

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

VIRGINIA MCKEE NOEL

PLAINTIFF

v.

No. 3:10CV00107 JLH

LIBERTY BANK OF ARKANSAS

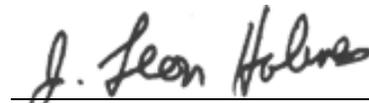
DEFENDANT

ORDER

Kemp & Company has filed a motion to quash or modify a subpoena issued by the plaintiff in this action. Kemp & Company cites Rule 45(c)(3)(A)(iii) of the Federal Rules of Civil Procedure for the proposition that a court must quash or modify a subpoena that requires disclosure of privileged or other protected matter. “Some of the documents requested in the subpoena are confidential.” Kemp & Company asserts, without however, describing the nature of the documents or explaining what about them is confidential. A protective order is, as Kemp & Company notes, in place. That order protects trade secrets and other information the confidentiality or privacy of which is protected by statute. Kemp & Company says, “[w]hile the information being requested is highly confidential, it does not fall within either of those categories.” Kemp & Company has presented nothing but conclusory assertions that the documents are confidential and that the protective order currently in place is insufficient.

The burden of persuasion in a motion to quash a subpoena issued during the course of civil litigation is on the moving party. *United States v. Int’l Bus. Mach. Corp.*, 83 F.R.D. 97, 104 (S.D.N.Y. 1979). Kemp & Company has not met that burden. The motion to quash or modify is therefore DENIED. Document #75.

IT IS SO ORDERED this 16th day of October, 2012.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE