

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

PAINTEQ, LLC,

Plaintiff,

v.

Case No. 8:20-cv-2805-VMC-AAS

OMNIA MEDICAL, LLC,

Defendant.

_____ /

ORDER

Defendant Omnia Medical, LLC (Omnia) requests an order compelling non-parties Armenia Ambulatory Surgery Center, LLC d/b/a Medical Village Surgical Center, the Surgery Center of Ocala, LCC, and Westchase Surgery Center, Ltd. (collectively, the non-party surgery centers) to produce subpoenaed documents. (Docs. 60, 61, 62). Plaintiff Painteq, LLC does not oppose the motions. (*Id.*). The non-party surgery centers did not respond, and the time has expired. *See* Local Rule 3.01(c), M.D. Fla.

A party may subpoena documents, electronically stored information, or tangible things in a non-party's possession under Federal Rule of Civil Procedure 45. Fed. R. Civ. P. 45(a)(1)(A)(iii). "The scope of discovery under Rule 45 is the same as the scope of discovery under Federal Rule of Civil Procedure 26." *Digital Assur. Certification, LLC v. Pendolino*, No. 6:17-cv-72, 2017 WL

4342316, at *8 at *22 (M.D. Fla. Sept. 29, 2017). “Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case” Fed. R. Civ. P. 26(b)(1).

The party opposing a subpoena has the burden of demonstrating that compliance with the subpoena presents an undue burden or that it requires the disclosure of privileged or protected information. *Fadalla v. Life Auto. Prods, Inc.*, 258 F.R.D. 501, 504 (M.D. Fla. 2007). Written objections may be served by the non-party, but the objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. Fed. R. Civ. P. 45(d)(2)(B). “Typically, failure to serve written objections to a subpoena in the time provided by [Rule 45] waives any objections that party may have.” *Cadle v. GEICO Gen. Ins. Co.*, No. 6:13-cv-1591, 2014 WL 12639859, at *3 (M.D. Fla. Aug. 29, 2014).

The non-party subpoenas at issue were served on September 21, 2021 and September 27, 2021 and directed compliance on October 20, 2021. (*See* Doc. 60, Ex. B; Doc. 61, Ex. B; Doc. 62, Ex. B). The non-party surgery centers did not object or otherwise respond to the subpoena.

Accordingly, Omnia’s motion for an order compelling the non-party surgery centers to produce the subpoenaed documents (Doc. 29) is **GRANTED**. The non-party surgery centers must provide Omnia with the subpoenaed documents by **December 10, 2021**.

ORDERED in Tampa, Florida on November 17, 2021.

A handwritten signature in black ink that reads "Amanda Arnold Sansone". The signature is written in a cursive, flowing style.

AMANDA ARNOLD SANSONE
United States Magistrate Judge

cc:

Armenia Ambulatory Surgery Center, LLC
c/o Corporation Service Company, registered agent
1201 Hays Street
Tallahassee, FL 32301

The Surgery Center of Ocala, LLC
c/o Corporation Service Company, registered agent
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Westchase Surgery Center, LLC
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