

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
Ikram Ullah Khan et al.,)
)
Plaintiffs,)
)
v.)
)
Mustapha Saoui et al.,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

Civil Action No.:2022-CP-29-01637

ORDER

This Court is a Court of law, and the Court must follow well established legal precedent to not invade the parties’ rights under the First Amendment to the US Constitution. While the **Plaintiffs argue the case is more secular in nature, the Defendants disagree and the issues which have been before the Court several times already appear to be intermingled with religious practices and activities that the Court cannot and will not wade into.** The Court recognizes the significance of the parties’ religious beliefs, and is hesitant to infringe upon those rights.

This matter is currently before the Court for an expedited hearing on Defendants’ Motion for a Temporary Restraining order or Preliminary Injunction, as well as a Motion to Compel discovery. The parties presented oral arguments before the court on March 18, 2024. After hearing the arguments of counsel, reviewing the documents submitted, and considering applicable law, the Court respectfully DENIES both the Defendants’ Motion for a TRO or Preliminary Injunction and Motion to Compel for the reasons set forth in more detail below.

PROCEDURAL HISTORY

The Court previously heard and denied a motion for a preliminary injunction in January of 2023, and then subsequently heard and denied competing motions to dismiss by order entered on April 27th, 2023. The Court further ordered and encouraged mediation within 90 days based on the

nature of this matter. At the commencement of the hearing on March 18, 2024, the Court inquired as to why mediation had not occurred being that it had been almost a year since the last time the parties were in court. Mr. Matthews, attorney for the defendants, stated that mediation would be futile and would not resolve anything. The Court is now placed in a position where the parties are both seeking relief that this Court is hesitant to order considering the significance and importance of the religious issues intermingled with various secular claims.

MOTIONS BEFORE THE COURT

On the issue of the motion to compel, having reviewed the record deliberately and after carefully listening to the arguments presented the court respectfully DENIES the motion. The Court finds that the Plaintiff's discovery responses were reasonable and adequate in light of the information requested, especially considering the subject matter of the claims in this lawsuit.

As to the issue of the TRO or preliminary injunction, the purpose of a preliminary injunction is to have the Court issue an Order preserving the "status quo" in an underlying dispute. The parties in the present case cannot even agree as to what the "status quo" means in this ongoing dispute without this Court intervening, judging and ordering religious customs and practices it knows nothing about. The Court is not going to do that. For a party to prevail in an action for a TRO or preliminary injunction the party must prove; 1) a substantial likelihood of success on the merits; 2) irreparable harm; **AND** 3) no other adequate remedy at law. The Defendants have failed to make the required showing for a TRO or preliminary injunction:

I. Substantial Likelihood of Success on the Merits

First, the Defendants have failed to make a showing of a substantial likelihood on the merits. A party seeking an injunction needs to show that they are likely to win their case. This cannot be shown here because the Court is without jurisdiction to intervene in these religious affairs

complained about.

II. Irreparable Harm

Second, the Defendants have failed to show irreparable harm. Irreparable harm consists of an injury that cannot be remedied by money damages or an eventual judgment on the merits. In making this decision, the Court is aware that while acrimonious at times, the parties have continued to coexist for over a year since the initial request for a preliminary injunction was denied, and, on their own accord, came to an agreement as to the times the parties could use the property as referenced by a document entitled “Community Update” effective immediately on March 10, 2024 for Ramadan. Evidence was also introduced that the parties have agreed to coexist beyond this hearing. The Court fails to see the urgency of this request and defers to the parties and the tenets of their religion to judge themselves.

III. No other Adequate Remedy at Law

While this Court may not be able to provide an adequate remedy due to the nature of the claims and issues presented, nothing prevents these parties from engaging in alternative dispute resolution with an arbiter or mediator familiar with the customs and practices of their religion. These parties are best served by submitting this dispute to the Assembly of Muslim Jurists of America (AMJA), described more fully below. Therefore, there is another adequate remedy at law.

STAY

During arguments the parties averred that they would be open to the Court staying this matter to allow them to pursue arbitration. After a lengthy recess to allow the attorneys to speak with their respective clients about resolving the issues, the attorneys announced that the parties had agreed to stay this case and refer this dispute to the AMJA. The parties further agreed to the scope of specific issues to be arbitrated, as announced into the record during the hearing, and as reflected

in a draft order emailed to the Court. When subsequently announcing the agreement into the record as to what “status quo” means, there was disagreement with traffic flow and parking concerns which occur between services, so the Plaintiffs changed their minds from the AMJA as arbiter to wanting the American Arbitration Association as arbiter. The Court finds that the issues presented in this case are so intertwined with religious practices and customs that the parties would be best served by arbitration with the AMJA.

CONCLUSION

As is more detailed above, the Court respectfully DENIES the motion to compel and DENIES the request for preliminary injunction.

This case is STAYED while the parties arbitrate their issues with the Assembly of Muslim Jurists of America.

IT IS SO ORDERED.

March __, 2024

Brian M. Gibbons
Circuit Judge



Lancaster Common Pleas

Case Caption: Ikram Ullah Khan Et Al. VS Mustapha Saoui Et Al.

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So Ordered

s/Brian M. Gibbons #2168 Circuit Judge