

Weinstein Accusers Seek to Block Emails Unearthed in Del. Bankruptcy Action

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By Colby Hamilton | December 14, 2018 at 04:42 PM

Attorneys in a class action suit against Harvey Weinstein say the former Hollywood mogul is improperly looking to mine the discovery process in Delaware federal court for information to discredit sexual assault claims against him in Manhattan federal court.

The legal flare-up has resulted in filings and counter-filings between the U.S. District Court for the Southern District of New York and the U.S. Bankruptcy Court for the District of Delaware, as each side has accused the other of trying to manipulate proceedings in one for an advantage in the other.

The allegations by the plaintiffs in *Geiss v. The Weinstein Co.* mirror those in parties in other suits against Weinstein. Wigdor LLP name attorney Douglas Wigdor and private attorney Kevin Mintzer, who represent a Jane Doe plaintiff in *Doe v. The Weinstein Co.*, accused Weinstein's legal team days earlier of using the Delaware bankruptcy proceedings "to support a media campaign against many alleged sexual assault victims that embraces stereotypes and dated rape myths."

Legal actions against Weinstein related to allegations of sexual assault now stretch from California to New York. All of them have been filed since publication of the 2017 New Yorker article that accused the Hollywood producer of serial sexual harassment and assault. Those allegations posed a threat to The Weinstein Co.'s business interests, helping lead to the bankruptcy action in Delaware.

On Dec. 6, Weinstein's legal team, led by Bayard P.A. director Scott Cousins, filed a motion with U.S. Bankruptcy Judge Mary Walrath of the District of Delaware for permission to use emails produced in the discovery process in the Delaware case in "certain pending civil litigation," according to a letter filed with that same court by Cousins on Friday.

Back in New York, the attorneys in the *Geiss* suit, led by Hagens Berman Sobol Shapiro name attorney Elizabeth Fegan, filed a motion a week later with U.S. District Judge Alvin Hellerstein of the Southern District of New York, seeking a protective order against Weinstein.

As Fegan pointed out, Weinstein has previously sought a stay in the *Geiss* suit pending criminal proceedings brought by the office Manhattan District Attorney Cyrus Vance Jr.—a move Weinstein made in other civil suits, including the Jane Doe matter. Weinstein's true motives regarding the Delaware discovery process, according to Fegan, is to "impugn and attack his victims who have filed civil lawsuits while avoiding" the "oversight of an orderly discovery process" in Manhattan federal court.

“He should not be able to play federal courts in different jurisdictions with diametrically opposed positions,” Fegan said.

She went on to accuse Weinstein’s legal team of planning to “unleash these emails in the media to sway the court of public opinion.” However, none of the documents from the Delaware discovery have yet been shared with her clients in the New York civil matter where discovery is not open.

As such, the *Geiss* legal team seeks to have the documents from the Delaware bankruptcy action that relate to their client and other class members handed over, and a protective order put in place to keep Weinstein’s team from releasing the materials until confidentiality issues can be addressed.

Fegan did not respond to a request for comment.

In their Friday letter to the bankruptcy court, Weinstein’s team stated that *Geiss*’ attorneys had been “actively involved” in the ongoing negotiations and hearings in Delaware about the use of the emails in defense of outside legal proceedings. At no point, Cousins wrote, had the *Geiss* team cited or asserted privilege or any other principle that should hold up the release of the information.

“At each juncture, Ms. *Geiss*’s position has only been to insist that the [Delaware] court prevent Mr. Weinstein from using exculpatory evidence to defend himself from the civil and criminal allegations levied against him,” Cousins wrote. “Her goal is simply to prevent Mr. Weinstein from introducing evidence that would undermine her claim.”

In a statement, Cousins said the Weinstein team wasn’t surprised by the move for a protective order in Manhattan, and that it was “only a matter of time” until the Delaware court released the emails to the public, “as there is no privileged or confidential information” in the emails.

“In fact, they demonstrate a drastically different tale from what the plaintiffs have alleged in the media and in their legal complaint,” Cousins said. “Ironically, they are the ones trying to silence Mr. Weinstein and doing all they can to prevent the truth from coming out. This strategy will not bode well, as they are going behind the bankruptcy court’s back which has sole jurisdiction over these emails and the plaintiffs know it. To claim sexual assault and then take such measures to prevent the truth from being heard speaks volumes of their motives.”