

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

JANICE A. ST. PETER, as Personal
Representative of the ESTATE OF
GARY R. ST. PETER

Plaintiff,

CASE NO: 2018-CA-000222

vs.

DAVID ZLOKAS and UNCAGED
TASTING ROOM LLC, a Florida
Limited Liability Company,

Defendants.

DEFENDANT DAVID ZLOKAS' MOTION TO STAY CIVIL PROCEEDINGS

COMES NOW Defendant, DAVID ZLOKAS, by and through undersigned counsel and files this Motion to Stay Civil Proceedings pending the outcome of criminal charges based on the same acts and states as follows:

1. On or about November 2, 2017 decedent GARY R. ST. PETER died in a motor vehicle accident in which Defendant DAVID ZLOKAS was allegedly the driver.
2. The decedent's wife, JANICE A. ST. PETER, brought a wrongful death lawsuit on April 17, 2018 against DAVID ZLOKAS and UNCAGED TASTING ROOM, LLC.
3. In paragraph 9 of Plaintiff's Complaint, Plaintiff alleges Defendant ZLOKAS consumed alcoholic beverages on the night of the accident before the accident. In paragraph 12 – 14, Plaintiff alleges Defendant ZLOKAS operated a vehicle with a blood alcohol level in excess of .08 or more and that his normal faculties were impaired while driving with decedent GARY R. ST. PETER as a passenger. In paragraphs 15 – 16, Plaintiff alleges Defendant ZLOKAS while driving with an alleged blood alcohol level in excess of .08 operated a vehicle negligently and crashed the vehicle killing GARY R. ST. PETER.

4. The Florida Highway Patrol and State Attorney's Office are investigating the matter and contemplating criminal charges. The government investigation remains pending.

5. On June 18, 2018, Plaintiff's counsel served Defendant ZLOKAS with interrogatories and requests to produce. Defense counsel filed a response objecting to every request except for the name of the person answering the interrogatories.

6. Mr. Zlokas asserts has asserted his Fifth Amendment right against self-incrimination. Plaintiff's discovery requests, if answered by Mr. Zlokas, might incriminate Mr. Zlokas and do irreparable harm to him in a future criminal proceeding. "One aspect of the privilege against self-incrimination is the right of a witness in a civil proceeding to refuse to respond to a question on the grounds that his answer may tend to incriminate him." *Jenkins v. Wessel*, 780 So. 2d 1006, 1007 (4th DCA 2001). Mr. Zlokas faces a "substantial and real hazard of incrimination, not a 'merely trifling or imaginary one.'" *Id.*

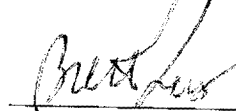
7. The Plaintiff has preserved the statute of limitations by filing the lawsuit within the statute of limitations period. There is no prejudice to the Plaintiff if the Court should stay these proceedings. On the other hand, allowing discovery to go forward while the criminal investigation is pending will substantially prejudice the exercise of Mr. Zlokas' Constitutional and legal rights.

WHEREFORE, Defendant DAVID ZLOKAS requests an order granting this Motion pending the complete resolution of the criminal investigation and possible prosecution of Mr. Zlokas tied to the events of November 2, 2017.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished VIA EMAIL to **Michael S. Smith, Esq.:** msmith@lesserlawfirm.com, mcarney@lesserlawfirm.com, and kfeola@lesserlawfirm.com this 1st day of July, 2018.

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