


ORDERED.

Dated: June 26, 2019



Jerry A. Funk
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

IN RE:

THE CHARLES F. HAMBLÉN POST 37 AMERICAN
LEGION DEPARTMENT OF FLORIDA, INC.

Chapter 11
Case No. 3: 19-bk-1563-JAF

Debtor.

ORDER ON DEBTOR'S MOTION FOR PROTECTIVE ORDER

This case is before the Court on the Motion for Protective Order (the "Discovery Motion") filed by Debtor THE CHARLES F. HAMBLÉN POST 37 AMERICAN LEGION DEPARTMENT OF FLORIDA, INC. ("Debtor"). (Doc. 45). This is a discovery dispute involving a deposition in the contested matter concerning Debtor's Motion to Assume Unexpired Lease (the "Contested Matter"). (Doc. 8).

Background

Debtor is a non-profit corporation and "Post"¹ of the American Legion, which is an American war-veteran organization chartered by Congress in 1919. Through the Contested

¹ A Post is the base organizational unit within the American Legion organizational hierarchy.

Matter, Debtor seeks to assume a lease between it and creditor The Charles F. Hamblen Club, Inc. (the “Hamblen Club”). The Hamblen Club is the owner of the Hamblen House, which is the premises from which Debtor operates. Debtor alleges the Hamblen Club conspired with Debtor’s “commander” (or chief executive) to terminate the lease between it and the Hamblen Club so that the Hamblen Club may bring in a new tenant and increase its rental income from \$1.00 per year to \$270,000.00 per year.² Debtor alleges the termination of the lease, by its commander, is a legal nullity for several reasons. Among other reasons, Debtor alleges its commander did not have corporate authority to terminate the lease, the lease itself does not authorize this termination, and the recorded deed to the Hamblen House effectively disallows this termination.

In the Contested Matter, the Hamblen Club noticed a deposition of Debtor. In accordance with Federal Rule of Civil Procedure 30(b)(6), Hamblen Club’s notice of deposition described various matters for examination, including one subject area identified as follows: “The American Legion Department of Florida, Inc. authority to act on behalf of Post 37.” (Doc. 45 at 15). The Court notes that Debtor and The American Legion Department of Florida, Inc. (hereinafter, the “Florida Legion Department”) appear to be distinct corporations under Florida law and distinct units within the American Legion organizational hierarchy—even though Debtor’s corporate name contains, within it, the Florida Legion Department’s full corporate name.

In the Discovery Motion, Debtor argues that Florida Legion Department’s authority to act on Debtor’s behalf is outside the scope of discovery because the triable issues concern “only the termination and abandonment of the lease itself.” (Doc. 45 at 2). Hamblen Club has not filed a response. Trial is set for July 12, 2019, eighteen days from the filing of the Discovery Motion.

² “[T]he Hamblen Club leveraged the position of Ms. Loretta Lombard’s [i.e., the president of Hamblen Club] position on the Executive Board of Post 37 [i.e., Debtor] to carry out a series of actions aimed at creating enough internal turmoil and financial distress for the Debtor that it would be nearly impossible for it to continue operations at the Hamblen House, thereby forcing it to leave.” (Doc. 45 at 3-4).

Analysis

Unless otherwise limited by court order, the scope of discovery is as follows:

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

Fed. R. Civ. P. 26(b)(1); see also 8 Fed. Prac. & Proc. Civ. § 2008 (3d ed.) ("Indeed, in many cases the issues will not be clearly defined at the time discovery is sought, and one of the purposes of discovery is to identify and narrow the issues."). Although the scope of discovery is broad, "the discovery rules do not permit the [parties] to go on a fishing expedition." Porter v. Ray, 461 F.3d 1315, 1324 (11th Cir. 2006).

Here, the question is whether the authority of the state-level unit to act on behalf of the lower-level unit (i.e., Debtor) is a subject matter sufficiently relevant to be discoverable. While the Post commander's authority is certainly relevant, it does not appear the state-level unit's authority is at issue in this Contested Matter. However, if the Florida Legion Department's authority becomes sufficiently relevant and otherwise discoverable in a later contested matter (Doc. 46), Hamblen Club may seek to pursue that line of inquiry in that contested matter and its discoverability may be litigated at that time. The present discovery, however, shall be tailored to the issues triable in the instant Contested Matter concerning Debtor's motion to assume. (Doc. 8).

Accordingly, it is hereby ORDERED that Debtor's motion for protective order (Doc. 45) is GRANTED. Hamblen Club may not inquire about the Florida Legion Department's authority to act on behalf of Debtor, in the present discovery related to the instant Contested Matter.