

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

LUIS A VALDIVIESO,

Plaintiff,

v.

Case No: 8:17-cv-118-T-23JSS

CUSHMAN & WAKEFIELD INC.,

Defendant.

/

ORDER

THIS MATTER is before the Court on the Motion to Quash and Objections to Subpoena to Testify at a Deposition in a Civil Action (“Motion”) (Dkt. 58), filed by non-party Anthem, Inc. (“Anthem”); Anthem’s Emergency/Time-Sensitive Motion to Quash and Objections to Subpoena to Testify at a Deposition in a Civil Action (“Emergency Motion”) (Dkt. 59), which is the amended version of the Motion; Plaintiff’s response in opposition to the Emergency Motion (Dkt. 60); Anthem’s Motion for Leave to File a Reply to Plaintiff’s Response in Opposition to the Emergency Motion (Dkt. 67) (“Motion for Reply”); and Plaintiff’s response in opposition to the Motion for Reply (Dkt. 68). On October 27, 2017, a hearing was held on the Emergency Motion.

Plaintiff issued the Subpoena to Anthem seeking information to support his claims in the First Amended Class Action Complaint concerning the alleged lack of notice of his rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”). (Dkts. 14, 60.) The Subpoena seeks testimony concerning twenty-three deposition topics (“Topics”). (Dkt. 59-3, Ex. A.) At the hearing, Plaintiff withdrew Topics 6, 12, 14, 15, 18 (identified as number 16), 21 (identified as number 20), 22 (identified as number 21), and 23 (identified as number 22). For the reasons stated at the hearing, as set forth below, it is **ORDERED**:

1. The Emergency Motion (Dkt. 59) is **GRANTED** in part and **DENIED** in part. The Emergency Motion is granted as to Topics 7, 8, and 20 (identified as number 18). All remaining Topics are limited to the COBRA notice at issue in this lawsuit and to the time period of 2013 to 2016. The Emergency Motion is denied as to Topics 1 through 5. Finally, the Emergency Motion is granted in part as to the remaining Topics because the Court limited the scope of these Topics at the hearing on the Emergency Motion. Specifically, Topic 9 shall be limited to testimony regarding who ultimately approved the COBRA notice that is the subject of the lawsuit. Next, Topic 10 shall be limited to testimony regarding the number of people who received the same COBRA notice as Plaintiff. Topic 11 shall be limited to testimony regarding the steps Anthem took to send out the COBRA notice that is the subject of the lawsuit. Topic 13 shall be limited to testimony regarding the number of people who elected COBRA coverage. Topic 16, which is identified as the second number 11, shall be limited to testimony regarding Anthem's knowledge of changes made to the COBRA notice at issue in this case. Topic 17, which is identified as the second number 15, is limited to testimony regarding Plaintiff's personnel file for the time period at issue. Finally, Topic 19, which is identified as number 17, is limited to testimony regarding written policies and written procedures regarding issuing the COBRA notice to Defendant's employees.

2. The parties agree to conduct the deposition, either in person or telephonically, by November 19, 2017.

3. The Motion (Dkt. 58) and the Motion for Reply (Dkt. 67) are **DENIED** as moot in

light of the ruling on the Emergency Motion.

DONE and **ORDERED** in Tampa, Florida, on October 30, 2017.



JULIE S. SNEED
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
Counsel of Record