

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

VIERGELA JEAN-FRANCOIS, CHANGOLIA
JULIEN, CARMELIA PIERRE, LOUNDY
SAINT-HILAIRE, and SOLANGE MARCELIN,

Intervenors,

-vs-

Case No. 2:05-cv-460-FtM-29SPC

GARGIULO, INC.,

Defendant.

ORDER

_____ This matter comes before the Court on The Plaintiff United States Equal Opportunity Commission (EEOC) and the Plaintiff Intervenor's Joint Motion to Quash or Modify Subpoenas Duces Tecum (Doc. #58) filed on October 16, 2006. In this instance, the Plaintiff's jointly move to quash the subpoenas issued to the Intervenors' subsequent employers. Pursuant to the Federal Rules, a subpoena shall be quashed and/or modified if it: fails to allow reasonable time for compliance; requires a nonparty to travel to a place more than 100 miles from the place where that person resides, is employed, or regularly transacts business in person; requires the disclosure of privileged or other protected matter; or subjects a person to undue burden. Fed. R. Civ. P. 45(c)(3)(A).

Initially, the Court must determine whether the EEOC and the Intervenors have standing to quash the third party subpoenas. Generally, it is the person to whom a subpoena is directed who has standing to seek a motion to quash. Butterworth v. Jones Chemicals, Inc., 1993 WL 388645 *2

(M.D. Fla.); *See also* Brown v. Braddick, 595 F.2d 961, 967 (5th Cir. 1979) (holding that a motion to quash may only be brought by the witness; the parties do not have standing to bring a motion to quash on behalf of a witness). However, a party has standing to challenge a subpoena to a non-party if the party alleges a personal right or privilege with respect to the subpoena. Auto-Owners Insurance Co. v. Southeast Floating Docks, Inc., 231 F.R.D. 426, 429 (M.D. Fla. 2005). It is clear that the Intervenor's personnel files contain privileged and confidential information sufficient to give the Plaintiffs standing in this matter. Maxwell v. Health Center of Lake City, Inc., 2006 WL 1627020 * 3 (M.D. Fla. June 6, 2006) (holding that personnel files and record are confidential in nature).

The Court must now address whether or not the subpoenas are overbroad. Courts have held that while some documents in a Plaintiff's personnel file may reasonably lead to admissible evidence, blanket requests for a Plaintiff's entire personnel files are overly broad. Id. The Plaintiff concedes that the Plaintiffs' wage and hourly records are relevant to back pay, damages, and mitigation issues and therefore, does not object to the subpoenas in regard to those specific items. The Plaintiffs do however, object to the hour and wage records subpoenaed from Seaside Farms regarding the Plaintiff Loundy Saint-Claire. Saint-Claire was employed by Seaside prior to her employment with the Defendant. The Plaintiffs argue that her wage and hourly records are irrelevant. Courts have quashed subpoenas requesting wage and hour records from prior employers as irrelevant. *See Id.* (citing Graham v Casey's General Stores, 206 F.R.D. 251, 255 (S.D. IN. 2002) (quashing subpoenas after a finding that the Defendant's reasoning was defective when arguing that her prior wage history was relevant to the plaintiff's discrimination claim because it would establish damages). Therefore, the Court finds good cause to grant the Motion to Quash the subpoena issued to Seaside Farms.

Having reviewed the Motion, the Court finds good cause to modify the subpoenas allowing only the production of the Plaintiffs' subsequent wage and hour records.

Accordingly, it is now

ORDERED:

The Plaintiff United States Equal Opportunity Commission and the Plaintiff Intervenor's Joint Motion to Quash or Modify Subpoenas Duces Tecum (Doc. #58) is **GRANTED in part and DENIED in part.**

(1) The Plaintiff United States Equal Opportunity Commission and the Plaintiff Intervenor's Joint Motion to Quash is **DENIED.**

(2) Plaintiff United States Equal Opportunity Commission and the Plaintiff Intervenor's Joint Motion to Modify the Subpoena Duces Tecum is **GRANTED.** The subpoenas are modified to request time cards, and other time records, payroll and wage records. The subpoenas are otherwise quashed.

(3) The subpoena addressed to Seaside Farms requesting the records of the Plaintiff Loundy Saint-Claire is hereby **QUASHED.**

(4) Any records and/or personnel files produced prior to this Order must be returned to the third party.

DONE AND ORDERED at Fort Myers, Florida, this 17th day of October, 2006.


SHERI POLSTER CHAPPELL
UNITED STATES MAGISTRATE JUDGE

Copies: All Parties of Record