

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

PREMIERE PROPERTY SERVICES, INC.,

Plaintiff,

Case No. 18-04204-CBB

vs.

HON. CHRISTOPHER P. YATES

MATTHEW CRATER; FRESH OUTLOOK
PAINTING LLC; and BETTER BRUSH
PAINTING LLC,

Defendants,

TRUE NORTH PAINTING, INC.,

Garnishee Defendant.

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ORDER DENYING PLAINTIFF'S MOTIONS FOR RECONSIDERATION

This rolling catastrophe of a case has reached the post-judgment collection phase *via* a very strange route. The defendants at first approached the case by contesting everything, but eventually they gave up and left the battlefield, prompting the Court to conduct a one-sided jury trial where the jury returned a sizable verdict in favor of Plaintiff Premiere Property Services, Inc. (“Premiere”) and against the defendants. On February 21, 2019, the Court entered judgment in favor of Premiere and against all three of the defendants for hundreds of thousands of dollars. That judgment launched a thousand garnishments, including an effort directed at True North Painting, Inc. (“True North”). In spite of True North’s compliance with its legal obligations, Premiere came after True North with all guns blazing. What ensued was a hearing on July 19, 2019, on Premiere’s “Motion for Turnover of Funds and/or for Discovery,” which the Court denied, and on True North’s “Motion for Protective Order,” which the Court granted. Premiere has moved for reconsideration of those two rulings.

A motion for reconsideration under MCR 2.119(F) permits relief only if the moving party “demonstrate[s] a palpable error by which the court and the parties have been misled and show[s] that a different disposition of the motion must result from correction of the error.” To be sure, courts may “revisit issues they previously decided, even if presented with a motion for reconsideration that offers nothing new to the court.” Hill v City of Warren, 276 Mich App 299, 307 (2007). But MCR 2.119(F)(3) strongly suggests that something in the motion must impel the Court to conclude that its chosen outcome is so erroneous that it has to be corrected. Nothing in Plaintiff Premiere’s motion gives the Court any reason to change its rulings.

Everyone agrees that Plaintiff Premiere served a writ of garnishment on True North, which responded with a timely garnishee disclosure. Premiere then timely served interrogatories on True North as authorized by MCR 3.101(L)(1), and True North properly responded to the interrogatories. But then Premiere gave notice of a deposition, which caused True North to seek a protective order blocking the deposition as impermissible under MCR 3.101(L)(1) because interrogatories had been previously served and answered. As the Court explained in granting that motion, MCR 3.101(L)(1) provides for interrogatories or a deposition, but not both. To the extent that Premiere has requested reconsideration of the issuance of a protective order to block the deposition, the motion is denied on the basis of the plain language of MCR 3.101(L)(1).*

* Plaintiff Premiere contends that the deposition subpoena was issued under MCR 2.621 and the Revised Judicature Act, MCL 600.6104 and 600.6110. But those authorities address only cases where a “person has money or property of the judgment debtor, or is indebted to him[.]” See MCL 600.6110(1); see also MCR 2.621(C) (noting “subpoena or order to enjoin the transfer of assets”). Here, True North has already disbursed the “money or property of the judgment debtor[.]” To avoid that problem, Premiere insists that True North is still holding “approximately \$10,000 that belonged to one of the Defendants.” After more than an hour of oral argument, that allegation came up on the fly after the Court rendered its rulings on all of the motions. The Court cannot use reconsideration to take up allegations that were not briefed, supported, or raised before the Court made its ruling.

Plaintiff Premiere's principal concern involves True North's decision to provide 25 percent of the funds in its possession to Premiere and to pay the other 75 percent of the funds to Defendant Matthew Crater, who filed for bankruptcy protection after the entry of the judgment in this case. The Court made clear in denying Premiere's "Motion for Turnover of Funds" that Premiere should have to go to the United States Bankruptcy Court for the Western District of Michigan to pursue the funds True North paid to Matthew Crater. The Court rejected Premiere's argument that True North should be obligated to pay Premiere the equivalent amount that it already paid to Matthew Crater, and then True North could attempt to persuade the Bankruptcy Court to allow True North reimbursement for the funds it paid to Matthew Crater. This approach, which would obligate True North to effectively pay out 175 percent of the funds it once had in its possession for the defendants makes no sense at all. To enter such an order would obligate True North to pay 75 percent more money than it actually had in its possession at one time for the defendants. That is not the purpose of garnishment. Thus, the Court shall deny Premiere's motion for reconsideration of the Court's ruling on the "Plaintiff's Motion for Turnover of Funds and/or for Discovery."

IT IS SO ORDERED.

Dated: September 5, 2019



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge