Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

BC

12

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT-
BUSINESS LITIGATION SECTION

VINAY MEHRA, Plaintiff, v. BOSTON GLOBE MEDIA PARTNERS, LLC, Defendant.	Civil Action No. 2384CV01483-BLS1

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO QUASH NON-PARTY SUBPOENA AND FOR A PROTECTIVE ORDER

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

INTRODUCTION

When an employee sues his former employer, the lawsuit often elicits a predictable reaction: The defendant will seek to subpoena the plaintiff's personnel files from his new or former employers under the guise of conducting discovery relevant to a potential defense. Courts are not fooled. In reality, such subpoenas are little more than an opportunity for mischief and harassment. They typically amount to fishing expeditions that invade the plaintiff's privacy interest in his personnel records, impose needless burdens on non-parties, and have the strong potential to interfere with the plaintiff's employment prospects. Often, these types of subpoenas label a plaintiff as litigious and troublesome to prospective employers, someone who has dragged the recipient—a potential future employer or one that will be asked for a job reference—into legal proceedings not of its own making and imposed substantial discovery burdens upon it.

Thus, such subpoenas are regarded as a means of intimidation fraught with the potential for abuse. Accordingly, they are to be used strictly as a last resort, targeted strictly to necessary information that cannot be obtained through other discovery methods.

Here, Defendant Boston Globe Media Partners (BGMP) followed this predictable pattern and ran roughshod over these precepts. This suit is barely out of the starting block, with a pending motion for partial judgment on the pleadings and discovery yet to commence in earnest. Yet, prior to requesting a single document from Mr. Mehra, serving a single interrogatory, or engaging in any other discovery, Defendant jumped immediately to subpoenaing his former employer—WGBH Educational Foundation. The Globe did not give Plaintiff advance notice of the subpoena, but only notified his counsel *after* serving it on WGBH. Indeed, the subpoena initially called for production of documents even prior to the date of service—leaving no time for either Plaintiff or WGBH to challenge it. The Globe pursues its subpoena not as a last resort after exhausting other

avenues but as naked retaliation—right out of the gate—for pursuing this action.

The subpoena is a playbook scare tactic that represents classic litigation abuse. Mr. Mehra has not worked for WGBH since 2015, more than eight years ago. Nothing about his past job at WGBH is relevant to his claims against the Globe. Yet, BGMP seeks his entire personnel file and all other information regarding his employment, such as materials apparently aimed at discerning whether he engaged in any whiff of financial impropriety. BGMP merely seeks to dig for dirt completely irrelevant to this matter, to embarrass and intimidate Mr. Mehra, and to poison his standing with a former (and possible future) employer who he relies on for job references. Even assuming for argument's sake that he committed misconduct a decade ago in a prior position—he did not—such evidence would be wholly immaterial under proposed Mass. R. Evid. 404 and applicable case law. It is inappropriate to circumvent the discovery process, disrupt WGBH's business operations, and threaten Plaintiff's employment prospects for such paltry pickings.

The issues at the heart of this case are whether the Globe fired Mr. Mehra in retaliation for his wage complaints and whether it withheld compensation owed to him for work performed. Plaintiff's prior employment files have no bearing on whether BGMP paid him properly nor on the actual motivation behind its decision to terminate him in June 2020. BGMP's defenses depend upon the knowledge it possessed about Mr. Mehra's performance at the Globe at the time of termination, not what it might potentially unearth now about his prior conduct in a different, unrelated job. Any conceivable relevance is extraordinarily attenuated and speculative.

Hence, the Court should quash the subpoena as overbroad, invasive, unduly burdensome, fatally premature, and not calculated to lead to the discovery of admissible evidence. To protect Plaintiff and WGBH from annoyance, embarrassment, oppression, and undue burden and expense, the Court should issue a protective order under Mass. R. Civ. P. 26(c) precluding the subpoena;

requiring Defendant to destroy any documents that may be produced in response to the subpoena and barring their use in this litigation; and prohibiting Defendant from issuing any further subpoenas to WGBH or to Mr. Mehra's other former, current, or prospective employers without prior leave. By issuing the subpoena, BGMP has already done damage to Mr. Mehra's professional relationships; it should not be able to compound that damage without establishing a pressing and compelling need for specific information that cannot be obtained through other means.

THE SUBPOENA AT ISSUE

Plaintiff Vinay Mehra is the former President of the Boston Globe. In his complaint, Mr. Mehra alleges that the Globe violated the Massachusetts Wage Act by failing to pay all wages due; retaliated against him in violation of the Wage Act; and breached his contract and the applied covenant of good faith and fair dealing by terminating him to avoid paying his commission and by withholding compensation owed to him. In the alternative to the contractual claim, Plaintiff pursues a common law claim for unjust enrichment. The issues in this case focus on the Globe's conduct, namely (1) whether it terminated Mr. Mehra in retaliation for making legally protected wage complaints or to avoid paying him compensation that he had earned and (2) whether it unlawfully withheld amounts owed to him. Plaintiff's employment records from jobs which predate his tenure with Defendant bear no possible relevance upon these inquiries.

On September 14, 2023, the Globe issued a subpoena to Mr. Mehra's former employer, WGBH Educational Foundation, where he worked from 2008 to 2015. The subpoena (Ex. A) could hardly be more broad and sweeping. It seeks:

1. All personnel files, within the meaning of Mass. Gen. L. c. 149, §52C, for Vinay Mehra, for the full period of his employment.
2. All expense reports submitted by Vinay Mehra, and any communications or other documents questioning, challenging, or rejecting the reimbursement of expenses incurred by him.

3. All documents or communications concerning Vinay Mehra's education, experience, or other qualifications, including without limitation documents questioning, challenging, and/or investigation any such qualifications.
4. All documents and communications concerning any complaints made by anyone employed by, or working with, WGBH to anyone in WGBH's human resources department or anyone supervising or senior to Vinay Mehra concerning him, his behavior, or in relation to working with Mehra.
5. All documents and communications concerning the end of Mehra's employment with WGBH, including but not limited to any documents and communications that evidence or concern the reasons for the separation.
6. Any reports, summaries, notes, or other records of any investigation conducted by a third party into any aspect of Mehra's behavior or conduct.

This is the very definition of a fishing expedition. The subpoena calls for scattershot production of a host of sensitive materials in search of a proverbial needle in the haystack that Defendant can use to gratuitously smear Mr. Mehra. The subpoena also places significant burdens on WGBH by seeking the production of extensive records that are between eight and fifteen years old—such as every single expense report, communication, or other document in any way related to Mr. Mehra. Further, it is designed to tarnish Mr. Mehra's reputation with WGBH, his former employer, by insinuating—without substantiation—that he has engaged in serious misconduct.

Defendant served the subpoena on WGBH prior to providing notice to Plaintiff and his Counsel (Ex. B, email). In its rush to inflict harm on Mr. Mehra and to prevent him from making timely objections, Defendant violated Mass. R. Civ. P. 45(d)(1)—which requires that a party issuing a subpoena serve a copy on each party "*before* it is served on the person to whom it is directed." Further, despite being served on September 14, the subpoena calls for document production to be completed on the morning of September 12, leaving WGBH no actual time to challenge or respond to it. This too blatantly violated the Rules; Rule 45(d)(1) contemplates that recipients have a reasonable amount of time to object to and respond to a subpoena. This naturally includes collecting the documents, evaluating them for privilege issues, and making pertinent

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

objections. Negative two days plainly does not suffice.[1]

ARGUMENT

Unreasonable and overbroad subpoenas must be quashed or modified. *Finance Comm. of Boston v. McGrath*, 343 Mass. 754, 765 (1962); *see also Cronin v. Strayer*, 392 Mass. 525, 534 (1984) ("Subpoenae duces tecum are subject to supervision by the presiding judge to prevent oppressive, unnecessary, irrelevant, and other improper inquiry and investigation."). M.R.C.P. 45(b) provides that a court may quash or modify a subpoena "if it is unreasonable and oppressive." Further, M.R.C.P. 26(c) empowers courts to issue protective orders "to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense"—including by barring certain discovery. Factors bearing on the Rule 26(c) inquiry include:

(1) whether it is possible to obtain the information from some other source that is more convenient or less burdensome or expensive;

(2) whether the discovery sought is unreasonably cumulative or duplicative; and

(3) whether the likely burden or expense of the proposed discovery outweighs the likely benefit of its receipt, taking into account the parties' relative access to the information, the amount in controversy, the resources of the parties, the importance of the issues, and the importance of the requested discovery in resolving the issues.

Because these rules are substantially similar to their federal counterparts, Massachusetts courts generally follow the construction given to the equivalent federal rules. *Matter of Grand Jury Subpoena*, 411 Mass. 489, 501 (Mass. 1992). Once objections are raised to a subpoena, the propounding party must prove that the requested information falls within the scope of permissible discovery. *Caver v. City of Trenton*, 192 F.R.D. 154, 159 (D.N.J. 2000) (requesting party must show that "the information sought is relevant to the subject matter of the action and may lead to admissible evidence."). Courts consider "relevance, the requesting party's need, the breadth of the

[1] During a meet-and-confer process in advance of this motion, Defendant agreed to extend the response deadline until the Court rules on this motion.

request, and the burden imposed when analyzing whether a subpoena places an undue burden on a nonparty." *Lindsay v. C.R. Bard, Inc.*, 2011 WL 240104 at *1 (M.D. Pa. Jan. 24, 2011).

The subpoena fails under these standards. Even before discovery has commenced, BGMP launches a broadside salvo on a non-party, Mr. Mehra's former employer, seeking a host of materials over a seven-year period (ending in 2015). Documents and information contained in WGBH's files, while likely to be sensitive in nature, bear no relevance to the claims and defenses in this matter. The subpoena merely poses needless burdens on WGBH while threatening Mr. Mehra's employment prospects. Evidentially, it is meant as pure intimidation: if Plaintiff pursues his claims, the Globe will play dirty and the gloves will be off. The subpoena must be quashed.

I. **The Subpoena Seeks a Swath of Highly Sensitive Materials in Which Plaintiff Mehra Has a Strong Personal Privacy Interest**

Courts recognize that employee personnel files typically contain private and sensitive details, such as confidential health and financial information. Accordingly, individuals possess a personal right with respect to their employment records and have standing to challenge a subpoena seeking production of such records. *See, e.g., EEOC v. Tex. Roadhouse, Inc.*, 303 F.R.D. 1, 3 (D. Mass. 2014); *Singletary v. Sterling Transp. Co.*, 289 F.R.D. 237, 239-40 (E.D. Va. 2012); *Blotzer v. L-3 Commcn's Corp.*, 287 F.R.D. 507, 509, 510 (D. Ariz. 2012); *Bickley v. Schneider Nat'l., Inc.*, 2011 WL 1344195, at *2–3 (N.D. Cal. Apr. 8, 2011). "Personnel files may contain information that is both private and irrelevant to the case, therefore special care must be taken before personnel files are turned over to an adverse party." *Blotzer*, 287 F.R.D. at 509.

"Generally, employment records from separate employers are not discoverable due to their highly private nature absent a specific showing by a defendant as to their relevance." *Greenburg v. Red Robin Int'l, Inc.*, 2018 WL 2329671, at *1 (W.D. Wash. May 23, 2018); *see also Ramos v. Walmart, Inc.*, 2023 WL 2327208, at *5 (D.N.J. Mar. 2, 2023) (indicating that third-party discovery

on prior employers should be disallowed unless "narrowly tailored to the central issue in the case"). Here, Defendants seek discovery of all of Mr. Mehra's employment records and files from the time he worked at WGBH—a seven-year period from 2008 to 2015. These documents are certain to contain sensitive personal information with no bearing on the claims or defenses in this action. The invasion of Plaintiff's privacy interests by itself creates a substantial burden on him.

II. <u>The Subpoena Does Not Seek Relevant Information and Is Facially Overbroad</u>

A subpoena issued under Rule 45 is subject to the burden analysis of Rule 26(c). Mass. R. Civ. P. 45(d)(1) (subpoena subject to Rule 26(c)). However, the relevance standard is heightened in the context of non-party discovery. Mere relevance is insufficient; a stronger showing is required. *E.g., Isola USA Corp. v. Taiwan Union Tech. Corp.*, 2015 WL 5934760, at *3 (D. Mass. June 18, 2015) ("The scope of discovery differs significantly between parties and nonparties. The 'relevance' standard of Rule 26 does not apply to nonparties."); *Bio-Vita, Ltd. v. Biopure Corp.*, 138 F.R.D. 13, 17 (D. Mass. 1991) (citations omitted). In particular, a party must show (1) a *need* for the discovery (2) which outweighs the non-party's interest in non-disclosure. *Id.*[2]

Defendant's right-out-of-the-gate subpoena does not meet the heightened standard for discovery on non-parties. Not only does the Globe lack any significant need for information pertaining to Mr. Mehra's past employment at WGBH, there is no discernable relevance at all.

A. Courts Regularly Deem Subpoenas for an Employee's Entire Personnel File and Records to Be Impermissibly and Fatally Overboard

Defendant's subpoena seeks Mr. Mehra's complete personnel files for his entire seven years

[2] As the First Circuit has articulated: "Although discovery is by definition invasive, parties to a law suit must accept its travails as a natural concomitant of modern civil litigation. Non-parties have a different set of expectations. Accordingly, concern for the unwanted burden thrust upon non-parties is a factor entitled to special weight in evaluating the balance of competing needs." *Cusumano v. Microsoft Corp.*, 162 F.3d 708, 717 (1st Cir. 1998).

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

of employment at WGBH, in addition to other broad categories of documents that WGBH would have to scavenge for. This is impermissibly overbroad. *Smith v. Turbocombustor Tech., Inc.*, 338 F.R.D. 174, 177 (D. Mass. 2021). As in *Smith*, courts routinely quash such "blanket requests for all personnel records" as "overbroad on their face" and "amount[ing] to a fishing expedition." *EEOC v. Evening Entm't. Grp. LLC*, 2012 WL 2357261, at *1 (D. Ariz. June 20, 2012); *Ramos*, 2023 WL 2327208, at *7 ("Taken together, the six categories of documents sought… amount to a request for the entirety of the employment files… Such a request is plainly overbroad."); *Saller v. QVC, Inc.*, 2016 WL 8716270, at *5 (E.D. Pa. June 24, 2016) ("Courts have routinely found blanket requests for a plaintiff's entire personnel or employment file to be impermissibly broad"); *Henry v. Morgan's Hotel Grp., Inc.*, 2016 WL 303114, at *2 (S.D.N.Y. Jan. 25, 2016) ("Blanket requests of this kind are plainly overbroad and impermissible"; failure to limit the subpoena to particular categories of documents shows that that defendant is engaged in a mere fishing expedition); *Singletary*, 289 F.R.D. at 241 (quashing subpoenas for plaintiff's entire employment file from his former employers for seeking "documents completely extraneous to th[e] litigation"); *Pena v. Burger King Corp.*, 2012 WL 12547064, at *2 (E.D. Va. Sept. 21, 2012) (such subpoenas "are overbroad, and could be quashed on this basis alone without addressing relevance").[3]

Such overbreadth is a sufficient independent basis to quash. *E.g., Smith*, 338 F.R.D. at 177 ("The overbreadth of the subpoenas alone provides an independent basis to quash them."); *Henry*, 2016 WL 303114, at *2; *Pena*, 2012 WL 12547064, at *2. In general, courts reject attempts to turn

[3] *See also e.g., Lewin v. Nackard Bottling Co.*, 2010 WL 4607402, at *1 (D. Ariz. Nov. 4, 2010) (quashing subpoenas for complete personnel records); *Prof'l Recovery Servs., Inc. v. Gen. Elec. Capital Corp.*, 2009 WL 137326, at *4 (D.N.J. Jan. 15, 2009) (quashing party discovery request for an employee's entire personnel file for eight years: "To cast a wide net for discovery of information in the hopes that something of use may come back is the essence of a fishing expedition precluded by the rule of proportionality.").

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

discovery into a "fishing expedition for potential claims or defenses"—an abuse of even the relevance standard for party discovery. *Robinson v. Horizon Blue Cross-Blue Shield of N.J.*, 2013 WL 6858956, *2, *6 (D.N.J. Dec. 23, 2013); *see also, e.g.*, *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1072 (9th Cir. 2004) (courts "need not condone the use of discovery to engage in 'fishing expeditions.'"); *Hashem v. Hunterdon Cty.*, 2017 WL 2215122 at *3 (D.N.J. May 18, 2017) (subpoena for employment plaintiff's complete educational records, with no attempt to limit the requests to potentially relevant subject matter); *Emara v. Multicare Health Sys.*, 2012 WL 5205950, at *3 (W.D. Wash. Oct. 22, 2012) ("A mere hope that the requested employment documents contain information that might prove to be relevant later at trial is insufficient.").

B. The Documents and Information Sought by the Subpoena Have No Conceivable Relevance to the Parties' Claims or Defenses

"On a motion to quash, the party issuing the subpoena must demonstrate that the information sought is relevant and material to the allegations and claims at issue in the proceedings." *In re Subpoena to Loeb & Loeb LLP*, 2019 WL 2428704 at *4 (S.D.N.Y. June 11, 2019); *Hashem*, 2017 WL 2215122 at *2. Subpoenas that seek information with little apparent relevance to a contested issue should be quashed, even if the burden of production is not onerous. *Kirschner v. Klemons*, 2005 WL 1214330 at *2 (S.D.N.Y. May 19, 2005).

The subpoena here cannot meet even a traditional relevance test, much less the heightened "need" standard. Defendants' requests suggest that they are trawling for any indication that, while at WGBH, Mr. Mehra committed financial improprieties, misrepresented his qualifications, or engaged in other misconduct. To begin with, "mere suspicion or speculation" "is not enough to warrant such a broad inquiry." *Hashem*, 2017 WL 2215122 at *3; *see also, e.g., Henry*, 2016 WL 303114, at *3 & n.2; *Belling v. DDP Holdings, Inc.*, 2013 WL 12140986, at *3 (C.D. Cal. May 30, 2013) ("[T]he requested discovery must be relevant to the subject matter involved in a

pending action and must not be based on the requesting party's mere suspicion or speculation.").

And, in any event, there is no relevance. Mr. Mehra's work history and performance in a prior position has no bearing on whether Defendant terminated him in retaliation for his wage complaints and/or to avoid paying him compensation to which he was entitled. *Smith*, 338 F.R.D. at 177 (rejecting subpoenas on previous employers: "To establish its given reason for terminating Plaintiff, Defendant must present evidence of the actual sub-standard performance observed by Defendant, not some other employer."); *Michel v. Nat'l Grid USA*, 2019 WL 11541148, at *1 (D. Mass. Nov. 20, 2019) (same: defendant-employer cannot seek to justify its termination of plaintiff by obtaining information regarding his performance in other jobs); *Texas Roadhouse*, 303 F.R.D. at 3 (focus of the trial will be on what defendant knew when it made the decisions at issue, and the actual basis for those decisions, not whether plaintiffs may have engaged in misconduct or shown shortcomings in other jobs); *see also, e.g.*, *Hardin v. Mendocino Coast Dist. Hosp.*, 2019 WL 1493354 at *6 (N.D. Cal. Apr. 4, 2019) ("The focus of discovery in this termination case should be on the reasons for the termination. Even if [plaintiff's] previous employers also fired [him] for poor performance… that doesn't constitute evidence of [his] performance at [defendant's company]."); *Henry*, 2016 WL 303114, at *3 (plaintiff's performance in prior employment has "little if any bearing" on the issue of whether defendant took the employment actions in question based on valid considerations or based on an unlawful discriminatory or retaliatory motive); *Camara v. Costco Wholesale*, 2014 WL 12835240, at *2 (E.D.N.Y. Feb. 19, 2014) (performance in prior jobs, including whether plaintiff was previously fired for insubordination, not relevant or admissible on his work performance with defendant such as to prove his alleged insubordination in the instant case); *Walker v. H.M. Henner & Maurice, L.P.*, 2016 WL 4742334, at *2 (S.D.N.Y. Sept. 12, 2016). Simply put, personnel records from another job years in the past "are not relevant

to assessing the validity of [BGMP's proffered rationale] for terminating plaintiff." *Popat v. Levy*, 2020 WL 6465449, at *4 (W.D.N.Y. Nov. 3, 2020).

It is axiomatic that facts that were not known to the Globe at the time that it terminated Mr. Mehra in June 2020—which it now seeks to glean from WGBH's files—could not have played any role in its decision and cannot establish a defense. *See, e.g.*, *Mickelson v. N.Y. Life Ins. Co.*, 460 F.3d 1304, 1312 (10th Cir. 2006) (relevant question is whether the employer's "proffered reasons actually motivated the wage disparity of which the plaintiff complains."); *EEOC v. Wal-Mart Stores, Inc.*, 477 F.3d 561, 570–71 (8th Cir. 2007) ("[T]he central inquiry is whether [the protected characteristic] was a factor in the employment decision *at the moment it was made*"; employer may not advance *post-hoc* rationalizations based on information that did not actually influence the decision); *Guercia v. Equinox Holdings, Inc.*, 2013 WL 2156496, at *4 (S.D.N.Y. May 20, 2013) (quashing subpoenas on plaintiff's former employers: "When Equinox made the decisions challenged in this lawsuit, it must have done so on the basis of information that it actually possessed… If it did not possess them, then the records cannot have played any role in Equinox's decision-making process and are irrelevant.").

Even assuming that Defendant's sheer speculation that Mr. Mehra engaged in wrongdoing while employed at WBGH was justified, any evidence to be adduced through the subpoena would likely be inadmissible propensity evidence under proposed Mass. R. Evid. 404. Courts routinely apply Fed. R. Evid. 404 to preclude similar subpoenas. *See Henry*, 2016 WL 303114, at *4 (citing cases); *EEOC v. Serramonte*, 237 F.R.D. 220, 223 (N.D. Cal. 2006) ("Work performance with other employers" "is inadmissible under Rule 404(a)"); *Popat*, 2020 WL 6465449, at *5.[4]

[4] *See also, e.g.*, *Chamberlain v. Farmington Sav. Bank*, 2007 WL 2786421, at *3 (D. Conn. Sept. 25, 2007) (holding that plaintiff's performance history with other employers was irrelevant and could only amount to impermissible character/propensity evidence; also holding that defendant

Likewise, any attempt by BGMP to justify its subpoena on the grounds that it could lead to material impugning Plaintiff's credibility would merely confirm that its goal is to delve for dirt rather than to obtain relevant evidence. *See Boar v. Cty. of Nye*, 499 F. App'x 713, 716 (9th Cir. 2012) (impermissible to use non-party subpoenas to "try to find a basis for discrediting" an individual: "[b]road, unsupported claim[s] regarding the *possible* value of [an individual's] personnel file is not enough to compel discovery of those documents.") (citation omitted); *Woods v. Fresenius Med. Care Group. of N. Am*, 2008 WL 151836, at *2 (S.D. Ind. Jan. 16, 2008) (defendant-employer not permitted to use subpoenas on plaintiff's current and former employers to "fish around" for evidence of her "credibility and motive in bringing suit").[5]

Here it is clear that Plaintiff's prior employment files bear no relevance on the issues implicated by his claims against the Globe. BGMP may prove its defenses with the information it actually considered at the time that it fired Mr. Mehra. If it purports to have relied on evidence pertaining to his employment with WGBH when making the termination decision in 2020, it can establish as much with information already in its possession. There is no valid reason to reach back more than eight years into the records of a prior employer. Defendant is up to no good.

In sum, as in *Rebman v. Astec, Inc.*, 2022 WL 2345945 (W.D.N.Y. June 29, 2022),

---

had not set forth allegations sufficient to justify a broad search of plaintiff's employment records for credibility issues); *Liles v. Stuart Weitzman, LLC*, 2010 WL 1839229, at *3-4 (S.D. Fla. May 6, 2010) (discovery of plaintiff's prior employment records unwarranted because evidence regarding performance history would be inadmissible under Rule 404).

[5] *See, e.g.*, *Henry*, 2016 WL 303114, at *3 (impermissible to base a subpoena on speculation that plaintiff has been untruthful); *Slipchenko v. Brunel Energy, Inc.*, 2013 WL 12137785, at *2 (S.D. Tex. June 18, 2013) (quashing subpoenas on plaintiff's former employers; rejecting unsubstantiated rationale that they are relevant to credibility); *Singletary*, 289 F.R.D. at 243 (improper for defendant to "search wholesale through Plaintiff's previous employment records" merely by invoking "credibility"). The "marginal benefit" of any such evidence is "outweighed by the harm that would be done by obtaining the [evidence] by subpoena from [Plaintiff's other] employers." *See, e.g.*, *Guercia*, 2013 WL 2156496, at *5–6.

Defendant "should not be permitted 'to conduct a fishing expedition in the hopes of uncovering some potentially damaging information' about [Mr. Mehra]." Even if the subpoena were to unearth prior misconduct or other untoward behavior, such evidence would be inadmissible to suggest that Plaintiff acted similarly while employed at the Globe. The Court should quash the subpoena for Mr. Mehra's past employment records with WGBH and issue a protective order. *Id.* at *5.

III. The Burdens that the Subpoena Imposes on Plaintiff and on WGBH Are Vastly Disproportional to Any Possible Need for the Information Sought

As set forth above, Plaintiff has a significant and well-established privacy interest in his employment records. Further, he is rightfully concerned about the potential impact of the subpoena on his professional reputation and employment prospects. In contrast, the Globe's need to obtain discovery from WGBH is marginal at best. Courts have widely recognized that non-party subpoenas of a plaintiff's employment records—"if warranted at all"—should be a matter of "last resort," as such subpoenas are ripe for abuse. *See, e.g.*, *EEOC v. Princeton Healthcare Sys.*, 2012 WL 1623870, at *21 (D.N.J. May 9, 2012); *Texas Roadhouse*, 303 F.R.D. at 3. Defendant's premature and overbroad subpoena is a case in point. The Globe leapt directly to a sweeping non-party subpoena for improper purposes, without making any effort to obtain more targeted discovery from Mr. Mehra or through other means. This Court should thus quash the subpoena as unreasonable and oppressive under Rule 45(b)(1) and enter a protective order under Rule 26(c).

A. The Subpoena Is Designed to Annoy, Harass, and Otherwise Prejudice Plaintiff and Exposes Him to a Needless and Undue Risk of Professional Harm

The burden that the subpoena imposes on Mr. Mehra is particularly great because of the risk it creates—it may negatively affect his future employment opportunities. There is an extensive body of case law rejecting subpoenas to plaintiffs' current employers because of the danger of adverse employment consequences. *See, e.g.*, *Tex. Roadhouse*, 303 F.R.D. at 3. Courts have also

widely recognized that these concerns extend to subpoenas on former employers. *See, e.g.*, *U.S. v. Handrup*, 2016 WL 8738943, at *2 (N.D. Ill. July 11, 2016) (noting the "potential reputational damage" arising from broad subpoenas to plaintiff's former employers) (collecting cases); *Henry*, 2016 WL 303114, at *2 (recognizing that such subpoenas cause prejudice to plaintiff and jeopardize her employment prospects); *Guercia*, 2013 WL 2156496, at *4 ("The court agrees with [Plaintiff] that to permit these subpoenas to be served could be seriously detrimental to her business reputation and career. No employer relishes the experience of responding to a subpoena for an employee's records. And the stigma associated with the service of a subpoena and the revelation that [Plaintiff] is participating in a lawsuit against her former employer could, if these facts were to become widely known in the [] industry, clearly interfere with [Plaintiff's] ability to engage in that line of work."); *Vuona v. Merrill Lynch & Co.*, 2011 WL 5553709, at *9 (S.D.N.Y. Nov. 15, 2011) ("Simply put, the issue here is whether [Defendant's] decision-making as to Plaintiffs was based on valid considerations or whether it was influenced by gender bias... Plaintiffs' prior work histories have nothing to do with that. And any peripheral relevance the requested documents might conceivably have is decisively outweighed by the potential for harassment or reputational injury presented by a subpoena to such a former employer.").[6]

Even if there is no immediate evidence of concrete harm, courts should "approach[] third-party discovery directed at [former or potential] employers that are not the focus of an employment [] claim with a measured level of caution, given the risk that such discovery could be used for an

---

[6] *Accord*: *Rodriguez v. NNR Global Logistics USA, Inc.*, 2016 WL 11673310, at *5 (S.D.N.Y. Mar. 31, 2016); *see also, e.g.*, *Perry v. Best Lock Corp.*, 1999 WL 33494858, at *2 (S.D. Ind. Jan. 21, 1999) ("If filing what is, by all appearances to the court, a fairly routine case alleging individual employment discrimination opens up the prospect of discovery directed at all previous, current, and prospective employers, there is a serious risk that such discovery can become 'an instrument for delay or oppression.'").

improper purpose, including the harassment or intimidation of a plaintiff attempting to enforce his or her rights under Title VII or a similar protective statute." *Ramos*, 2023 WL 2327208, at *7 n.5.

As in such cases, the Globe's subpoena poses a legitimate threat to Plaintiff's reputation and career. WGBH is a prominent and influential entity in Boston, a town with a famously intimate professional community. Since Mr. Mehra's retaliatory termination, Defendant has attempted to undermine his reputation with scurrilous accusations of financial impropriety. Dragging another leading Boston entity into this litigation unnecessarily will undermine Plaintiff's career prospects, while providing no corresponding discovery benefit. Mr. Mehra depends on WBGH for job references and could seek re-employment there if an appropriate opening becomes available.

B. The Subpoena Unnecessarily Burdens and Harms WGBH

Defendant's subpoena is not only overbroad, irrelevant, and harassing, it also imposes an undue burden on WGBH as a non-party. Courts consider several factors when determining whether a subpoena presents an undue burden: 1) relevance; 2) necessity of the documents; 3) breadth of the request; 4) time period; 5) particularity with which the party describes the requested documents; and 6) the burden imposed. *Wiwa v. Royal Dutch Petroleum Co.*, 392 F.3d 812, 818 (5th Cir. 2004). "However, courts also give special weight to the burden on non-parties of producing documents to parties involved in litigation." *Travelers Indem. Co. v. Metropolitan Life Ins. Co.*, 228 F.R.D. 111, 113 (D. Conn. 2005); *see also Cusumano v. Microsoft Corp.*, 162 F.3d 708, 717 (1st Cir. 1998) ("concern for the unwanted burden thrust upon non-parties is a factor entitled to special weight in evaluating the balance of competing needs.") *Semtek Intern., Inc. v. Merkuriy Ltd.,* 1996 WL 238538 (N.D.N.Y. May 1, 1996) (asserting that Lockheed's status as a non-party entitled it to consideration regarding inconvenience and expense).

Here, Defendant seeks a copious quantity of documents and materials from WBGH, with

no proof that any of it is relevant and no reasonable limitation on the information sought. *See, e.g., Heidleberg Ams., Inc. v. Tokyo Kikai Seisakusho, Ltd.*, 333 F.3d 38, 41-42 (1st Cir. 2003) (even assuming relevance, the subpoena "cast too wide a net"—requesting a decade's worth of materials and all documents relating to any kind of business relationship between the non-party recipient and the proponent's opposing party). WGBH would have to scrounge through records going back fifteen years to locate virtually every document pertaining to Mr. Mehra, undertake an extensive review for privilege, and expend substantial time and resources in responding to the subpoena.

The burdens to be imposed on WBGH do not end there. The subpoena's requests for items such as expense reports and materials regarding investigations may implicate WGBH's confidential or proprietary commercial information. Defendants cannot show a need for such information that outweighs WGBH's interest in keeping such sensitive information under wraps. *See, e.g., In re Asacol Antitrust Litig.*, 2017 WL 11475277, at *5 (D. Mass. June 14, 2017). Similarly, production of items like performance evaluations and investigations could impede WGBH's business operations. *See, e.g.*, *EEOC v. Willamette Tree Wholesale, Inc.*, 2010 WL 11583264, at *3 (D. Or. Jan. 28, 2010) ("public policy militates against disclosure of personnel files because [disclosure] might discourage candid employee performance evaluations, breach employees' expectations of confidentiality and cause morale problems.").

