

IN THE UNITED STATES DISTRICT COURT
IN THE WESTERN DISTRICT OF MICHIGAN

RAYMOND E. BUTLER, II,

Plaintiff,

v.

Case No. 24-cv-00134

Hon. Paul L. Maloney

Magistrate Judge Maarten Vermaat

ELI JACKFINN EDDI a/k/a ELY EDDI, ILANA FINN EDDI, DORINE
MAGENCE, MANUEL MAGENCE, JEFFREY K. GUTMAN,
NACHSHON DRAIMAN, WILLIAM KANTER, JOEL S. ROTHMAN,
MOSHE SOLOVEICHIK, ALAN GREEN, JERRY CHERNEY, SHMUEL
FUERST, HAROLD KATZ, SAMUEL MASLATON, DANIEL BERGMAN,
IRVING BIRNBAUM, ARON STANTON, CHAIM RAJCHENBACH, RIVKA
RAJCHENBACH, AVRUM RAJCHENBACH, MENACHEM SHABAT, AHUVA
SHABAT, RONALD SHABAT, ERIC ROTHNER, COLMAN GINSPARG,
JAMES MAINZER, MARSHALL K. BROWN, JEFFREY FINN, MEIR "AARON"
COHEN, GARRY CHANKIN, NANCY ROSEN, MARK ANTEBI, BARRY
ANTEBI, DAVID R. RAANAN, and ELLIOT E. ANTEBEI.

Defendants.

PLAINTIFF'S OBJECTION TO ECF 101

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I. INTRODUCTION

Plaintiff Raymond E. Butler, II, respectfully objects to ECF 101, which improperly extends the stay indefinitely and imposes an overbroad and unconstitutional protective order that violates Plaintiff's First Amendment rights and fundamental due process. This Honorable Court previously ruled that the stay would remain only until resolution of the summary judgment motion in the Illinois case. (See ECF 87, FN2, PageID.990.)

¹ To clarify, the court intended to affirm that the stay would remain through the resolution of the pending summary judgment motion in the state court case.

That pending Summary Judgment motion has since been denied, eliminating the express basis for the stay. (PageID 1092-1093). Despite no party formally moving to extend the stay, this Honorable Court *sua sponte* extended it in ECF 101 until the entire Illinois litigation concludes—an indefinite and improper delay that violates Plaintiff's constitutional rights and severely prejudices his ability to prosecute this case.

This objection is being timely filed within the fourteen (14) days indicated in this Honorable Court's February 13, 2025 Order (ECF 104, PageID.1126). Plaintiff asserts that ECF 101 must be vacated, the stay lifted, and the protective order dissolved, as it constitutes an unjustified restraint on Plaintiff's ability to litigate and communicate with witnesses, including

family members and an FBI agent investigating relevant issues in this RICO case on behalf of the federal government.

II. LAW & ARGUMENT

a. THE COURT'S SUA SPONTE EXTENSION OF THE STAY WAS IMPROPER.

i. The Stay Was Limited to the Illinois Summary Judgment Motion and Should Have Ended.

In ECF 87, FN2 (PageID.990), this Honorable Court explicitly stated that the stay would remain in place only until resolution of the summary judgment motion in the Illinois case. That motion has now been denied. (PageID 1092-1093). Under this Honorable Court's prior ruling, the stay should have automatically terminated.

By extending the stay, via ECF 101, beyond its original express justification and without a motion from Defendants, ECF 101 was an improper *sua sponte* action that goes beyond discretion. Established precedent dictates that indefinite stays require clear justification, particularly when they significantly burden one party while benefiting another. See *Landis v. N. Am. Co.*, 299 U.S. 248 (1936); *Ohio Envtl. Council v. U.S. Dist. Ct., S. Dist. of Ohio, E. Div.*, 565 F.2d 393 (6th Cir. 1977)(holding that stays must have a clear endpoint and cannot be indefinite).

ii. *Sua Sponte* Stay Extensions Without Party Briefing or Justification Must Be Reexamined.

A court cannot extend a stay without proper procedural safeguards. In *Grant v. Houser*, the district court, in reviewing authority from the U.S. Supreme Court, noted that while courts have the inherent authority to manage their dockets, stay extensions must be exercised with care to avoid procedural unfairness. “Only where there is something close to genuine necessity should a district court grant a discretionary stay based on its inherent power to do so and only to the extent that other litigants are not unduly prejudiced.” *Grant v. Houser*, 799 F. Supp. 2d 673, 675 (E.D. La. 2011)(cleaned up); *Moses H. Cone Mem’l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, (1983).

