

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA  
CIRCUIT CIVIL NO. 03-6649-CI-13

MELVIN SEMBLER and BETTY  
SEMBLER,

Plaintiff,

v.

RICHARD R. BRADBURY,

Defendant.

JUL 28 2003

ORDER DENYING COMPULSORY PSYCHOLOGICAL  
EXAMINATION OF PLAINTIFFS

THIS CAUSE came before the Court upon the Defendant's Motion for Psychological Examination of Plaintiffs, and the Court being fully advised in the premises finds,

The Defendant, Richard Bradbury, seeks to have both Melvin Sembler and Betty Sembler ordered to undergo a psychological examination pursuant to Florida rule of Civil Procedure 1.360. The Plaintiffs' object to the requested examinations and argue the Defendant has failed to demonstrate good cause to compel either of them to submit to such an evaluation. On the contrary, they assert such examinations are completely unnecessary and are part of Mr. Bradbury's continuing efforts to annoy and harass the Plaintiffs.

This unusual litigation arises as the result of allegations by the Semblers that Bradbury has engaged in a campaign intended to harass, embarrass and emotionally disturb them since 1987. The complaint asserts the Defendant is guilty of stalking them, has engaged in outrageous conduct intended to inflict emotional distress and has invaded their privacy by public disclosure of private medical facts.

The most recent significant event which appears to have precipitated the filing of this lawsuit is the assertion that Bradbury rummaged through the Semblers' garbage and on one occasion removed a medical device

known as a penile pump. It is claimed that the Defendant Bradbury published an advertisement in the St. Petersburg Times classified section offering the device for sale and describing it as being formerly owned by the U.S. Ambassador to Italy. The complaint also describes the Defendant's further publication of information on the internet service known as E-Bay.

Since the filing of the initial complaint in 2003, the parties have engaged in discovery. During the discovery process the Plaintiffs objected to the Defendant's efforts to obtain information regarding the Plaintiffs' care or treatment attributed to the Defendant's actions and to his attempts to obtain evidence relating to their mental health counseling history as well as their use of certain medications. This Court reasoned that because the Plaintiffs' included in the complaint a count of intentional infliction of emotional distress, they had introduced the issue of their emotional condition and that investigation into the aspects of the essential element was appropriate.

The Plaintiffs now point out that as a result of this liberal discovery the Semblers have revealed to Mr. Bradbury the complete facts which will be presented in support this aspect of their claims. They assert that it is clear to the Defendant and his counsel that the proof regarding any psychological impact on the Plaintiffs will not be based upon expert testimony or opinion. The Semblers argue that no expert testimony is needed since they are neither claiming some injury or harm requiring professional diagnosis nor are they claiming any permanent psychological impact from the Defendant's acts. They assert the "garden variety" emotional distress any citizen might be reasonably expected to suffer if similarly victimized by such extreme and outrageous conduct is capable of being evaluated by the jury without the opinion of any expert.

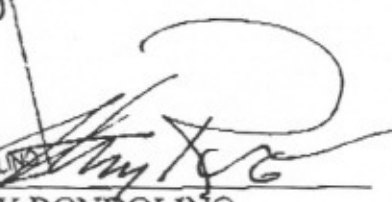
In fact, the Plaintiffs' go farther and argue the use of expert testimony under such circumstances would not only be unnecessary or lead to confusion but would be an improper invasion into the jury's province. Since a mental health expert would not be needed to dispute the existence of any present psychological injury or condition, the expert would be limited to determining whether they could have had severe emotional distress in the past as a result of certain acts of the Defendant. This kind of analysis, it is argued, is at best unnecessary (since the jury is capable of making this decision), and at worst an attempt to comment on the credibility or truthfulness of the Plaintiffs.

The Court agrees and finds that, at present, the record does not support the requested compulsory psychological evaluations of the Plaintiffs at this time.

Therefore, the Defendant's Motion is denied.

DONE AND ORDERED in Chambers, at St. Petersburg, Pinellas County, Florida, this 21 day of June, 2005.

ORIGINAL SIGNED  
JUN 21 2005  
JUDGE ANTHONY RONDOLINO

  
ANTHONY RONDOLINO  
CIRCUIT JUDGE

cc: Leonard S. Englander, Esq.  
Thomas H. McGowan, Esq.