

[REDACTED]
AND

Plaintiffs

vs.

[REDACTED]
AND

Defendants

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* Case No. 02-C-04-[REDACTED]
*
*

DEFENDANT'S MOTION FOR PROTECTIVE ORDER

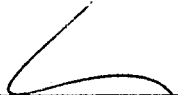
[REDACTED], Defendant, by Kyle Blakeley, her attorney, pursuant to Maryland Rules 2-510 and 2-403 hereby seeks to quash the attached subpoena filed by the Plaintiffs, and in support thereof says:

1. This is a personal injury case arising out of an automobile accident on December 12, 2002.
2. On September 8, 2005, Plaintiffs filed a subpoena requesting Defendant's expert, Dr. [REDACTED], to produce his Federal and State tax records, both personal and business, for the past five years, and his 1099 records for the past five years. (Exhibit 1).
3. The tax records of [REDACTED] requested by the Plaintiffs are both irrelevant to the issues in this case and overly burdensome to the individuals subpoenaed. In addition, the subpoenas are an invasion of the privacy of Dr. [REDACTED] and may result in annoyance and embarrassment.

4. On several occasions, the Maryland Courts have attempted to settle the issue of tax returns of experts, but have never managed to reach that issue. See, Osztreicher v. Juanteguy, 338 Md. 528, 659 A.2d 1278 (1995); Araiza v. Roskowinski-Droneburg, 341 Md. 314, 670 A.2d 466 (1996). In a recent Maryland Court of Appeals case, Wrobleski v. Lara, 353 Md. 509, 717 A.2d 930 (1999), the Court was presented with the issue of whether an adverse party may question a testifying expert about the total income the expert received from testifying. The opinion recognized that, "If there is a reasonable basis for a conclusion that the witness may be a 'professional witness,' the party may inquire both into the amount of income earned in the recent past from services as an expert witness and into the approximate portion of the witness's total income derived from such services." Id. at 526. The Court however, quickly added a caveat, stating that "we do not intend by our decision today to authorize the harassment of expert witnesses through a wholesale rummaging of their personal and financial records under the guise of seeking impeaching evidence." Id. at 526. The Plaintiff is clearly attempting to engage in a wholesale rummaging of Dr. [REDACTED] personal and financial records.

5. Dr. [REDACTED] has made it clear that he feels being forced to produce his tax returns for the last five years is an invasion of his privacy. The Court has held that "It is not the function, or at least not the proper function, of such cross-examination to embarrass witnesses or to invade unnecessarily their legitimate privacy, and thus to discourage them from testifying and thereby make it more difficult for parties to obtain needed expert testimony." Id. at 526. Dr. [REDACTED] is being discouraged from testifying due to this invasion of privacy, and may result in the Defendant being unable to procure an expert to testify on her behalf.

WHEREFORE, for the foregoing reasons, Defendant respectfully requests this Court to quash the subpoena to Dr. ██████████ and issue a protective order that Plaintiff is not entitled to the production of "Federal and State tax income tax records for the past five years" and "1099's received from Law Firms or Insurance Companies for providing expert witness testimony on behalf of the Plaintiff or the Defendant for the last five years."



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POINTS AND AUTHORITIES

Md. Rule 2-403

Md. Rule 2-510

Araiza v. Roskowsinski-Droneburg, 341 Md. 314, 670 A.2d 466 (1996)

Osztreicher v. Juanteguy, 338 Md. 528, 659 A.2d 1278 (1995)

Wrobleski v. Lara, 353 Md. 509, 727 A.2d 930 (1999)



KYLE BLAKELEY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 3, 2005, I served a copy of the foregoing Motion for Protective Order on Laura Zois, Esquire, 7310 Ritchie Highway, Empire Towers, Suite 615, Glen Burnie, Maryland 212061, Attorney for Plaintiff.


KYLE BLAKELEY