuries and further urge this Court to order compensatory and punitive damages against Defendant for negligence, breach of warranty, and failure to warn.

Currently before the Court is Plaintiffs' renewed motion seeking more responsive answers to Document Request Nos. 59 and 62 in Plaintiffs' First Request for Production of Documents. Pursuant to Super. R. Civ. P. 37, Plaintiffs have requested an order compelling production of all depositions and trial testimony given by Cooper Tire employees in prior cases involving allegedly defective Cooper Tire products. Defendant claims that it is barred from

¹ Plaintiffs' claims were brought separately and consolidated for pretrial purposes.

producing the desired materials due to a Protective Order of Confidentiality (Protective Order) issued by the United States District Court for the Southern District of Texas, Houston Division in Trenado v. Cooper Tire & Rubber Co., Case No. H:08-CV-249 (S.D. Tex.).

Plaintiffs were not parties to the prior proceedings. The sole issue addressed by this Court is whether the above-mentioned Protective Order is binding in the current proceeding.²

I

Standard of Review

The decision to allow or deny discovery is reviewable only for an abuse of discretion, Menard v. Blazar, 669 A.2d 1160, 1161 (R.I. 1996) (quoting Kelvey v. Coughlin, 625 A.2d 775, 776 (R.I. 1993)), and trial justices are to be accorded broad discretion when making rulings related to discovery, Kelvey, 625 A.2d at 776. The Rhode Island Supreme Court has further stated that the Rules of Discovery are meant to be interpreted liberally, so as to clarify the scope of issues to be addressed in litigation and to facilitate effective trial preparation. Bashforth v. Zampini, 576 A.2d 1197, 1201 (R.I. 1990). Finally, “[t]he burden of establishing entitlement to nondisclosure rests on the party resisting discovery.” Moretti v. Lowe, 592 A.2d 855, 857 (R.I. 1991).

² This Decision will not discuss the substance of Plaintiffs’ discovery request, the merits of Defendant’s denial thereof, or the validity of the Protective Order itself. It is worth noting, however, that courts generally show hostility toward protective orders restricting the right of access to existing evidence, see, e.g., Ex parte Upperco, 239 U.S. 435, 440 (1915). However, such orders may be upheld “when justice so requires,” Sanford v. Boston Herald-Traveler Corp., 318 Mass. 156, 158 (1945), such as where the protected documents contain confidential information. See, e.g., In re Caswell’s Request, 18 R.I. 835, 29 A. 259, 259 (R.I. 1893) (stressing that “[t]he judicial records of the state should always be accessible to the people,” but not for improper purposes, such as the sharing of private facts).

II

Analysis

Defendant argues that the Protective Order should be enforced based on the Full Faith and Credit Clause, the principle of comity, and the terms of the Protective Order itself. This Decision addresses each argument in turn, beginning with the Full Faith and Credit Clause argument.

The Full Faith and Credit Clause of the U.S. Constitution provides, in pertinent part, as follows: “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.” U.S. Const. art. IV, § 1. The statute implementing the Full Faith and Credit Clause, 28 U.S.C. § 1738, declares that

“[t]he records and judicial proceedings of any court of any such State, Territory or Possession . . . shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.”

In other words, 28 U.S.C. § 1738 extends the Full Faith and Credit Clause of the U.S. Constitution to all courts, Federal as well as State. Davis v. Davis, 305 U.S. 32, 40 (1938).

In their Supplemental Memorandum in Response to Plaintiffs’ Motion to Compel a Response (Supplemental Memorandum), Defendant contends that a state court is bound by a federal sealing order under the Full Faith and Credit Clause of the U.S. Constitution. (Def.’s Supplemental Mem., June 25, 2015). Thus, if Plaintiffs wish to seek relief from the Protective Order, Defendant argues that they must do so in the court where the Protective Order was issued, *i.e.*, the United States District Court for the Southern District of Texas, Houston Division. *Id.* at 5. In support of their assertion, Defendants cite Pansy v. Borough of Stroudsburg, 23 F.3d 772 (3rd Cir. 1994), as well as several state court cases, requiring state judicial officers to give full

faith and credit to federal court orders and judgments. Id. at 5-6 (citing Anchorage Sch. Dist. v. Anchorage Daily News, 779 P.2d 1191 (Alaska 1989) (discussing a state court’s obligation to follow a federal sealing order)). However, the U.S. Supreme Court has declared that by their terms, both the Full Faith and Credit Clause of the U.S. Constitution and the full faith and credit statute “govern the effects to be given only to state-court judgments (and, in the case of the statute, to judgments by courts of territories and possessions).” Semtek Int’l. Inc. v. Lockheed Martin Corp., 531 U.S. 497, 506-07 (2001). Because the federal sealing order at issue is not a state-court judgment, this Court is not bound by its terms under the Full Faith and Credit Clause of the U.S. Constitution.

The U.S. Supreme Court has indicated in numerous cases that one of the primary purposes of the Full Faith and Credit Clause is to “require the judgments of the courts of one State to be given the same faith and credit in another State as they have by law or usage in the courts of the State rendering them,” such that the judgments themselves operate as res judicata. Morris v. Jones, 329 U.S. 545, 547 (1947). See also id., 329 U.S. at 550-51 (“A judgment of a court having jurisdiction of the parties and of the subject matter operates as res judicata . . . Such a judgment obtained in a sister State is, with exceptions not relevant here, entitled to full faith and credit in another State”); Magnolia Petroleum Co. v. Hunt, 320 U.S. 430, 438 (1943) (“From the beginning this Court has held that [the Full Faith and Credit Clause and the act of Congress implementing it] have made that which has been adjudicated in one state res judicata to the same extent in every other.”). Since res judicata applies only where the party against whom it is being asserted was a party in the prior action, Blonder-Tongue Labs., Inc. v. Univ. of Ill. Found., 402 U.S. 313, 322 (1971), giving effect to the Protective Order at issue here would actually undermine the purposes of the Full Faith and Credit Clause by allowing res judicata to operate

against Plaintiffs, who were not parties to the action wherein the Protective Order itself was entered.

