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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TYRONE DOUTHERD,

Plaintiff,

v.

DORIS MARIE MONTESDEOCA; estate  
of LUCILLE J. SMITH; UNITED  
PARCEL SERVICE, INC.; LIBERTY  
MUTUAL INSURANCE COMPANY; and  
DOES 1-30 ,

Defendants.

No. 2:17-cv-2225-MCE-EFB

ORDER

This case is before the court on defendant United Parcel Service, Inc.'s ("UPS") motion to quash a subpoena served on third-party Cal-OSHA. ECF No. 1. For the reasons explained below, the motion is denied.<sup>1</sup>

I. Background

Plaintiff alleges that in August 2015, he was involved in a collision with a vehicle driven by defendant Doris Montesdeoca. Compl. (ECF No. 1-1) ¶ 9. At the time of the accident, plaintiff was driving a loaded transport truck and trailer owned by his employer, UPS. *Id.* The

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<sup>1</sup> The court determined that oral argument would not materially assist in the resolution of the pending motion and the matter was ordered submitted on the briefs. *See* E.D. Cal. L.R. 230(g).

1 accident allegedly left plaintiff with significant back pain, left knee damage, pain in both  
2 shoulders, and “pain and all around soreness.” *Id.* ¶ 15. After receiving treatment at the  
3 emergency room, plaintiff was prescribed physical therapy and instructed to perform light duty  
4 work for the next seven weeks. *Id.* After those seven weeks, he was required to return to full  
5 time duty despite not having adequately recovered from his injuries. *Id.* Plaintiff claims that he  
6 continued to experience pain, but that UPS did not permit him to seek further medical treatment  
7 and instead began to harass and discriminate against him in various ways. *Id.* ¶ 16.

8 Plaintiff asserts claims against UPS for fraud, discrimination, harassment, retaliation, and  
9 failure to accommodate in violation of the Americans with Disabilities Act and California Fair  
10 Employment and Housing Act; violation of the Age Discrimination in Employment Act; breach  
11 of contract; and a cause of action styled as “violations of statutes.” *Id.* at 16. He also asserts  
12 claims for fraudulent concealment, negligent interference, and breach of contract against  
13 defendant Liberty Mutual Insurance Company, and a negligence claim against defendants Doris  
14 Montesdeoca, the other driver involved in the accident, and the estate of Lucille Smith, the owner  
15 of the car driven by Ms. Montesdeoca.

16 In April 2018, plaintiff served a subpoena on Cal-OSHA, seeking “[a]ll records reporting  
17 accidents involving employees of United Parcel Freight in California from January 1, 2007, to the  
18 present, including the name of the injured employee, date of injury or accident, general  
19 description of the accident and type of injury.” Decl. of Susan S. Joo , Ex. A (ECF No. 26-2).  
20 UPS now moves to quash the subpoena. ECF No. 27.

## 21 II. Discussion

22 “On timely motion, the court for the district where compliance is required must quash or  
23 modify a subpoena that: (i) fails to allow a reasonable time to comply; (ii) requires a person to  
24 comply beyond [certain] geographical limits . . . ; (iii) requires disclosure of privileged or other  
25 protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden.”  
26 Fed. R. Civ. P. 45(d)(3)(A). Further, a court may quash or modify a subpoena requiring the  
27 disclosures of a trade secret or other confidential commercial information. Fed. R. Civ. P.  
28 45(d)(3)(B)(i).

1           UPS argues that the subpoena should be quashed because it is overbroad, seeks discovery  
2 that is not relevant or proportional to plaintiff's claims, and violates the privacy interest of third-  
3 parties by seeking medical information protected by HIPPA. ECF No. 26 at 5-8. But UPS has  
4 not shown that it has standing to prevent non-party Cal-OSHA from complying with the  
5 subpoena. As a general rule a party to a lawsuit has no standing to object to a subpoena served on  
6 a non-party absent a privilege or privacy interest in the requested documents. *Cal. Sportfishing*  
7 *Prot. Alliance v. Chico Scrap Metal, Inc.*, 299 F.R.D. 638, 643 (E.D. Cal. 2014). The custodian  
8 of the records here is Cal-OSHA not UPS. None of these objections concern a privilege or  
9 privacy interest held by UPS. Accordingly, UPS has no standing to assert these objections. *See*  
10 *Finley v. Pulcrano*, 2008 WL 4500862, at \* 1 (N.D. Cal. Oct.6, 2008) ("A party does not have  
11 standing to quash a subpoena on the basis that the non-party recipient of the subpoena would be  
12 subjected to an undue burden when the non-party has failed to object."); *Wells Fargo and Co. v.*  
13 *ABD Ins.*, 2012 WL 6115612 at \*2 (N.D. Cal. Dec. 10, 2012) ("A party's objection that a  
14 subpoena to a non-party seeks irrelevant information or would impose an undue burden are not  
15 grounds on which a party has standing to move to quash a subpoena when the non-party has not  
16 objected"); *Kremen v. Cohen*, 2012 WL 2277857, at \*3 (N.D. Cal. June 18, 2012) (finding that  
17 defendant did not have standing to withdraw subpoena based solely on ground that the subpoenas  
18 violated the rights of third-parties).

19           UPS does argue that the subpoena seeks its own confidential business records. While  
20 UPS has standing to assert this interest, it merely provides its conclusion that "[t]he requested  
21 accident records contain [its] confidential commercial information," without further elaboration.  
22 UPS's conclusory statement is insufficient to carry its burden of demonstrating that it has a  
23 privacy interest in the requested documents. *See Blankenship v. Hearst Corp.*, 519 F.2d 418, 429  
24 (9th Cir. 1975) ("The party who resists discovery has the burden to show discovery should not be  
25 allowed, and has the burden of clarifying, explaining, and supporting its objections.").  
26 Accordingly, UPS has failed to demonstrate any basis for quashing the subpoena plaintiff served  
27 on Cal-OSHA.


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III. Conclusion

Accordingly, it is hereby ORDERED that defendant UPS's motion to quash (ECF No. 27) is denied.

DATED: June 14, 2018.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE