

10/17/13
10/17/13 A 9 55

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SALT LAKE TRIBUNE PUBLISHING
COMPANY, LLC,

Plaintiff,

vs.

AT&T CORPORATION and KEARNS-
TRIBUNE, LLC, et al.,

Defendants.

MEDIANEWS GROUP, INC. and
KEARNS-TRIBUNE, LLC,

vs.

PHILIP G. McCARTHEY, THOMAS K.
McCARTHEY, SARAH J. McCARTHEY,
SHAUN P. McCARTHEY, and
MAUREEN P. McCARTHEY.

ORDER ON PENDING MOTIONS
AND STAYING CASE

Case Nos. 2:00-CV-936 ST

This matter is before the court on pending motions in this consolidated case. Prior to consolidation, Defendants Philip G. McCarthy, Thomas K. McCarthy, Sarah J.

9/16/13

McCarthy, Shaun P. McCarthy and Maureen P. McCarthy (the McCarthy Defendants) filed their Defendants' Rule 12(b)(6) Motion to Dismiss Plaintiffs' Complaint and a Motion to Dismiss or in the Alternative, Motion to Stay Pending Outcome of Parallel Colorado State District Court Case. After consolidation of these cases for purposes of pretrial discovery, hearing on those motions was deferred pending resolution of issues relating to the appraisal and exercise of the option.

On October 2, 2003, in a closely related case, *Salt Lake Tribune Publishing, LLC v. Management Planning, Inc.*, Case No. 2:03-CV-565 TS (the MPI case), the court resolved issues regarding an appraisal necessary to exercise the option held by Plaintiff herein, Salt Lake Tribune Publishing, the company owned by the McCarthy Defendants.

In this case on October 13, 2003, Deseret News Publishing filed a Motion for Partial Summary Judgment on Plaintiff's Third, Ninth and Tenth Claims for Relief. On October 14, 2003, the MediaNews Defendants filed a Motion for Leave to File a Motion for Summary Judgment as to Claim Related to the Option Agreement. At a Status Conference on October 14, 2003, the court announced that it would not rule on the pending motions for summary judgment prior to Plaintiff's decision on whether to appeal a decision on the arbitration issue. On October 17, 2004, the parties moved to administratively close part of this consolidated case while leaving the portion of it involving the McCartheys open. However, it was subsequently determined that it is not possible to partially administratively close a consolidated case.

On October 21, 2003, an appeal of the appraisal/arbitration decision was filed in the MPI case. On November 11, 2003, the McCarthy Defendants sought mandamus relief

and a writ of prohibition. On February 5, 2004, the McCarthy Defendants filed a Motion for Partial Summary Judgment together with a Continuing Reservation of Rights, continuing to assert that it would be inappropriate for this court to rule on any matters in this consolidated case pending resolution of its mandamus petition.

On May 26, 2004, the Tenth Circuit Court of Appeals denied the McCarthy Defendants' Petition for a Writ of Mandamus and a Writ of Prohibition. After that ruling, chambers contacted the parties regarding hearings on their various motions. All parties agreed they did not want hearings scheduled on pending matters prior to resolution of the appeal in the MPI case.

It appears to the court that resolution of the motions pending herein is awaiting resolution the appeal of the appraisal/arbitration issue in the MPI case. It appears that once that appeal is determined, the pending motions may be rendered moot, or the circumstances may have changed in the interval such that new briefing would be helpful or different motions would be appropriate. As a result, the court determines that the pending motions should be denied, without prejudice, and the parties will be allowed to re-file motions after the appeal is determined. The time for the McCarthy Defendants to answer the complaint will be extended to 30 days following the docketing in this case of the mandate resolving the current appeals to the Tenth Circuit.

It is therefore

ORDERED that the McCarthy's Defendants' Rule 12(b)(6) Motion to Dismiss Plaintiffs' Complaint and Motion to Dismiss or in the Alternative, Motion to Stay Pending Outcome of Parallel Colorado State District Court Case are DENIED WITHOUT

PREJUDICE. It is further

ORDERED that the time for the McCarthy Defendants to respond to the Complaint herein is extended to 30 days after the filing of the mandate in related Case No. 2:03-CV-565 TS. It is further

ORDERED that Deseret News Publishing's Motion for Partial Summary Judgment on Plaintiff's Third, Ninth and Tenth Claims for Relief is DENIED WITHOUT PREJUDICE. It is further

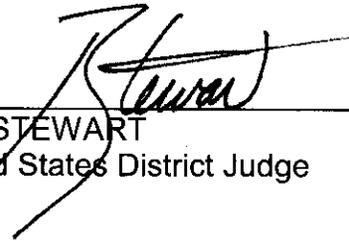
ORDERED that the MediaNews Defendants' Motion for Leave to File a Motion for Summary Judgment as to Claim Related to the Option Agreement and for Expedited Ruling is DENIED WITHOUT PREJUDICE. It is further

ORDERED that the Stipulated Motion to Administratively Close this Case is DENIED WITHOUT PREJUDICE and the Motion to Stay is GRANTED. It is further

ORDERED that this case is STAYED and may be re-opened at any time by the court or upon motion by any party.

DATED this 10th day of September, 2004.

BY THE COURT:



TED STEWART
United States District Judge

United States District Court
for the
District of Utah
September 13, 2004

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:00-cv-00936

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David J. Jordan, Esq.
STOEL RIVES LLP
201 S MAIN ST STE 1100
SALT LAKE CITY, UT 84111-4904
EMAIL

James S. Jardine, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Brendan V. Sullivan Jr, Esq.
WILLIAMS & CONNOLLY
725 12TH ST NW
WASHINGTON, DC 20005

Mr. Alan L Sullivan, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

Laura A. Kaster, Esq.
AT&T LAW DEPT
ONE AT&T WAY RM 3A213
BEDMINSTER, NJ 07921

Eric C. Olson, Esq.
KIRTON & MCCONKIE
60 E S TEMPLE STE 1800
SALT LAKE CITY, UT 84111-1004
JFAX 9,3214893

Richard A. Rappaport, Esq.
COHNE RAPPAPORT & SEGAL
PO BOX 11008
525 E 100 S FIFTH FL

SALT LAKE CITY, UT 84102
JFAX 9,3551813

Mr. E. Barney Gesas, Esq.
CLYDE SNOW SESSIONS & SWENSON
ONE UTAH CENTER 13TH FL
201 S MAIN ST
SALT LAKE CITY, UT 84111-2216
JFAX 9,5216280

Mr. Jeremy M. Hoffman, Esq.
YOUNG ADAMS & HOFFMAN LLP
170 S MAIN ST STE 1125
SALT LAKE CITY, UT 84101-1605
EMAIL

Charles A. Brown, Esq.
324 MAIN ST
LEWISTON, ID 83501
EMAIL

Mr. Gary F. Bendinger, Esq.
BENDINGER CROCKETT PETERSON GREENWOOD & CASEY
170 S MAIN STE 400
SALT LAKE CITY, UT 84101-1664
EMAIL

George A. Davidson, Esq.
HUGHES HUBBARD & AND REED
ONE BATTERY PK PLAZA
NEW YORK, NY 10004-1482

Marc Wolinsky, Esq.
WACHTELL, LIPTON, ROSEN & KATZ
51 W 52ND ST
NEW YORK, NY 10019

Patrick J. Carome, Esq.
WILMER CUTLER PICKERING
HALE AND DORR LLP
2445 M ST NW
WASHINGTON, DC 20037-1420