

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CHAMBERS
U.S D.C. - Rome
JUN 25 2012

JAMES N. HATTEN, Clerk
[Signature]
Deputy Clerk

TICORA WILLIAMS,

Plaintiff,

v.

WAL-MART STORES EAST, L.P.,

Defendant.

CIVIL ACTION

NO. 1:11-CV-3712-RLV

O R D E R

This case arises from an alleged slip and fall accident which occurred at one of the defendant's stores. This matter comes before the court on a motion to quash a subpoena issued to non-party ML Healthcare, LLC ("MLH") [Doc. No. 62].¹ The defendant issued a subpoena to MLH for the production of records by MLH. The defendant's subpoena sought records from MLH as outlined in Exhibit A of MLH's motion to quash. [Doc No. 62, Exhibit A]. For the reasons stated below, the court denies MLH's motion to quash.²

¹ The court notes that the parties filed nearly identical pleadings in Hart v. Wal-mart Stores East, L.P., 1:11-CV-3519. On June 15, 2012, this court issued an order denying the motion to quash in that suit, wherein MLH and the defendant raised extremely similar arguments as raised in the current motion in this suit.

² On page 6 of its motion to quash, MLH states that it will produce a number of documents in response to the defendant's subpoena. Specifically, MLH states that it will produce the distribution agreement between MLH, the plaintiff, and the

1. The Subpoenaed Information Is Not Irrelevant, or Barred by the "Collateral Source Rule"

First, MLH argues that the defendant's subpoena should be quashed because it seeks information that is not relevant. Specifically, MLH argues that the defendant's request for documents and correspondence relating to amounts MLH paid to Resurgens Orthopaedics, Key Health Medical Solutions, Inc., Premier South Medical Group, P.C., Peachtree Orthopaedic Clinic, Shawn Jones, DC, and Peachtree Orthopaedic Physical Therapy, are not relevant because evidence of a third-party's payment of medical bills incurred by a plaintiff allegedly as a result of a tort is not admissible or relevant to the issue of damages. Moreover, MLH also argues that the "collateral source rule" allows a plaintiff to seek recovery for damages caused by tortious conduct even if the plaintiff has been reimbursed by an insured.

In response, the defendant argues that Federal Rule of Civil Procedure 26(b)(1) provides that "parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party" and that "relevant information need not be

plaintiff's counsel. Moreover, MLH stated that it was willing to produce medical provider bills as well as various diagnostic documents. Based on these concessions, this order only addresses the outstanding objections raised to the defendant's subpoena.

admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." The defendant contends that it seeks this information to show "bias, credibility, and impeachment" of medical providers that might have a financial interest in MLH. The defendant also contends that MLH's use of the "collateral source rule" is improper since MLH is not an insurer and the rule does not bar discovery seeking information regarding funding relationships with medical providers.

The court agrees with the defendants that the subpoena should not be quashed. In reaching this conclusion, the court notes that Rule 26(b)(1) of the Federal Rules of Civil Procedure provides for broad discovery of information that "need not be admissible at trial." The court also agrees that the defendant has asserted viable reasons for requesting the information in the subpoena and that the "collateral source rule" should not operate when the information requested is to be used for purposes of showing possible bias or to impeach.

2. The "Trade Secrets" Objections
to Defendant's Subpoena Are Improper

Second, MLH argues that the defendant's subpoena should be quashed because the defendant seeks to discover MLH's agreements with medical providers, which MLH argues are trade secrets.

Specifically, MLH points out that under Rule 45(c)(4)(B)(I) of the Federal Rules of Civil Procedure, "the issuing court may, on motion, quash or modify a subpoena if it requires disclosing a trade secret or other commercial information."

In response, the defendant contends that MLH failed to make any showing that their agreements with medical providers constitute "trade secrets" other than through conclusory allegations. The defendant also points out that even if MLH made a showing that the information sought was entitled to protection, a protective order limiting the dissemination of the requested information would be the proper remedy.

The court agrees with the defendant that the subpoena should not be quashed because MLH has not made a showing of good cause for a protective order. In reaching this conclusion, the court notes that Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure provides that the court may, for good cause, issue an order to protect including requiring that a trade secret not be revealed. However, the court agrees with the defendant that MLH has not made a showing that any of the information sought by the defendant's subpoena is or was a trade secret.

3. The Defendant's Non-Party Requests
Are Proper in Terms of Breadth and Scope

Third, MLH argues that the defendant's subpoena should be quashed because it is overly broad and intended to harass or annoy MLH. MLH argues that these requests are not tailored to request documents relevant to this litigation. MLH further argues that the defendant's request for tax records going back to 2002 is overly broad considering that this litigation began in 2011. Finally, MLH points out that Rule 45(c)(3)(A)(iv) states a court "must quash or modify a subpoena that . . . subjects a person to undue burden."

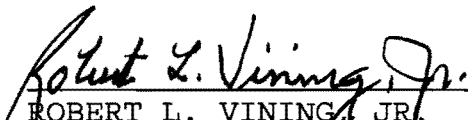
In response, the defendant contends that the alleged injury took place on September 23, 2010, and requesting any information from 2002 is not egregiously overbroad. Additionally, the defendant argues that MLH has merely made boilerplate objections and has not met its burden pursuant to Rule 45(c)(3)(A)(iv) of the Federal Rules of Civil Procedure to demonstrate that the requests are overly burdensome.

The court agrees with the defendant that the subpoena should not be quashed because MLH has not made a showing of any specificity regarding why the defendant's requests are overbroad or somehow unduly burdensome. In reaching this conclusion, the court notes that Rule 26(b)(2)(C)(iii) of the Federal Rules of Civil

Procedure provides that the court must limit the extent of discovery if it determines that the burden or expense of the proposed discovery outweighs its likely benefit. The court agrees with the defendant that MLH has not made any showing of the scope of difficulty, time, or expense required to comply with the defendant's subpoena.

For the above reasons and for those stated in the defendant's response dated May 30, 2012, the court DENIES MLH's motion to quash the defendant's subpoena [Doc. No. 62].

SO ORDERED, this 25th day of June, 2012.



ROBERT L. VINING, JR.
Senior United States District Judge