

**PAID**  
20-70

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

STEPHEN J. SAFRANEK, EDWARD  
C. LYONS, and PHILIP A. PUCILLO,

Plaintiffs,

Hon. Melinda Morris

-vs-

Case No. 07-1134-CZ

THOMAS STEPHEN MONAGHAN,  
BERNARD DOBRANSKI,  
AVE MARIA SCHOOL OF LAW,  
FRIENDS OF AVE MARIA SCHOOL OF LAW  
a/k/a AVE MARIA SCHOOL OF LAW FOUNDATION,  
and AVE MARIA FOUNDATION,

Defendants.

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**MOTION FOR PROTECTIVE ORDER BY DEFENDANTS  
AVE MARIA FOUNDATION AND THOMAS S. MONAGHAN**

CTD

Defendants, Ave Maria Foundation (“AMF”) and Thomas S. Monaghan (“Monaghan”), by their attorneys, Pear Sperling Eggan & Daniels, P.C., move under MCR 2.302(C) for a protective order against the taking of discovery from these Defendants until the Court has rendered a decision on their pending Motion for a More Definite Statement of the claim asserted against them. In support of this Motion, AMF and Monaghan state:

1. This is an employment case involving the joinder of three plaintiffs, five defendants and six counts, most of which are not asserted against AMF and Monaghan. Plaintiffs generally state that their “claims arise out of their employment relationship” with Defendant Ave Maria School of Law (“the Law School”), *Cmp*, ¶2, although no Plaintiff alleges the existence of an employment relationship with either AMF or Monaghan.

2. AMF and Monaghan have been included in this lawsuit on a generic intentional tort claim. Of the six separate “causes of action” alleged in the Complaint, only Count III (tortious interference) is asserted against AMF and Monaghan. Moreover, the intentional tort claim is asserted by all Plaintiffs, *collectively*, against AMF and Monaghan, *collectively*, without Plaintiffs having made any attempt to parse out each individual plaintiff’s alleged grievance against each defendant named in the claim, particularly AMF and Monaghan.

3. In their previously filed (and pending) Motion for More Definite Statement of this claim, the AMF and Monaghan have asked the Court to enter an order requiring each Plaintiff to implement the reasonable step of adequately setting forth what is being alleged against each of these defendants, separately, so that AMF and Monaghan are not prejudiced in their ability to assess the viability of this tort claim asserted against them, along with all applicable defenses and the advisability of filing an early dispositive motion.

4. MCR 2.302(C) provides that upon motion by a party from whom discovery is sought, and for good cause shown, the Court may issue any order that justice requires to protect a party from annoyance, oppression, and undue burden and expense, including entry of an order under MCR 2.302(C)(2) that the discovery be had only on specified terms and conditions, including a designation of the time or place, and under subsection (3), that certain matters not be inquired into, or that the scope of discovery be limited to certain matters. The granting or denial of this motion rests soundly within the Court's discretion. *See, eg, Dafter Twp v Reid*, 159 Mich App 149, 159; 406 NW2d 255 (1986)(citing other Michigan Appellate cases).

5. Here, along with service of the Complaint, Plaintiffs served notice that they intended to depose Monaghan as their first witness on Monday, December 17, 2007. *See Exhibit A (attached)*. Plaintiffs also served document requests and interrogatories with their Complaint. Of the thirty-four document requests and thirty-one interrogatories served on Defendants, *collectively*, many do not seem to apply to documents or information that may be in the possession of Monaghan or AMF. *See Exhibit B (collectively, attached)*.

6. AMF and Monaghan respectfully request that the Court enter a protective order against the taking of Monaghan's deposition, as well as a protective order against the obligation to respond to the written discovery, until twenty-one (21) days after the Court rules on their previously filed (and pending) Motion for More Definite Statement of the claim asserted against them by each plaintiff, and if the pending Motion is granted, until twenty-one (21) days after service of the amended pleading asserting a more definite claim against them. *See MCR 2.108(C)(4)(if the Court grants a motion for more definite statement, the responsive pleading must be filed and served within 21 days after service of the more definite statement)*.