



SO ORDERED,

**Judge Katharine M. Samson
United States Bankruptcy Judge
Date Signed: March 29, 2024**

The Order of the Court is set forth below. The docket reflects the date entered.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

IN RE: IKECHUKWU H. OKORIE

CASE NO. 19-50379-KMS

DEBTOR

CHAPTER 7

ORDER GRANTING MOTION TO QUASH SUBPOENA (DKT. # 1180)

THIS MATTER is before the Court on the Motion to Quash Subpoena by Keystone Healthcare Partners, ECF No. 1180; and Opposition by pro se Debtor Ikechukwu Hyginus Okorie, ECF No. 1195. Keystone moves to quash the subpoena issued by Debtor to Adam Skinner, Keystone's payroll and accounts receivable manager, commanding his appearance and production of documents at a hearing on Debtor's Motion for Violation of Automatic Stay against Keystone set on May 16, 2024, in Hattiesburg, Mississippi. ECF No. 1180 at 2-3, 1180-1.

Keystone asserts that: (1) the subpoena fails to set out the text of Rule 45(d) and (e) as required by Rule 45(a)(1)(A)(iv)¹; (2) the subpoena commands production at a place further than 100 miles of where Skinner resides in Tennessee, *see* Rule 45(c)(2)(A); (3) Debtor failed to serve a notice and copy of the Subpoena on each party as required under Rule 45(a)(4).

The court must quash or modify a subpoena that: "(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c); (iii) requires disclosure of privileged or other

¹ Rule 45 refers to Federal Rule of Civil Procedure 45, made applicable in bankruptcy cases by Federal Rule of Bankruptcy Procedure 9016.

protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden.” Fed. R. Civ. P. 45(d)(3)(A)(ii)-(iv). Keystone asserts that the subpoena should be quashed under each of these grounds. ECF No. 1180 at 4-6.

The geographical limits require that:

(1) **For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) *within 100 miles of where the person resides, is employed, or regularly transacts business in person; or*

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) **For Other Discovery.** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place *within 100 miles of where the person resides, is employed, or regularly transacts business in person*; and

(B) inspection of premises at the premises to be inspected.

Fed. R. Civ. P. 45(c) (emphasis added).

Debtor argues that the subpoena’s place of compliance *is* within 100 miles of where Skinner is employed or regularly conducts business, reasoning that “Mr. Skinner is employed by Keystone” and “Keystone conducts business in Mississippi, which is within the jurisdiction of this Court,” ECF No. 1195 at 1. A similar argument was rejected by the district court in *Ishee v. Fed. Nat’l Mortg. Ass’n*, No. 2:13-CV-234, 2014 WL 12638499 (S.D. Miss. Nov. 13, 2014). There, a subpoena was delivered to Curcio, a corporate representative of Fannie Mae, for attendance at a trial in Hattiesburg, Mississippi. Curcio lived and worked in Texas, 500 miles from Hattiesburg.

The court explained:

Plaintiff argues that Curcio can be compelled to attend trial *because his employer conducts business in Mississippi*, essentially arguing that the subpoena issued to Curcio was really issued to Fannie Mae. However, as another district court observed:

The recent amendments to Rule 45 sharply undermine this argument, . . . as they were intended to circumscribe the Court's authority to compel parties and officers to travel to faraway trials. The Advisory Committee's notes on the 2013 amendments to Rule 45 indicate that the changes made to the rule “resolve a conflict that arose . . . about a court's authority to compel a party or party officer to travel long distances to testify at trial; such testimony may no[w] be required *only as specified in new Rule 45(c)*.” Fed. R. Civ. P. 45 advisory committee's note (emphasis added).

. . .

[T]he Court finds that it does not have the authority to compel Curcio's attendance at trial in Hattiesburg, Mississippi.

Id. at *1-2. (emphasis added); *Fradella v. Coca-Cola Co., Inc.*, No. 17-9622, 2018 WL 3455707, at *2 n.25 (E.D. La. July 18, 2018) (citing *Ishee*).

Because the subpoena commands attendance and production at a place (Hattiesburg) further than 100 miles of where Skinner lives (Tennessee), the subpoena must be quashed. *See* Fed. R. Civ. P. 45(d)(3)(A)(ii). Debtor will not be surprised at this outcome. Keystone's counsel told him as much, prompting Debtor to seek the same information through discovery. *See* ECF No. 1180-2 at 3.

IT IS THEREFORE ORDERED AND ADJUDGED that Keystone's Motion to Quash Subpoena is **GRANTED**.

##END OF ORDER##