By definition, non-party subpoenas impose an undue burden when the same information can be obtained from a party or through other alternative sources. *Torres v. Johnson & Johnson*, 2021 WL 2209870, at *2 (D. Mass. June 1, 2021); *Cumby v. Am. Med. Response, Inc.*, 2019 WL 1118103, at *5 (D. Mass. Mar. 11, 2019); *see also*, *e.g.*, *Amini Innovation Corp. v. McFerran Home Furnishings, Inc.*, 300 F.R.D. 406, 410 (C.D. Cal. 2014) ("Courts are particularly reluctant to require a non-party to provide discovery that can be produced by a party. Accordingly, [a] court

may prohibit a party from obtaining discovery from a non-party if that same information is available from another party to the litigation."); *Evening Ent. Grp.*, 2012 WL 2357261, at *2 (quashing subpoena because information could instead be obtained from plaintiff); *Emara*, 2012 WL 5205950, at *3 (quashing subpoena that constituted requesting party's "first attempt to obtain any discovery" in the case; party had not "attempted to ask [the subjects of the subpoenas] about their prior employment or establish any reason for subpoenaing [their former employer]").[7]

Here, BGMP has not even tried. There was nothing barring it from attempting to pinpoint any genuinely relevant information and seeking to obtain it from Plaintiff himself. The parties could have conferred on the scope of discovery, what materials were truly probative, and what was the best and least costly and burdensome way that they could be secured. But BGMP chose not to pursue this path. Instead, prior to the outset of discovery, it issued an indiscriminately broad non-party subpoena as swift retribution for filing this action. This plainly fails the Rule 26(c) inquiry.

IV. <u>The Subpoena May Be Quashed for Procedural Defects Alone</u>

Even disregarding all other infirmities, the subpoena was procedurally tainted. Based on Defendant's failure to comply with the Rules, it may not be enforced.

First, contrary to Rule 45(d)(1), the Globe did not serve a copy on Plaintiff <u>*before*</u> serving it on WGBH. It emailed a copy to Mr. Mehra's counsel only <u>*after*</u> the fact. (*See* Ex. B) *See, e.g.*, *Firefighter's Inst. for Racial Equal. ex rel. Anderson v. City of St. Louis*, 220 F.3d 898, 903 (8th Cir. 2000) (quashing subpoena for failure to serve opposing party with prior notice); *Martinez v.*

[7] *See also, e.g.*, *Arthrex, Inc. v. Parcus Medical, LLC*, 2011 WL 6415540, at *6 (S.D. Ind. Dec. 21, 2011) ("A party's ability to obtain documents from a source with which it is litigating is a good reason to forbid it from burdening a non-party with production of those same requests."); *Warnke v. CVS Corp.*, 265 F.R.D. 64, 70 (E.D.N.Y. 2010) (where data about post-employment income was relevant to mitigation, defendant "is not entitled to obtain this information directly from Plaintiff's employers, but rather, must obtain the information from less intrusive means where possible.").

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

Target Corp., 278 F.R.D. 452, 453 (D. Minn. 2011) (same, even in the absence of prejudice); *cf. Guercia*, 2013 WL 2156496, at *6 (allegation that defendant served subpoena on plaintiff's former employer *before* giving notice to plaintiff was "troubling" and could warrant a separate motion for appropriate relief—even after the subpoena was quashed on other grounds).

Second, the original subpoena did not afford a reasonable period to respond and was thus unduly burdensome and oppressive. Under pain of contempt, it required production on September 12, two days before it was served. This failed to provide *any*—much less adequate—time to formulate objections, gather the documents, evaluate them for privilege, and make a production.

As M.R.C.P. 45(d)(1) provides, unless the court allows a shorter time, "[a] subpoena upon a party which commands the production of documents… must give the party at least 30 days for compliance after service thereof." Massachusetts recognizes that subpoenas impose special time and expense burdens on non-parties who have no stake in the outcome and may not have dedicated counsel. Reporter's Notes to 2015 Amendment to M.R.C.P. 45(d). A non-party uninvolved in the action and unfamiliar with the issues should not be afforded any less time to respond. And here, at the outset of the case, there was absolutely no rush that would warrant a shorter time frame.

Under the federal equivalent of Rule 45, many courts have found a response date fourteen days from the date of service to be "presumptively reasonable." *In re New Eng. Fed. Compounding Pharmacy, Inc. Prods. Liab. Litig.*, 2013 WL 6058483, at *7 (D. Mass. Nov. 13, 2013) (ordering non-party to produce documents within 30 days). A subpoena seeking compliance in less than one business day is plainly unreasonable by any measure. *Progressive Emu Inc. v. Nutritional Fitness Inc.*, 785 Fed. Appx. 622, 628 (11th Cir. 2019). The defect is compounded where, as here, the subpoena broadly seeks a wide range of documents over a multi-year period. *Id.*

But these deficiencies do not stand by themselves. Defendant's errors bolster a conclusion

that it issued the subpoena in haste to frighten Mr. Mehra into forfeiting his claims. Further, they were apparently intended to ram through a subpoena that is unjustified and thoroughly improper, particularly at this early juncture. Instead of permitting Mr. Mehra a reasonable opportunity to confer regarding discovery and to contest the subpoena before it was served, Defendants presented him with the daunting prospect that compliance was already underway by the time he got notice.

V. Defendant Should Not Be Rewarded for its Discovery Abuses; the Court Should Quash the Subpoena in its Entirety and Grant Associated Relief

Plaintiff has already been prejudiced by the very issuance of the Globe's premature and non-compliant subpoena. *See Henry*, 2016 WL 303114, at *2. His employment prospects hang in the balance. Defendant should not be rewarded for its conduct. The proper remedy is to quash the subpoena in its entirety, preclude its enforcement, and bar Defendant from issuing any further subpoenas on Plaintiff's other employers without prior leave. *See, e.g.*, *Smith*, 338 F.R.D. 174 (granting protective order precluding service of proposed subpoenas); *Lewin*, 2010 WL 4607402, at *1–2 (granting motion to quash in its entirety and issuing protective order); *Singletary*, 289 F.R.D. at 242–44 (quashing subpoenas and requiring defendant to obtain leave of court before issuing any other subpoenas seeking plaintiff's previous employment records); *Woods*, 2008 WL 151836, at *2 (quashing subpoena on current and former employers as defendant failed to demonstrate that they were based on "anything other than [its] hope that the documents sought might prove useful"); *Bellifemine v. Sanofi-Aventis U.S. LLC*, No 1:07-cv-2207 (S.D.N.Y. July 24, 2008) (Ex. C) (granting protective order and directing: "In addition, defendant should not issue any subpoenas in the future to employers of the plaintiffs... without first seeking leave of the court."). As in such cases, the Court must rein in BGMP's discovery abuses.

