

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION

WILLIAM MURRY

v.

LNP MEDIA GROUP, INC.,
BARBARA HOUGH RODA, SUSAN
BALDRIDGE, KARA NEWHOUSE,
and JOHN DOE(S)

No. CI-17-00692

ENTERED AND FILED
2018 DEC 17 AM 10:46
PROthonotary's Office
LANCASTER, PA

ORDER

AND NOW, this 17th day of December, 2018, upon review of the Privilege Log of Emails & Communications Regarding January 28, 2016 Meeting of Manheim Township School Board of LNP Media Group, Inc., Barbara Hough Roda, Susan Baldrige and Kara Newhouse, Defendants, and the redacted and un-redacted communications Bates-stamped LNP 1 – LNP 404, it is hereby ORDERED as follows:

1. Defendants' Objections arguing certain communications are not relevant or are beyond the scope of the Court's Order of September 19, 2018 are OVERRULED. Defendants shall produce unredacted copies of LNP 1, LNP 17, LNP 19-45, LNP 46, LNP 47, LNP 48, LNP 50, LNP 161, LNP 171-173, LNP 176-178, LNP 179-181, LNP 182-183, LNP 188, LNP 196-197, and LNP 198-199 to Plaintiff within ten days of this Order;
2. Defendants' Objections arguing certain communications are protected pursuant to the attorney-client privilege, 42 Pa. C.S.A. § 5928, are SUSTAINED.

Defendants' Redaction Numbers 10, 11, 12, 13, 14, 15, 20, 21, 22, 36, 37, 38, 39, 42, 45, 46, 47, 48, 72, 78, 83, 86, 93, 102, as well as the redactions on pages LNP 72-74, LNP 76-79, and LNP 83-109, were all properly redacted attorney-client communications. All of the above-listed redacted communications were either to an attorney seeking legal advice, or the attorney's response to a request for advice that, if disclosed, would improperly reveal confidential communications from the client regarding the advice sought. In addition, Redaction Number 81 included internal summations by employees of Defendant LNP Media Group, Inc., that if disclosed would reveal confidential attorney-client privileged communications;

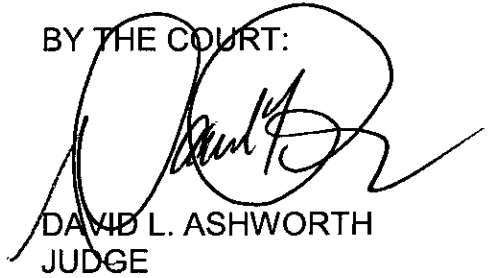
3. Defendants' Objections arguing certain communications are protected pursuant to the Pennsylvania News Gathers' Shield Law, 42 Pa. C.S.A. § 5942, are SUSTAINED. Defendants' Redaction Numbers 16, 28, 29, 44, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 68, 69, 70, 71, 88, 89, 91, 94, 98, 100, 101, 104, 105, LNP 396 and LNP 397, were all communications to, from, or about Defendants' sources of information and are therefore properly protected under the Pennsylvania News Gatherers' Shield Law. **Castellani v. Scranton Times, L.P.**, 598 Pa. 283, 310, 956 A.2d 937, 954 (2008); and

4. Defendants' Objections arguing certain communications are protected pursuant to the First Amendment of the United States Constitution, and/or the Reporter's Privilege are deferred for a Discovery Master to conduct further proceedings and issue a recommendation consistent with the Superior Court's holding in **DiPaolo v.**

Times Publishing Co., 142 A.3d 837 (Pa. Super. 2016).¹

NOTICE OF ENTRY OF ORDER OR DECREE
PURSUANT TO PA. R.C.P. NO. 236
NOTIFICATION - THE ATTACHED DOCUMENT
HAS BEEN FILED IN THE CASE
PROTHONOTARY OF LANCASTER CO., PA.
DATE: 12-17-18 *Ygg*

BY THE COURT:


DAVID L. ASHWORTH
JUDGE

ATTEST: *C. Herbert*

Copies to: Joshua J. Voss, Esquire - 1
Craig J. Staudenmaier, Esquire - 1
C. Edward Browne, Esquire - 1
mailed

¹ Defendants argue in their October 30, 2018 letter in support of their Privilege Log that their reporters' "notes and drafts of newspaper articles are withheld pursuant to the First Amendment of the United States Constitution. **Kitzmiller v. Dover Area Sch. Dist.**, 379 F.Supp. 2d 680, 690 (M.D. Pa. 2005) (permitting discovery of the reporter's notes and draft articles would have a chilling effect on the editorial process, editorial decision making, and would adversely affect reporters engaging in their profession, in violation of the First Amendment)." Based upon **Kitzmiller**, Defendants then redacted some of their internal communications, editorial drafts, and revisions to various publications. See Redaction Numbers 61, 67, 73, 74, 75, 76, 77, 79, 80, 82, 84, 85, 87, 90, 92, 95, 96, 97, 99, 103, 105, 106, and 107.

However, the Pennsylvania Superior Court recently addressed the First Amendment/Reporter's privilege in **DiPaolo, supra**. In **DiPaolo**, a magisterial district judge filed a three-count complaint alleging libel following a series of print and online news articles. 142 A.3d at 838-39. As a public official, Judge DiPaolo alleged the defendants intentionally misquoted and mischaracterized a criminal investigation and related proceedings to improperly implicate him, thereby demonstrating the defendants' actual malice. *Id.* at 841. Through discovery, Judge DiPaolo then requested the defendants, in relevant part, "[i]dentify and provide any documents referred to in creating the article and state for what content within the document, if any, relied upon that document in whole or in part." *Id.* at 841. Thereafter, the trial court granted Judge DiPaolo's motion to compel wherein he sought "production of [defendants'] notes, unpublished drafts, and documents referred to in creating the articles subject to redaction of confidential informants and a privilege log." *Id.* at 842.

In affirming the trial court, the Superior Court first found the Pennsylvania News Gathers' Shield Law was not applicable. 142 A.3d at 844. The Court then described the differences between the Pennsylvania Shield Law and the First Amendment/Reporter's Privilege, finding the Reporter's Privilege is not an absolute protection - as argued by Defendants in this case - and may be overcome in libel actions. *Id.* at 844-45. "In order to overcome the reporter's privilege, the movant must demonstrate (1) that the information sought is material, relevant, and necessary; (2) a strong showing that the information cannot be obtained by alternative means; and (3) that the information is crucial to the movant's case. **Riley v. City of Chester**, 612 F.2d 708, 716-717 (3d Cir. 1979)." *Id.* at 845.