

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-00968-REB-KLM

KATHLEEN CHYTKA,

Plaintiff,

v.

WRIGHT TREE SERVICE, INC.,

Defendant.

ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendant's **Motion to Quash Subpoenas Served on Defendant** [Docket No. 47; Filed January 19, 2012] (the "Motion to Quash") and on Plaintiff's **Motion for Order** [Docket No. 50; Filed January 26, 2012] (the "Motion for Order").

On December 14, 2011 and December 21, 2011, Plaintiff, who proceeds in this matter *pro se*, served two subpoenas on Defendant to obtain production of documents she believes are within Defendant's control. *See Ex. A to Motion to Quash* [#47-1]. To facilitate the matter's resolution, Defendant wrote to Plaintiff on December 27, 2011, informing her that subpoenas were an improper means of obtaining documents from a another party and informing her that she should make her requests for production pursuant to Fed. R. Civ. P. 34. *See Ex. B to Motion to Quash* [#47-2]. Plaintiff chose to serve five more subpoenas on Defendant on January 9, 2012. *Ex. C to Motion to Quash* [#47-3].

Defendant filed the present Motion to Quash [#47] on January 19, 2012. It seeks to quash the seven subpoenas because they are an improper means of obtaining discovery from a party opponent. See *Motion to Quash* [#47] at 2. The Court agrees. "The issuance of a Rule 45 subpoena for documents from the plaintiff [to the defendant] is improper in any event." *Murray v. Crawford*, No. 08-cv-0245-KMT-KLM, 2009 WL 1600682, at *1 (D. Colo. June 4, 2009) (citing *Hasbro, Inc. v. Serafino*, 168 F.R.D. 99, 100 (D. Mass. 1996) (holding that Fed. R. Civ. P. 45 subpoenas are applicable only to non-parties and that documents sought from the opposing party must be requested pursuant to Fed. R. Civ. P. 34)). Plaintiff must make future discovery requests to Defendant pursuant to Fed. R. Civ. P. 34. Accordingly, Defendant's Motion to Quash is granted.

With respect to Plaintiff's Motion for Order [#50], Plaintiff has failed to comply with D.C.COLO.LCivR 7.1A. Plaintiff has been warned multiple times already that she must do so before filing motions with the Court. See [#36; #42, #45]. **Any future motion that does not comply with this rule will be summarily stricken from the record.** Accordingly,

IT IS HEREBY **ORDERED** that Motion to Quash [#47] is **GRANTED**.

IT IS FURTHER **ORDERED** that the Motion for Order [#50] is **DENIED**.

Dated: January 30, 2012

BY THE COURT:



Kristen L. Mix
United States Magistrate Judge