

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

BILLY BURKETTE

CIVIL ACTION

VERSUS

ALLSTATE INSURANCE COMPANY

NO. 08-386-D-M2

RULING & ORDER

This matter is before the Court on the Motion to Compel Production and for Contempt (R. Doc. 15) filed by defendant, Allstate Insurance Company (“Allstate”). Through this motion, Allstate seeks an Order compelling non-parties to this litigation, B.A.M. Construction, L.L.C. and Mike Wade, to produce certain records requested by subpoena within ten (10) days or for a declaration of contempt in the event they fail to comply in accordance with Fed. R. Civ. P. 45(d). The record does not reflect that B.A.M. Construction and Mr. Wade have ever been served with a copy of Allstate’s present motion.¹ As such, they have not been allowed sufficient opportunity to present any arguments in opposition thereto.

Accordingly;

IT IS HEREBY ORDERED that the Motion to Compel Production and for Contempt (R. Doc. 15) filed by defendant, Allstate Insurance Company, is hereby **DENIED WITHOUT**

¹ According to the Certificate of Service attached to the motion and to the Court’s CM/ECF system, the motion was electronically filed and notice of the filing was sent only to plaintiff’s counsel, Stephen M. Irving, on March 31, 2009. The Certificate of Service indicates that defense counsel did not mail the motion and the notice of electronic filing to any non-CM/ECF participants, which would include the non-parties against whom the present motion is directed.

PREJUDICE to Allstate refiling such motion in the future, at which time proper service of the motion should be effected upon third parties, B.A.M. Construction, L.L.C. and Mike Wade.

Signed in chambers in Baton Rouge, Louisiana, April 29, 2009.



MAGISTRATE JUDGE CHRISTINE NOLAND