Regarding comity, Defendant quotes Keene Corp. v. Caldwell in its Supplemental Memorandum for the proposition that “it would be ‘wholly improper’ for the state court to ignore the federal order” ordering that transcripts be sealed by the federal court. Def.’s Supplemental Mem. 8, June 25, 2015 (quoting Keene Corp. v. Caldwell, 840 S.W.2d 715, 720 (Tex. App. 1992)). Generally, the principle of comity concerns “[t]he recognition and respect that a court of one state . . . shows to another state . . . in giving effect to the other’s laws and political decisions.” Chambers v. Ormiston, 935 A.2d 956, 972-73 (R.I. 2007) (quoting Black’s Law Dictionary 863 (8th ed. 2004)). Comity is based not on a positive rule of law, but on practicality and regard for the law and sovereignty of foreign states. Id. at 973.

The court in Keene stated that the decision of a state court to disregard a federal sealing order “goes to the very heart of the concept of comity . . . We hold that the principle of comity is applicable here and that deference should be given to the federal protective order.” Keene, 840 S.W.2d at 720. Defendant is correct that, as a general matter, the principle of comity calls upon courts to give effect to foreign judgments and orders, even where doing so is not required. See generally Hilton v. Guyot, 159 U.S. 113 (1895); see also Chambers, 935 A.2d at 972-73. However, the Supreme Court of Rhode Island has indicated that the decision to enforce a foreign judgment based on comity ought to be left to the discretion of the court, guided only by considerations relating to public policy and the interests of the citizens of the forum State. See Olney v. Angell, 5 R.I. 198, 204 (1858); see also Chambers, 935 A.2d at 963 n.14 (referring to comity as “a largely discretionary and somewhat amorphous concept”). Thus, under Rhode Island law, the Court here is bound neither by the principle of comity, nor a decision issued by

the United States District Court for the Southern District of Texas, Houston Division, to enforce the Protective Order at issue.

Finally, Defendant contends in its Supplemental Memorandum that the materials sought remain sealed under a Protective Order entered by United States District Court Judge Sim Lake on October 7, 2010. That Protective Order, according to Defendant, states that “the entire trial transcript is considered Confidential Material subject to the terms and conditions of the Amended Protective Order entered in this case.” (Def.’s Supplemental Mem., June 25, 2015). Therefore, Defendant contends that it is not permitted to disclose the documents Plaintiffs have requested.³

Plaintiffs correctly note in their Supplemental Memorandum Supporting Plaintiffs’ Motion to Compel, however, that the Federal District Court apparently intended to have the Protective Order at issue expire upon conclusion of the appeal of the case in which it was initially entered. The court even went so far as to agree during a hearing that the transcript sought was meant to be sealed on a temporary basis. Trenado v. Cooper Tire & Rubber Co., Civil Action No. H-08-CV 249, Tr. at 11-12, Oct. 1, 2010. Furthermore, and perhaps most importantly, the Order referred to by Defendant states that “the entire trial transcript is considered Confidential Material subject to the terms and conditions of the Amended Protective Order entered in this case.” Order on Pls.’ Mot., Oct. 7, 2010. The Amended Protective Order, filed in federal district court on November 19, 2008, states as follows:

“If any subpoenas, requests for production, or other forms of discovery in connection with other litigation are served on any party to this Protective Order of Confidentiality . . . that party will immediately notify Defendant’s counsel of

³ In fact, on page 5 of its Supplemental Memorandum, Defendant goes one step further, apparently claiming that they have already requested—and been denied—the relief sought by Plaintiffs here.

record . . . If, however, a request for production is served in an unrelated case involving the same defendant(s), no notice is required.

“Nothing contained in this Protective Order of Confidentiality shall preclude the production of documents or other discovery materials from this case in other litigation involving the same Defendant(s) upon proper request in that litigation and subject to that court’s rules and orders on the discoverability of the documents.” Am. Protective Order of Confidentiality at 5 (emphasis added).

This Court finds that the plain language of the Protective Order leads to the conclusion that it was temporary and the protection afforded by that Protective Order did not extend to “other litigation” involving Cooper Tire.⁴

III

Conclusion

Defendant has not satisfied its burden establishing entitlement to non-disclosure of the requested materials. This Court rejects Defendant’s arguments that it is bound by the Full Faith and Credit Clause, the principle of comity, or the terms of the Protective Order itself to enforce the Protective Order at issue. Defendant is ordered to disclose the requested materials within thirty days of the date of this Decision.

⁴ This Court notes that it has already agreed to enter its own Order protecting all confidential material included in the documents sought by Plaintiffs.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASES: O'Donnell v. Cooper Tire & Rubber Co., et al.
Gentes v. Cooper Tire & Rubber Co., et al.
Hagen v. Cooper Tire & Rubber Co., et al.
Riner v. Cooper Tire & Rubber Co., et al.

CASE NOS: PC-10-6221; PC-10-7471; PC-11-4648; PC-11-6458

COURT: Providence County Superior Court

DATE DECISION FILED: October 27, 2015

JUSTICE/MAGISTRATE: Procaccini, J.

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