

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

OMAR TOUQAN,

Plaintiff,

v.

Case No. 8:22-cv-2505-KKM-AAS

CELL FIX, INC.,

Defendant.

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ORDER

Plaintiff Omar Touqan (Touqan) moves to quash Defendant Cell Fix, Inc.'s (Cell Fix) Third Party Subpoena issued to CellFone, LLC (CellFone). (Doc. 36). Cell Fix opposes the motion. (Doc. 41).

I. BACKGROUND

Touqan sued Cell Fix asserting a single cause of action—Cell Fix violated the Fair Labor Standards Act (FLSA). (Doc. 1). Touqan alleges he was an employee of Cell Fix in 2020, and Cell Fix failed to pay him overtime wages under the FLSA. (*Id.*, ¶¶ 2, 3, 5, 6, 9, 10, 11, 13, 14, 16, 21, 25, and 34).

Cell Fix served CellFone with a third-party subpoena requesting the production of documents from CellFone. (Doc. 36-2). Touqan now moves to quash the third-party subpoena. (Doc. 36). Cell Fix opposes Touqan's motion. (Doc. 41).

II. ANALYSIS

The scope of discovery is governed by Federal Rule of Civil Procedure 26, which allows “discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case[.]” Fed. R. Civ. P. 26(b)(1). Under Rule 45, “[o]n timely motion, the court for the district where compliance is required must quash or modify a subpoena that: (i) fails to allow a reasonable time to comply; (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c); (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden.” Fed. R. Civ. P. 45(d)(3)(A).

Cell Fix requests documents responsive to these requests to CellFone:

1. Your operating agreement.
2. Your LLC agreement.
3. Any corporate documents with Touqan as manager, owner, or member.
4. Documents or Communications which evidence corporate bank accounts, traditional or non-traditional, being opened and used by Touqan as Your manager.
5. Documents and Communications which evidence Your membership.
10. Documents and Communications which evidence the payment processing accounts You use to transact business.
11. All Documents and Communications related to Cell Fix.

13. All of Your Documents showing Your payments received from Touqan or paid to Touqan.

(See Doc. 36-2, pp. 3–4). Cell Fix is no longer requesting documents responsive to the remaining requests. (See Doc. 41, p. 2).

Touqan is the sole owner of CellFone. (Doc. 36-1, ¶ 6). Touqan has a personal right to the documents requested, which includes private corporate documents and financial records. The requested documents are also overbroad and encompasses irrelevant information. CellFone was not created until May 3, 2023, and did not exist in 2020. (*Id.*, ¶ 5). Touqan did not work for, own, or operate CellFone in 2020. (*Id.*, ¶ 7). Thus, the information requested from CellFone is not relevant or proportional to Touqan’s claim he was not paid for overtime worked in 2020, or to Cell Fix’s defenses.

In addition, Cell Fix served CellFone with its third-party subpoena on October 30, 2023, requesting the production of documents from CellFone on November 3, 2023.¹ (Doc. 36-2). Rule 45 permits the court to “quash or modify a subpoena when the subpoena fails to allow a reasonable time to comply or subjects the person to undue burden.” *Hatcher v. Precoat Metals*, 271 F.R.D. 674, 675–76 (N.D. Ala. 2010); see Fed. R. Civ. P. 45(d)(3)(A)(i). While Rule 45 does not expressly provide what “a reasonable time to comply” entails, this district has determined that fourteen days is reasonable. *Lauderhill Mall Inv.*,

¹ The discovery deadline expired on November 3, 2023. (See Doc. 22).

LLC v. Arch Specialty Ins. Co., No. 14-CV-21003, 2014 WL 11906637, at *1 (S.D. Fla. July 29, 2014). The subpoena at issue does not provide CellFone with a reasonable time to comply.

III. CONCLUSION

Accordingly, it is **ORDERED** that Touqan's motion to quash third party subpoena issued to CellFone (Doc. 36) is **GRANTED**.

ORDERED in Tampa, Florida on November 15, 2023.

A handwritten signature in black ink, reading "Amanda Arnold Sansone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

AMANDA ARNOLD SANSONE
United States Magistrate Judge