

VERMONT SUPERIOR COURT
Orleans Unit
247 Main Street
Newport VT 05855
802-334-3305
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 145-8-20 Oscv

Buik vs. Tyrell et al

DECISION ON MOTION

RULINGS ON PENDING MOTIONS

#8 – Defendant Nolan’s Motion for Summary Judgment, filed June 18, 2021

After studying the respective statements related to whether or not there are disputes of material fact and after reviewing the attorneys’ memos, the court concludes that there are disputes of material fact that preclude summary judgment. Specifically: whether the surveillance that occurs as a result of the surveillance camera constitutes a trespass on to Mr. Buik’s property, and if so, whether Mr. Nolan’s actions were undertaken on his own or as an agent of Ms. Tyrell. In addition, there appears to be a dispute of fact as to whose property the security surveillance warning sign is on, and the issue of whether the posting was Mr. Nolan’s independent act or whether it was done as agent of Ms. Tyrell. These issues require both factfinding and legal memoranda with respect to the use of security cameras and the law of trespass. The motion is *denied*.

#9 – Plaintiff’s Motion for a Protective Order, filed July 15, 2021

The motion is granted in part and denied in part.

This motion is *granted* to preclude Defendants from seeking third party discovery from North Country Federal Credit Union and US Foods.

Defendants have not sufficiently explained a valid basis for discovery of the NCFCU loan file given that:

- (a) they have apparently already received most of the information related to the property from that file,
- (b) they can simply identify and request any additional requested documents from Plaintiff, who would be obliged to obtain and provide it himself without the disclosure of personal financial information in the loan file that is irrelevant to this lawsuit, and
- (c) the loan file is likely to contain personal financial information that would be invasive and is not pertinent to the issues in this suit.

Defendants have not sufficiently explained how the discovery of emails directly from US Foods meets the discovery standard in relation to the issues in this case. The explanation is highly generalized, and does not justify intrusion into Plaintiff’s relationship with his employer.

The motion is *denied* with respect to discovery from Ms. Littlefield. She appears to have been very much involved in the issues related to the causes of action in both the complaint and counterclaim. Defendants may seek third party discovery, including a deposition, from her.

#10 – Plaintiff's Motion to Compel Answers to Interrogatories, filed July 15, 2021

The motion is *denied*. The court has reviewed each of the interrogatories. It is not self evident that the questions posed seek information that meets the discovery standard set forth in Rule 26 (b) of the Vermont Rules of Civil Procedure, i.e., material that is “relevant to any party’s claim or defense and proportional to the needs of the case.” Neither relevance nor proportionality have been sufficiently supported.

#11 – Plaintiff's Motion to Quash the Subpoena to NCFCU, filed August 18, 2021

The motion is *granted*. See explanation above related to Motion #9.

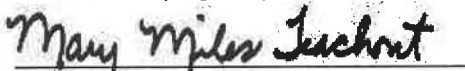
#12 – Defendants' Motion to Extend Discovery and Strike Responses to Interrogatories and Requests to Produce, filed August 31, 2021

The Motion to Strike is *denied*. The court is satisfied with Attorney Adler’s response on this issue.

With respect to the request to Extend the Discovery Schedule, it is apparent that this is a reasonable request given that the schedule is affected by the timing of these rulings, that it appears that some discovery remains to be done, that the parties will be required to go to mediation before a trial will be scheduled, and that—unfortunately—the Delta variant of Covid has extended the period during which the court is not able to provide jury trials. However, the schedule proposed by Attorney Illuzzi as an attachment to the motion is too prolonged.

The attorneys shall confer and seek to stipulate to an updated pretrial schedule, and file it with the court by November 3, 2021. If there is no agreement, each attorney may submit a proposal and the court will evaluate the respective proposals and issue an order.

Electronically signed pursuant to V.R.E.F. 9(d) on October 20, 2021 at 11:35 AM.


Mary Miles Teachout
Superior Court Judge