Here, ECF 101 extended the stay without any motion, briefing, or party-requested justification. No factual findings following any evidentiary hearings were provided to explain why a stay beyond the summary judgment ruling is necessary. The lack of a formal motion by Defendants further underscores the premature nature of the extension of the stay, as *sua sponte* stays must point to “exceptional circumstances,”¹ which were not demonstrated here.

¹ See *Moses H. Cone Meml. Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 19 (1983)(“In this case, the relevant standard is *Colorado River*’s exceptional-circumstances test, as elucidated by the factors discussed in that case. As we shall now explain, we agree with the Court of Appeals that the District Court in this case abused its discretion in granting the stay.”); *Colorado*

b. THE PROTECTIVE ORDER IN ECF 101 IS UNCONSTITUTIONAL AND OVERBROAD.

i. The Protective Order Violates Plaintiff's First Amendment Rights

The protective order imposed in ECF 101 is an unconstitutional prior restraint on Plaintiff's speech. Courts have consistently held that indefinite or overly broad restrictions on speech must pass strict scrutiny. See *Carroll v. Pres. and Com'rs of Princess Anne*, 393 U.S. 175 (1968)(Holding that an ex parte injunction restricting speech without proper procedural safeguards violates the First Amendment); *Procter & Gamble Co. v. Bankers Tr. Co.*, 78 F.3d 219, 221 (6th Cir. 1996)(holding that prior restraints on speech require a compelling justification and must be narrowly tailored); *Madsen v. Women's Health Center, Inc.*, 512 U.S. 753 (1994) (protective orders that restrict speech must be supported by a compelling government interest and the *least restrictive means available*).

Here, ECF 101 imposes an indefinite restriction on Plaintiff's ability to communicate with potential witnesses, family members, and even an FBI agent who had contacted the undersigned about the case.² Such an

River Water Conservation Dist. v. U. S., 424 U.S. 800, 816 (1976)(“the mere potential for conflict in the results of adjudications, does not, without more, warrant staying exercise of federal jurisdiction”).

² Who mentioned that he did not believe Plaintiff was in violation of federal law related to relevant communications at bar.

indefinite restraint on speech is unconstitutional and cannot withstand strict scrutiny.

ii. The Protective Order Unfairly Restricts Plaintiff While Imposing No Restrictions on Defendants.

While Plaintiff is completely barred from speaking to potential witnesses, Defendants face no similar restriction—despite verified allegations of fraud, racketeering, and prior misconduct topically outlined in Plaintiff’s operative complaint. (FNs 1-4, PageID.657, PageID.659; §VII. COLLATERAL LEGAL MATTERS, PageID.673-678). This one-sided order places Plaintiff at a severe disadvantage and violates his due process rights. Courts have long held that protective orders must be narrowly drawn and justified by a specific showing of need. See *Intl. Union v. Garner*, 102 F.R.D. 108 (M.D. Tenn. 1984)(holding that protective orders must be supported by specific findings of harm and cannot broadly prohibit speech or witness communication). Plaintiff contends that ECF 101 is unfairly restrictive when considering the wide body of caselaw supporting First Amendment rights. Moreover, this Honorable Court acknowledged that Defendants were seeking a personal protective order, specifically stating, “[i]n sum, what Defendants seek here is akin to a personal protective order rather than a discovery protective order.” PageID.1111. Plaintiff’s position that a PPO proceeding would be a more appropriate forum for this attempt to restrict

Plaintiff's speech so the parties can fully be heard on the merits prior to such a harsh restriction being considered by a judicial body.

iii. The Protective Order Interferes With Plaintiff's Ability to Investigate His Case.

The protective order does not just prevent Plaintiff from discussing case-related matters—it can be read to completely bar him from communicating with certain potential witnesses and even his own family members about unrelated topics. The scope and effects of this ECF 101 are far too broad.