In addition, the Court should order Defendant to promptly destroy any documents that it may have obtained in response to the subpoena. *See, e.g.*, *Brown v. Yellow Transp., Inc.*, 2009 WL

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

3270791, at *6 (N.D. Ill. Oct. 9, 2009) (upon quashing subpoenas to plaintiff's former employers, directing: "To the extent Yellow has already received responses to any of the subpoenas, it must destroy the records and cannot utilize any information contained in them."); *Blotzer*, 287 F.R.D. at 510 ("Given that Defendant is now in possession of Blotzer's confidential and inadmissible employment records, the Court is left with no option but to issue a protective order to ensure that Defendant does not utilize any documents or information it obtained through the subpoenas.").

Where the case is at its infancy, there is absolutely no possible prejudice from a protective order. It merely preserves the status quo and allows the discovery process to play out. Once a former employer such as WGBH expends the time and resources to comply with a subpoena, the primary harm to both WGBH and to Plaintiff Mehra will be effectuated and cannot be reversed.

CONCLUSION

Prior to the commencement of party discovery, the Globe served an impermissibly broad non-party subpoena on Plaintiff's former employer, WGBH. In its haste to go after Mr. Mehra and to avoid objections, Defendant violated the procedural requirements of Rule 45. On its substance, the subpoena is equally tainted by impropriety. The subpoena seeks all employment records for a period from 2008 to 2015. There is no legitimate relevance to the documents and materials requested; instead, Defendant merely seeks to fish for dirt on Mr. Mehra while smearing him with a major Boston institution that he relies on for employment references and possible future job opportunities. This is a blatant form of litigation abuse that should not be countenanced. The Court should quash the subpoena, issue a protective order, and grant additional appropriate relief.

Respectfully submitted,

VINAY MEHRA,

By his attorneys,

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

/s/ Rebecca G. Pontikes
Rebecca G. Pontikes
Bryn A. Sfetsios
BBO# 637157
PONTIKES LAW, LLC
10 Tremont Street, 3d Floor
Boston, MA 02108
(617) 357-1888
rpontikes@pontikeslawllc.com
bsfetsios@pontikeslawllc.com

/s/ David W. Sanford
David W. Sanford
Andrew Melzer
Sanford Heisler Sharp, LLP
1350 Avenue of the Americas, 31st Floor
New York, NY 10019
(646)402-5650
dsanford@sanfordheisler.com
amelzer@sanfordheisler.com

Dated: October 3, 2023

CERTIFICATE OF SERVICE

Pursuant to Superior Court Rule 9B, I, Andrew Melzer hereby certify that a true copy of the above document was served on counsel for Defendant by email on October 3, 2023.

/s/ Andrew Melzer

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS. SUPERIOR COURT-
BUSINESS LITIGATION SECTION

VINAY MEHRA,
Plaintiff,
v.

BOSTON GLOBE MEDIA PARTNERS, LLC,
Defendant.

Civil Action No. 2384CV01483-BLS1

EXHIBITS INDEX

EXHIBIT A	Subpoena for Documents Only	PAGE 1
EXHIBIT B	Email from Mark Batten, Sept. 14, 2023	PAGE 8
EXHIBIT C	Order of Gabriel W. Gorenstein, Bellimfemine v. Sanofi-Aventis U.S. LLC	PAGE 10

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

EXHIBIT A

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

VINAY MEHRA,

Plaintiff,

v.

BOSTON GLOBE MEDIA PARTNERS, LLC,

Defendant.

Civil Action No. 2384CV01483

SUBPOENA FOR DOCUMENTS ONLY

To: WGBH Educational Foundation
One Guest Street
Boston, MA 02135

You are hereby commanded, in accordance with **M.R.C.P. Rule 45**, in the name of the Commonwealth of Massachusetts, to produce and permit inspection and copying of the following described documents to Mark W. Batten, attorney for the Defendant, at the address of Proskauer Rose, LLP, One International Place, Boston, MA 02110-2600 on September 12, 2023 at 10:00 a.m., in the action captioned above.

1. All personnel files, within the meaning of Mass. Gen. L. c. 149, §52C, for Vinay Mehra, for the full period of his employment.
2. All expense reports submitted by Vinay Mehra, and any communications or other documents questioning, challenging, or rejecting the reimbursement of expenses incurred by him.

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

3. All documents or communications concerning Vinay Mehra's education, experience, or other qualifications, including without limitation documents questioning, challenging, and/or investigating any such qualifications.
4. All documents and communications concerning any complaints made by anyone employed by, or working with, WGBH to anyone in WGBH's human resources department or anyone supervising or senior to Vinay Mehra concerning him, his behavior, or in relation to working with Mehra.
5. All documents and communications concerning the end of Mehra's employment with WGBH, including but not limited to any documents and communications that evidence or concern the reasons for the separation.
6. Any reports, summaries, notes, or other records of any investigation conducted by a third party into any aspect of Mehra's behavior or conduct.

A. Instructions

1. In responding to this subpoena, you are required to furnish all documents that are available to you, or that you may obtain by reasonable inquiry. This includes documents in the possession of third parties, and includes documents in the possession of your attorneys, accountants, advisors, or other persons directly or indirectly employed by, or connected with, WGBH, or anyone else otherwise subject to your control. If you object to production of any document or category of documents, or any part of a document or category of documents, you are required to furnish the documents or categories of documents, or parts of documents or categories of documents to which you do not object. This subpoena does not request documents protected from disclosure by the attorney-client privilege.

2. You may comply with the document request of this subpoena by returning responsive documents to Mark W. Batten, Proskauer Rose LLP, One International Place, Boston, MA 02110 or via email to mbatten@proskauer.com.

3. If you object to the production of any of the documents or parts of the documents described in the documents requested, then, in order to assist the Court in ruling on your objection, with respect to each document that you do not produce:

a. State the date and nature of the document;

b. State the name of the person who wrote the document and, if it is a communication, the person to whom it was addressed;

c. Describe the subject matter of the document; and

d. State the grounds of your objection.

4. State the name and business and residence address and telephone number of each person who has possession, custody, or control of the document.

B. Definitions

1. "You," "your," or "WGBH" refers to the WGBH Educational Foundation, as well as all its partners, directors, officers, employees, servants, agents, attorneys, joint venturers, third-party contractors or other representatives, including all affiliated corporations and entities. If Vinay Mehra was employed by an affiliate of WGBH other than the WGBH Educational Foundation, that entity is specifically included.

