

AUG 15 2018

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF HAYWOOD

SUPERIOR COURT DIVISION

FILE NO. 18 CVS 116

DEBORAH KING,
Plaintiff,

v.

ORDER: Pro Se Motions and
Protective Order

HAYWOOD REPUBLICAN ALLIANCE,
RICHARD WEST, OWEN DAVIS,
JEREMY CABE, and JOHN DOE,
Defendants.

FILED
2018 AUG -3 AM 10:44
HAYWOOD COUNTY, C.S.C.
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RT

THIS MATTER was heard on June 15, 2018 pursuant to the Notice of Hearing filed by Plaintiff's counsel, Russel McLean. The Notice of Hearing requested that the court hear and consider all pending motions filed by Mr. Cabe, a self-represented litigant, and the Plaintiff's motion seeking entry of a protective order regarding Mr. Cabe's outstanding discovery requests. The plaintiff was present in court represented by Mr. Russell McLean. Mr. Cabe was present appearing *pro se*. Defendants West and Davis were present in court as observers only, but their retained counsel, C. Amanda Martin was not present. The court allowed Mr. Cabe to be heard in support of each of his motions filed of record and then afforded Mr. McLean an opportunity to be heard as well. Based upon a careful review of the court file, consideration of each individual motion, and arguments tendered, the court enters the following ruling as to each pending motion:

- 1) "Motion on Exhibits" - The court believes this is, in essence, a motion to strike exhibits attached to the complaint and has treated it as such. This motion is denied as there is no legal basis to strike the attached exhibits;
- 2) "Motion in Limine #1" - The court again believes that this is a motion to strike the exhibits attached to the complaint and has treated it as such for purposes of the present hearing. To the extent that it is a motion to strike, the same is denied. To the extent the motion seeks a ruling regarding evidentiary and admissibility issues, the court finds that these issues are not yet ripe for determination. These issues are reserved for consideration by the trial judge;
- 3) "Motion in Limine #2" - This motion is treated as a motion to strike and the same is denied;

- 4) "Motion for Specificity" - The court finds that the complaint is sufficient as a notice pleading. Factual development will take place during the discovery process. This motion is denied;
- 5) "Motion to Designate Plaintiff as a Limited Purpose Public Figure" - This motion is not ripe for consideration by the court. Therefore, no ruling is entered;
- 6) "Motion in Limine #3" - The court again treated this as a motion to strike the exhibits attached to the complaint. This motion is denied;
- 7) "Amendment to Answer and Motion to Dismiss" - This motion seeks to incorporate defenses raised by counsel representing co-defendants. This motion is denied, but the court notes that the *pro se* answer already asserted a motion to dismiss and that motion remains before the court;
- 8) "Amendment to Answer and Motion to Dismiss II" - Again, attempts to adopt and incorporate arguments and defenses asserted by Ms. Martin who represents co-defendants. The motion is, therefore, denied;
- 9) "Motion to Make More Definite Statement" - This motion is denied;
- 10) "Motion for Order for Psychiatric Examination" - This motion is denied;
- 11) "Request 'UP' Rules 34 and 26, NC Rules of Civil Procedure" - This motion seeks an order granting Mr. Cabe permission to enter Plaintiff's home and to inspect her personal computer for information possibly relevant to the case. This motion is denied;
- 12) "Motion for Dismissal of Defendant" - Defendant Cabe's answer includes a motion to dismiss. The present motion is duplicative and is stricken;
- 13) "Motion to Strike Application for Preliminary Injunction" - This motion is denied;
- 14) "Motion to Sever 'UP' Article 21, N.C. Rules of Civil Procedure" - This motion does not require a response or action by the court;
- 15) "Motion to Permit Counterclaim 'UP' Rule 12(e), N.C. Rules of Civil Procedure" - This motion is denied;
- 16) "Motion to Add Affidavits to Motion for Psychiatric Exam" - The affidavits referenced were reviewed by the court in ruling upon the motion for psychiatric exam. As set out, this motion requires no ruling by the court;
- 17) "Motion for Sanctions 'UP' Rules 37 and 33 N.C. Rules of Civil Procedure" - This motion is denied. Plaintiff filed a motion for protective order thereby tolling the statutory response time pending ruling by the court on Plaintiff's motion;


- 18) "Motion 'UP' NCRCIVIL Procedure Rule 37(A)2 Failure to Answer Interrogatories" - This motion is denied due to pending motion for protective order;
- 19) "Motion to Strike All of Plaintiff's Requested Protective Order" - This motion is denied;
- 20) "Amendment to Defendant's Motion to Strike Plaintiff's Motion for Protection Order" - This motion is denied;
- 21) "Motion for Sanctions" - This motion is denied. Further, the court reviewed Rule 11 with Defendant Cabe and cautioned him against inappropriate and unfounded use of Rule 11;
- 22) "Motion for Separate Findings of Fact, Injunction Hearing" - The court interprets this motion to be a request that the court enter written findings of fact to support any later order regarding Plaintiff's prayer for injunctive relief. This motion is granted;
- 23) "Defendant Cabe's Objection to Plaintiff's Motion for Protective Order, Motion to Make More Definite and Motion to Dismiss" - As written, this motion requires no response or action by the court;
- 24) "Amendment to Defendant's Counterclaim Against Plaintiff" - This motion is denied;
- 25) "Motion to Dismiss 'UP' NCGS 41(B), Rule 37 and 11" - There is no basis for a dismissal pursuant to Rule 41. Accordingly, this motion is denied. As to Rule 37 and 11, the Plaintiff filed a motion seeking entry of a protective order. This motion is denied;
- 26) "Motion to Apply De Minimis Non Curat Lex" - The court treated this as a motion to dismiss. This motion is denied;
- 27) "Amendment to Motion to Deny Plaintiff's Motion for Preliminary Injunction" - Plaintiff is not proceeding with the motion for preliminary injunction at the present hearing. Therefore, this issue is presently not before the court;
- 28) "Motion to Compel Discovery" - Plaintiff has filed a motion seeking entry of a protective order. As such, the court will enter an order with regard to both the motion to compel and the protective order below;
- 29) The Court has also heard from the parties at the present hearing regarding Plaintiff's motion for a protective order against Defendant Cabe's discovery requests. Specifically, Plaintiff requests that the court enter an order sealing all discovery responses or otherwise entering an order prohibiting Defendant Cabe from sharing the discovery responses received. In support of the motion, Mr. McLean alleges that certain persons have repeatedly published information

regarding the action on the internet. Mr. McLean alleges that this subjects the Plaintiff to harassment and ridicule;

30) The court finds that the protective order requested by Plaintiff is too broad and restrictive in scope. This is particularly true since the action names "John Doe" as a Defendant and Plaintiff's counsel stated in open court that he had identified this person or persons and that he intended to amend his lawsuit to specifically name and add this person or persons. The court does, however, acknowledge that based upon the multitude of motions filed by Defendant Cabe, a self-represented litigant, oversight of any alleged discovery violations to include baseless or abusive inquiries is necessary;

31) As to the Motion for Protective Order, the court denies the request that all discovery responses be placed under seal. The court does, however, order that any specific discovery requests that Plaintiff's counsel believes is baseless, abusive or requires answers that involve highly sensitive or personal information for which there is an overriding privacy interest be brought to the attention of the then presiding superior court judge for review by motion. This motion for review shall be presented to the presiding judge by motion and shall be at the first available civil session of Haywood County Superior Court. The presiding judge shall then have opportunity to review the query or response set out in the motion and rule as to the specific discovery issue. Except for queries or responses to be reviewed by motion as set out above, the Plaintiff is ordered to fully comply with all outstanding discovery within ten (10) business days of recordation of this written order with the Haywood County Clerk of Superior Court.

This the 12 day of July 2018.



R. Greg Horne, Judge Presiding