Plaintiff contends that such a broad restriction is overly oppressive. It is well-held law that blanket prohibitions on witness communications violate due process and fundamental fairness principles. See *Gulf Oil Co. v. Bernard*, 452 U.S. 89 (1981)(holding that restrictions on communication with potential witnesses must be justified by a clear record of necessity and specific findings, reversing District Court Order limiting speech).

ECF 101's protective order thus severely hampers Plaintiff's ability to investigate and prepare his case, violating his fundamental rights to a fair proceeding. Even more, it may have even further unintended implications for him as an ordinary citizen, beyond his legitimate goals in pursuing this litigation.

c. DEFENDANTS WITH TRUSTEE STATUS HAVE A FIDUCIARY DUTY TO RESPOND TO PLAINTIFF'S INQUIRIES.

Several Defendants in this matter, particularly those with trustee status or control over any trusts that rightfully belong to Plaintiff, owe a *fiduciary duty*³ to Plaintiff as the beneficiary. A protective order that shields these Defendants from being required to lawfully respond to inquiries from Plaintiff as the trust beneficiary is improper and unjust.

Under well-established trust law, trustees have an affirmative duty to provide beneficiaries with information regarding the trust's administration, assets, and relevant transactions. Courts have repeatedly recognized that fiduciaries cannot use legal mechanisms, including protective orders, to evade their responsibilities or obstruct beneficiaries from exercising their legal rights. *Osborn v. Griffin*, 50 F. Supp. 3d 772 (E.D. Ky. 2014), *aff'd*, 865 F.3d 417 (6th Cir. 2017)(holding that in RICO matter, trustees have a specific duty, inherent to the trust relationship, to provide information relating to the trust to beneficiaries, including contingent beneficiaries); *U.S. v. Jicarilla Apache Nation*, 564 U.S. 162 (2011)(recognizing that trustees must provide beneficiaries with trust-related information and that disclosure obligations supersede trustee confidentiality concerns); *Krohn v.*

³ See e.g. PageID. 690-692 (Plaintiff's operative and verified Claim for Breach of Fiduciary Duty)

Huron Memorial Hosp., 173 F.3d 542 (6th Cir. 1999) (affirming that trustees have both a negative duty not to misinform and an affirmative duty to provide necessary information to beneficiaries); Restatement (Second) of Trusts § 173 (stating that a trustee has a duty to communicate material facts affecting a beneficiary's interest, especially those necessary for protection in dealings with third parties).

Fiduciaries must act in the best interests of their beneficiaries and cannot use procedural mechanisms to shield themselves from their legal obligations. See e.g. *Varsity Corp. v. Howe*, 516 U.S. 489 (1996)(holding that fiduciaries must discharge their duties solely in the interest of beneficiaries and cannot engage in actions that deceive or disadvantage them).

Here, the protective order imposed in ECF 101 improperly prevents Plaintiff from obtaining necessary and rightful information from Defendants who owe him fiduciary duties. Shielding Defendants from their obligations under trust law not only prejudices Plaintiff but also constitutes a misuse of judicial discretion to impede a beneficiary's rights.

III. CONCLUSION

As indicated by the U.S. Supreme Court, “each passing day may constitute a separate and cognizable infringement of the First Amendment.” *Nebraska Press Ass'n v. Stuart*, 423 U.S. 1327, 1329 (1975). Defendants’

promotion of the improper restrictions on Plaintiff's speech must be remedied, as well as the *sua sponte* extension of the stay.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

1. Vacate ECF 101's *sua sponte* stay extension as improper and procedurally invalid;
2. Lift the stay as its original justification (Illinois summary judgment motion) no longer exists;
3. Dissolve the protective order as an unconstitutional restriction on Plaintiff's First Amendment rights; and
4. Grant any other relief this Court deems equitable and appropriate.

Respectfully Submitted,

THE MICHIGAN LAW FIRM, PC

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Dated: February 26, 2025

CERTIFICATE OF COMPLIANCE WITH LCIVR 7.3(b)(i)

The undersigned hereby certifies that the number of words in the foregoing document is 1,836 words having been generated by Microsoft Word version 2407(Build 17830.20166).

/s/ Racine M. Miller
Racine M. Miller

CERTIFICATE OF SERVICE

The undersigned certifies that on 2.26.25 the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings.

By Overnight Courier Fax E-mailed
 Hand Delivered U.S. Mail E-filed
 Certified Mail Scanned Other

Signature: /s/ Josh Freedman