

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

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

MALERIE MEYERS,

Case No. 3:04-cv-978-J-16MMH

Intervenor,

vs.

JAX INNS, INC.,  
d/b/a Spindrifter Hotel,

Defendant.

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**ORDER**

**THIS CAUSE** is before the Court on Plaintiff and Intervenor's Joint Motion for Protective Order and to Quash Defendant's Subpoenas and Memorandum in Support Thereof (Doc. No. 31; Motion) filed on July 28, 2005. Defendant opposes, in part, the relief requested in the Motion. See Defendant's Response to Plaintiff and Intervenor's Joint Motion for Protective Order and to Quash Defendant's Subpoenas (Doc. No. 33; Response), filed on August 15, 2005.

On July 7, 2005 and July 11, 2005, Defendant served a total of three subpoenas upon Intervenor Malerie Meyers' former employers. See Motion at 2 & Ex. A. The subpoenas requested any and all documents pertaining to the employment of Malerie Meyers. See id. Upon receipt of the subpoenas, Plaintiff notified Defendant that it objected to the subpoenas and asked Defendant to withdraw them. See Motion at 2-3. On July 20, 2005, Defendant

notified Plaintiff that it would modify the subpoenas to narrow the information sought. See id. at 3; Response at 4, Ex. 4. Plaintiff and Intervenor contend that the subpoenas should be quashed because they are still overbroad, not likely to lead to the discovery of admissible evidence and continue to seek private and confidential information about Ms. Meyers. See id.

Defendant contends that on July 20, 2005, when it informed Plaintiff that it would modify the subpoenas to narrow the scope of the information sought, it also asked that counsel for Plaintiff “contact it to discuss its proposal so that the parties could resolve their differences absent judicial intervention.” Response at 4 & Ex. 4. However, Defendant asserts that it did not receive a response to this correspondence. See Response at 4. Defendant requests the Court deny the Motion and allow it to revise the subpoenas in the manner proposed to Plaintiff in its July 20, 2005 correspondence. See id. at 9.

Upon review of the subpoenas, the Court agrees that the subpoenas, in their current form, are overbroad. Consequently, the Court will grant the Motion to the extent that the subpoenas served upon UBS Paine Webber, Randstad (p/k/a) Accustaff Inc., and Q, The Sports Club will be quashed.<sup>1</sup> However, as discussed above, Defendant has agreed to serve more narrowly tailored subpoenas. The undersigned has reviewed the proposed modification to the subpoenas and finds that the subpoenas, as modified, would not be overbroad and could lead to the discovery of admissible evidence pursuant to Rule 26, Federal Rules of Civil Procedure (Rule(s)). Therefore, Defendant will be permitted to serve

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<sup>1</sup> The Court need not address the issue of standing because, as discussed infra, Defendant agreed to limit its subpoenas instead of contesting standing.

modified subpoenas upon UBS Paine Webber, Randstad (p/k/a) Accustaff Inc., and Q, The Sports Club. The subpoenas shall only seek the following information with regard to Malerie Meyers' employment: performance appraisals, reprimands, attendance records, rates of pay and dates of employment.

Finally, this Court will take this opportunity to remind the parties of their obligation to confer "in a good faith effort to resolve the issues raised by [any] motion" before filing it. See Local Rule 3.01(g), United States District Court, Middle District of Florida (Local Rule(s)). The Court is concerned that the instant Motion may have been filed before responding to Defendant's July 20, 2005 offer to modify the subpoenas was considered. Both parties are cautioned that, in the future, they should fully exhaust all efforts to resolve a dispute prior to filing a motion.

In light of the foregoing, it is hereby

**ORDERED:**

1. Plaintiff and Intervenor's Joint Motion for Protective Order and to Quash Defendant's Subpoenas and Memorandum in Support Thereof (Doc. No. 31) is **GRANTED** to the extent that the subpoenas served upon UBS Paine Webber, Randstad (p/k/a) Accustaff Inc., and Q, The Sports Club are **QUASHED**. Defendant may serve modified subpoenas upon these entities in accordance with this Order. In addition, Defendant shall immediately notify the nonparties of the content of this Order and promptly return any documents received pursuant to the subpoena without further inspection.

2. Otherwise, Plaintiff and Intervenor's Joint Motion for Protective Order and to Quash Defendant's Subpoenas (Doc. No. 31) is **DENIED**.

**DONE AND ORDERED** at Jacksonville, Florida on August 24, 2005.

  
MARCIA MORALES HOWARD  
United States Magistrate Judge

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Copies to:

Counsel of Record