2. "Person" refers to any entity, including but not limited to any natural person, partnership, corporation, company, trust, estate, joint venture, or association of persons.

3. As used herein, the term "communication" shall have the broadest meaning permitted by Superior Court Rule 30A and shall encompass the transmittal of information (in the form of

facts, ideas, inquiries, or otherwise); including but not limited to: conversations (whether telephonic, electronic, or verbal); messages, whether analog, electronic, or digital, including those sent through Slack, Whatsapp, Skype, Zoom, Microsoft, Signal, Telegram, and any other platform; telephone records; meetings; statements; discussions; correspondence; memoranda; facsimiles; text messages; e-mails; and every other manner of oral or written communication.

4. As used herein, the terms "concerns" or "concerning" shall have the broadest meaning permitted by Massachusetts Superior Court Rule 30A, and mean relating to, reflecting, memorializing, discussing, constituting, comprising, containing, setting forth, pertaining to, disclosing, showing, describing, explaining, summarizing, analyzing, projecting, indexing, referring to (directly or indirectly), or having any direct or indirect connection with, including not only documents in which explicit reference is made to the subject of the inquiry, but also documents in which the subject matter is in any way considered or in which other documents or communications bearing upon the subject matter are considered.

5. As used herein, the term "document" shall have the broadest meaning permitted by Mass. R. Civ. P. 34(a) and Massachusetts Superior Court Rule 30A, and encompasses any designated printed, typewritten, handwritten, computer-based, or otherwise recorded, produced, or reproduced matter of whatever character, whether signed or unsigned, transcribed or not, including, but not limited to: electronic or paper files, correspondence, electronic mail, text messages, Slack messages, Skype messages, Whatsapp messages, Microsoft messages, Signal messages, Telegram messages, contracts, agreements, logs, letters, statistics, minutes of meetings, requests, bills, orders, memoranda, telegrams, diagrams, films, notes, notices, writings, forms, catalogs, brochures, newspaper clippings, manuals, diaries, reports, desk or other calendars, schedules, inter-office communications, intra-office communications, faxes,

instructions, statements, jottings, announcements, checks or other negotiable instruments, charts, graphs, tabulations, drawings, photographs, recordings (in any form), discs, motion pictures, other data compilations, depositions, affidavits, writs, declarations, complaints, answers and other court pleadings, and any carbon or photographic copies, reproductions, or reconstructions of any such material if you do not have custody of the original. A draft or non-identical copy is a separate document within the meaning of this term.

Hereof fail not, as your failure to comply may deem you in contempt and may subject you to such penalties as the law provides.

Dated this 14th day of September, 2023.

Respectfully submitted,

BOSTON GLOBE MEDIA PARTNERS, LLC

By its attorneys,

/s/Mark W. Batten
Mark W. Batten (BBO# 566211)
PROSKAUER ROSE LLP
One International Place
Boston, MA 02110
Tel: 617. 526.9600
Fax: 617.526.9899

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2023 the foregoing document was served by email on all counsel of record.

/s/Mark W. Batten
Mark W. Batten

Return of Service

SUFFOLK SS.

I, the undersigned, complying with the laws set forth by the *Commonwealth of Massachusetts* and the *Massachusetts Rules of Civil Procedure*, hereby certify that on this _______ day of _________, in the year 2023, I serve the attached, attested **Subpoena for Documents Only**, upon American International Group by delivering it personally at ____________________________ by hand at _____________ am/pm.

I further certify that I am not a party to the above entitled action and that I am not less than 18 years of age.

Signed under the penalties of perjury this ________ day of ____________ , in the year 2023.

____
Signature

____
Print Name

139639333v3

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

EXHIBIT B

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

From: Batten, Mark W.
To: David Sanford; Andrew Melzer; Rebecca G. Pontikes; Bryn Sfetsios
Subject: Mehra v. Boston Globe Media Partners
Date: Thursday, September 14, 2023 3:50:57 PM
Attachments: mehra - gbh subpoena(139639333.3).pdf

——EXTERNAL EMAIL——

Counsel – Please see the attached subpoena, which was served on WGBH today.

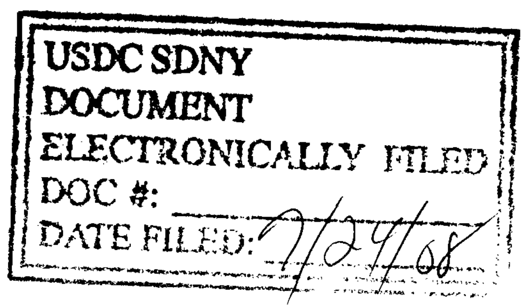
Mark W. Batten
Partner
Proskauer
One International Place
Boston, MA 02110-2600
d 617.526.9850 tel:+16175269850
f 617.526.9899
mbatten@proskauer.com

****
****
This message and its attachments are sent from a law firm and may contain information that is confidential and protected by privilege from disclosure.
If you are not the intended recipient, you are prohibited from printing, copying, forwarding or saving them.
Please delete the message and attachments without printing, copying, forwarding or saving them, and notify the sender immediately.
****
****

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483

EXHIBIT C

Date Filed 11/2/2023 7:21 PM
Superior Court - Suffolk
Docket Number 2384CV01483



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---x

KAREN BELLIMFEMINE, :

Plaintiffs, :

-v.- :

SANOFI-AVENTIS U.S. LLC :

Defendant. :

---x

ORDER

07 Civ. 2207 (JGK) (GWG)

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

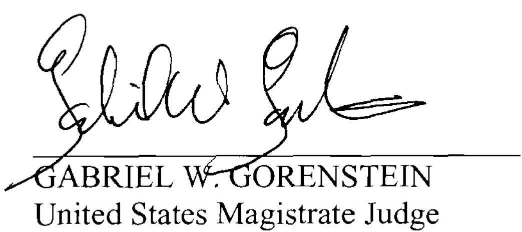
For the reasons stated today on the record, the motion to quash the subpoenas (Docket # 35) is treated as a motion for a protective order, and is granted. Defendant shall not take any action to enforce the subpoenas at issue and the subpoenaed entities shall suspend their compliance with the subpoenas. In addition, defendant should not issue any subpoenas in the future to employers of the plaintiffs or putative class members without first seeking leave of the Court.

Notwithstanding the above, and as discussed at oral argument, defendant has leave to seek the information called for by the subpoenas in the future by submitting additional argument or other information by letter at any time prior to the close of discovery.

Defendant is directed to provide a copy of this Order to each subpoenaed entity.

SO ORDERED.

Dated: New York, New York
July 23, 2008



GABRIEL W. GORENSTEIN
United States Magistrate Judge