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Callahan v AEV Inc

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947 F.Supp. 175
United States District Court,
W.D. Pennsylvania.

Michael W. CALLAHAN, et al.,
v.
A.E.V. INC., et al.
A.L. ABROMOVITZ, et al.,
v.
A.E.V. INC., et al.

Civil Action Nos. 92-0556, 92-1387.
I
Aug. 12, 1996.

Synopsis

Action was brought for antitrust and other violations in beer industry. On plaintiffs' motion to compel responses to document requests, the District Court, Cindrich, J., held that: (1) documents submitted or received from state grand jury were not "grand jury materials" entitled to presumption of privilege; (2) district court, rather than state court overseeing grand jury investigation, was proper entity to determine whether grand jury transcripts should be released; (3) grand jury privilege under federal common law would be lifted as to grand jury transcripts; and (4) use of phrase "any other company" did not render discovery requests vague and ambiguous.

Ordered accordingly.

West Headnotes (8)

[1] **Grand Jury** 🔑 **Matters Subject to Secrecy Requirements**

193 Grand Jury
193k41 Secrecy as to Proceedings
193k41.30 Matters Subject to Secrecy Requirements
Not all documents received by grand jury are converted into "grand jury materials" entitled to presumption of privilege.

1 Cases that cite this headnote

[2] **Grand Jury** 🔑 **Civil Proceedings**

193 Grand Jury
193k41 Secrecy as to Proceedings
193k41.50 Permitting Disclosure
193k41.50(6) Civil Proceedings
(Formerly 265k25(8))

Defendants in civil antitrust suit failed to show that documents submitted to or received from state grand jury were "grand jury materials" entitled to presumption of privilege from discovery; there was no showing that any of documents would disclose inner working of grand jury, purpose of privilege being to avoid such disclosure.

1 Cases that cite this headnote

[3] **Grand Jury** 🔑 **Proceedings for Disclosure**

193 Grand Jury
193k41 Secrecy as to Proceedings
193k41.50 Permitting Disclosure
193k41.50(10) Proceedings for Disclosure

State court overseeing grand jury investigation from which transcripts were being sought in subsequent civil antitrust suit was not appropriate body to determine whether transcripts should be released to plaintiffs but, rather, federal court in which civil suit was filed would make that determination; if defendant had transcripts of grand jury proceedings, state court overseeing grand jury investigation was no longer guardian of those transcripts. Rules Crim.Proc., Rules 261Crim.Proc., Rules 261, 263263, 42 Pa.C.S.A.

[4] **Grand Jury** 🔑 **Necessity; Use in or Connection with Judicial Proceeding**

193 Grand Jury
193k41 Secrecy as to Proceedings
193k41.50 Permitting Disclosure
193k41.50(5) Necessity; Use in or Connection with Judicial Proceeding

To allow disclosure of grand jury transcripts, petitioned court must find all of three factors present: party seeking transcripts must show that materials are needed to avoid possible injustice in another judicial proceeding; that party must show that need for disclosure is greater than need for secrecy; and that party must show that request is structured to cover only materials needed.

[5] Grand Jury 🔑 **Civil Proceedings**

193 Grand Jury

193k41 Secrecy as to Proceedings

193k41.50 Permitting Disclosure

193k41.50(6) Civil Proceedings

(Formerly 265k25(8))

Grand jury privilege under federal common law would be lifted as to state grand jury transcripts in possession of civil antitrust defendant, to extent that such transcripts were responsive to discovery requests seeking information on beer acquisitions and sales and monetary transactions; permitting disclosure would ensure consistent and complete testimony by witnesses, who might have had difficulty remembering what was said to grand jury seven years earlier, need for disclosure outweighed any continued need for secrecy given age of grand jury, and request would cover only materials needed because criminal action and antitrust suit had common nucleus of conduct.

[6] Grand Jury 🔑 **Secrecy as to Proceedings**

193 Grand Jury

193k41 Secrecy as to Proceedings

193k41.10 In General

Purpose of grand jury privilege is to protect grand jury and its deliberative process and to protect unindicted accused.

[7] Federal Civil Procedure 🔑 **Scope**

170A Federal Civil Procedure

170AX Depositions and Discovery

170AX(A) In General

170Ak1272 Scope

170Ak1272.1 In General

(Formerly 265k25(1))

Discovery in antitrust case is necessarily broad because allegations involve improper business conduct, which is generally covert and must be gleaned from records, conduct, and business relationships.

11 Cases that cite this headnote

[8] Federal Civil Procedure 🔑 **Particular Subject Matters**

170A Federal Civil Procedure

170AX Depositions and Discovery

170AX(E) Discovery and Production of Documents and Other Tangible Things

170AX(E)3 Particular Subject Matters

170Ak1581 In General

(Formerly 265k25(6.1))

Phrase “any other company” did not render discovery request vague and ambiguous in antitrust suit; issue of what defendant’s “other companies” were was source of dispute at heart of litigation, such that description of records relating to beer purchases and sales by any entity controlled by any defendant was specific enough to describe records sought.

5 Cases that cite this headnote

All Citations

947 F.Supp. 175, 1997-2 Trade Cases P 71,925