

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

DANIEL B. O'KEEFE, ET AL

PLAINTIFFS

VS.

CIVIL ACTION NO. 1:08cv600-HSO-LRA

STATE FARM FIRE AND CASUALTY COMPANY AND
MARSHALL J. ELEUTERIUS

DEFENDANTS

ORDER

This cause came before the Court for telephonic hearing on June 30, 2009, on the Motion to Quash [83-2] Subpoena Duces Tecum [#89] filed by Daniel B. O'Keefe, Celeste A. Foster O'Keefe, and the Dancel Group, Inc. [hereinafter "Plaintiffs"] on April 28, 2009; the Motion for Protective Order as to "Confidential Documents and Tangible Things" [#100] filed by State Farm Fire and Casualty Company [hereinafter "Defendant State Farm"] on May 11, 2009; and, the Emergency Motion to Quash Plaintiff's Excess Discovery Requests [#111] filed by Defendant State Farm and Marshal J. Eleuterius ["Defendant Eleuterius"] on May 29, 2009. After a review of the pleadings and the applicable law, and considering argument of counsel, the Court finds as follows.

Plaintiffs request the Court to quash the subpoena served by Defendants on non-party United States Fidelity and Guaranty Company on April 14, 2009. They contend that the information sought is overly broad in time and scope and that the subpoena seeks information which exceeds the scope of Rule 26 and is protected by the collateral source doctrine. The Court rejects Plaintiffs' contentions and does hereby DENY the motion to quash for the reasons set forth in Defendants' memorandum. The issue of whether the O'Keefe Plaintiffs maintained a separate business insurance policy for The Dancel Group, Inc., may be relevant to the defense of the Complaint, and the information may lead to the

discovery of admissible evidence in this regard. The information sought is not privileged, and USF&G has not objected to the subpoena. The collateral source doctrine is inapplicable under the facts set forth herein. Considering all the circumstances recited by the parties, the subpoena shall not be quashed.

Defendant State Farm requests the Court to enter a Protective Order in this cause. According to Plaintiffs, Defendant State Farm has not set forth a specific factual basis to establish "good cause" for the entry of a protective order; alternatively, Plaintiffs submitted a proposed Protective Order which is less restrictive than that Protective Order proposed by Defendant State Farm. Plaintiffs contend that Defendant State Farm's proposed Order is overly broad on its face because it seeks to make all documents and information produced by State Farm, or any of its agents or representatives, "confidential."

For the reasons set forth in the pleadings, the Court finds that Defendant State Farm's proposed Protective Order is overly broad and shall not be entered. However, the Court finds Defendant has established good cause for entry of an Order. Defendant's Motion for Protective Order is hereby GRANTED only to the extent that Plaintiffs' alternative proposed Protective Order shall be entered. Plaintiffs' counsel is directed to submit its Proposed Order to the Court, in WordPerfect format, and it shall be entered.

Defendants have also filed an Emergency Motion to Quash Plaintiffs' Excess Discovery Requests [#111]. Additional case law was submitted subsequent to the hearing. That motion is taken under advisement by the Court, and a separate Order will be entered regarding that motion on a later date.

SO ORDERED, this the 2nd day of July, 2009.

/s/ Linda R. Anderson
UNITED STATES MAGISTRATE JUDGE