

1 In responding to the motion, Plaintiff does not address this issue. Instead, Plaintiff states that
2 it was permitted to seek this third-party discovery and further makes generalized assertions that grounds
3 for quashing the subpoena do not exist. See Docket No. 8. For example, without elaboration, Plaintiff
4 contends that, “[i]n accordance with [Rule] 45(d)(3)(A)(i), the subpoena provided its recipient sufficient
5 time to respond.” *Id.* at 4; see also *id.* at 3 (“[t]here is no evidence or even reasonable argument that the
6 subject subpoena: (1) fails to allow a reasonable time for compliance” (emphasis in original)). Such
7 assertions simply ignore that zero time was given for compliance because the date for compliance had
8 already passed.

9 In short, Plaintiff served a subpoena that is defective on its face. See *in re Subpoena to Jodie*
10 *Strain*, 2013 WL 12155022, at *1 (S.D. Tex. June 19, 2013) (“That subpoena was defective, however,
11 because the date for compliance had already passed”). Plaintiff’s response does not recognize that
12 obvious deficiency despite Plaintiff’s motion clearly identifying it. Nor has Plaintiff provided any
13 argument that this deficiency, while perhaps technical in nature, is insufficient grounds to quash the
14 subpoena. Cf. *CF&I Steel Corp. v. Mitsui & Co. (U.S.A.), Inc.*, 713 F.2d 494, 496 (9th Cir. 1983)
15 (affirming the quashing of a subpoena for failing to tender fees concurrently with service of the
16 subpoena, despite later attempt to tender fees more than two months before the date for compliance).
17 As such, Plaintiff has provided the Court no basis on which to do anything other than grant the relief
18 requested of quashing the facially defective subpoena.¹

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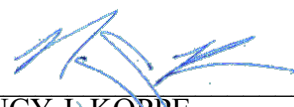
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24 ¹ The Court can envision several arguments that Plaintiff and its counsel could have raised in seeking
25 an outcome other than the quashing of the subpoena. But Plaintiff and its counsel did not raise those
26 arguments, and the Court declines to act as Plaintiff’s attorney by *sua sponte* raising arguments for them.
27 See, e.g., *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 582 n.3 (D. Nev. 2013). The Court is also
28 mindful of Plaintiff’s contention that quashing the subpoena may impede its ability to proceed with its case.
Docket No. 8 at 4 (asserting that the required information “would be lost” if the motion to quash is granted).
If the stakes are truly as high as Plaintiff contends, it is unclear why it did not respond in any fashion to
Movant’s argument.

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For the reasons discussed above, the motion to quash is **GRANTED**.

IT IS SO ORDERED.

DATED: April 17, 2017



NANCY J. KOPPE
United States Magistrate Judge