

Breest v Haggis

2023 NY Slip Op 33439(U)

October 3, 2023

Supreme Court, New York County

Docket Number: Index No. 161137/2017

Judge: Sabrina Kraus

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
 NEW YORK COUNTY**

PRESENT: HON. SABRINA KRAUS PART 57TR

Justice

-----X INDEX NO. 161137/2017

HALEIGH BREEST,

Plaintiff,

MOTION DATE 09/29/2023,
11/06/2023

- v -

MOTION SEQ. NO. 040 041

PAUL HAGGIS,

Defendant.

**DECISION + ORDER ON
 MOTION**

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 040) 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180

were read on this motion to/for QUASH SUBPOENA, FIX CONDITIONS

The following e-filed documents, listed by NYSCEF document number (Motion 041) 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229

were read on this motion to/for QUASH SUBPOENA, FIX CONDITIONS

BACKGROUND

On November 10, 2022, a jury awarded Plaintiff Haleigh Breest \$7.5 million dollars in compensatory damages plus \$2.5 million dollars in punitive damages. In addition, on March 8, 2023, the court awarded Plaintiff \$2,848,366.00 in attorneys' fees. Judgments in favor of Plaintiff as against Defendant were entered on January 4, 2023, in the principal amount of \$10,000,000.00; and on April 3, 2023, in the principal amount of \$2,848,366.00.

In an effort to identify funds that would satisfy the judgment, Plaintiff subpoenaed Chase Manhattan Bank and Charles Schwab accounts of Deborah Rennard, Defendant's ex-wife. During the trial Ms. Rennard testified about the close relationship she maintains with Defendant, despite their divorce, as well as some financial transactions that took place between the two.

Specifically, Ms. Rennard testified that Defendant would transfer money into her account for the purpose of her withdrawing the same funds and providing him the cash.

PENDING MOTIONS

On July 31, 2023, Ms. Rennard moved to quash or limit the subpoena served on Charles Schwab & Co.

On August 22, 2023, Ms. Rennard moved to quash or limit the subpoena served on JP Morgan Chase Bank, NA.

On September 27, 2023, the motions were fully submitted, and the court heard oral argument.

DISCUSSION

A court may quash, modify or fix conditions related to a subpoena (CPLR § 2304), and such an application should be granted “only where the futility of the process to uncover anything legitimate is inevitable or obvious . . . or where the information sought is utterly irrelevant to any proper inquiry.” (*Kapon v Koch*, 23 NY3d 32, 38 [2014]). Motions to quash under CPLR §2304 are often accompanied by motions for a protective order under CPLR § 3103(a).

CPLR § 3103(a) provides that a protective order may be issued to prevent “unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts.” In determining whether a protective order should be issued, the general preference for allowing discovery must be balanced against the objecting party's prerogative to be free of unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice (CPLR 3103[a]; see, *Cynthia B. v. New Rochelle Hosp. Med. Ctr.*, 60 N.Y.2d 452 [1983]). Further, CPLR 3103 (a) was amended in 2013 to allow any party or any person “about whom discovery is sought” to move for a protective order.

In the instant action, the subpoenas issued to JP Morgan Chase and Charles Schwab seek identical information. Specifically, the subpoenas request,

Documents in your possession, custody or control concerning all former and present accounts in the name of Deborah K. Rennard a/k/a Deborah Haggis or accounts for which she is a signatory and/or in which she has an interest (whether direct or indirect)- This request includes, without limitation, statements, checks, payments, transaction history, correspondence, and requests for withdrawals or transfer of monies.

Ms. Rennard argues that records “in which she is a beneficiary (as opposed to the Judgment Debtor) are not ‘relevant to the satisfaction of the judgment’ and therefore beyond the scope of disclosure permitted under CPLR 5223.” Rennard relies on the court’s reasoning in *Spruce Interiors LLC v. BH 25 Pierrepont LLC*, 67 Misc.3d 1209(A), 126 N.Y.S.3d 849, 2020 N.Y. Slip Op. 5079(u) at *1 (N.Y. Sup. Ct. Apr. 6, 2020) (Lebovitz, J.), wherein the court said, “a post-judgment enforcement subpoena may seek only information related to the judgment debtor’s assets and may not subpoena nonparties’ financial information merely because those nonparties are closely tied or related to the judgment debtor.”

In opposition, Plaintiff argues that it is well documented that Ms. Rennard has regularly received funds from Defendant —whether as spousal support through 2019 or through Ms. Rennard’s history of a post-divorce, close financial relationship with Mr. Haggis, along with financial maneuvering to protect him. Plaintiff also cites to *Spruce*, where the court continued on and said, “By the same token ... that the financial records sought are those of nonparties does not itself render a subpoena irrelevant if a basis exists to believe that the financial records contain information relating to the assets of the judgment debtor.”

The court agrees that Plaintiff has established a basis to believe that Ms. Rennard’s financial records may contain information relating to the assets of Defendant. However, the court

does not believe that complete and unfettered access to the records of nonparty should be allowed. Therefore, Ms. Rennard's motion to quash is granted to the extent of directing JP Morgan Chase, NA and Charles Schwab to produce the information as requested, however any transaction information other than that pertaining to Defendant Paul Haggis, should be redacted.

WHEREFORE it is hereby:

ORDERED that the motion of Deborah Rennard to quash the subpoena served on Charles Schwab & Co. and JP Morgan Chase Bank, NA, is granted to the extent provided above; and it is further

ORDERED that the items sought shall be produced within 20 days from service of a copy of this order with notice of entry; and it is further

ORDERED that, within 20 days from entry of this order, movant shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (60 Centre Street, Room 119); and it is further

ORDERED that such service upon the Clerk shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the "E-Filing" page on the court's website at the address www.nycourts.gov/supctmanh); and it is further

ORDERED that any relief not expressly addressed has nonetheless been considered and is hereby denied.

This constitutes the decision and order of this court.



10/3/2023
DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

DENIED

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: