

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:13-MC-105-FDW-DCK**

PALM BEACH VACATION OWNERS)
ASSOCIATION, INC.,)
)
 Petitioner,)
)
 v.)
)
ESCAPES!, INC., et al.,)
)
 Respondents.)
)

ORDER

THIS MATTER IS BEFORE THE COURT on “Escapes Respondents’ Objections To Non-Party Subpoenas And Motion To Quash” (Document No. 1) filed July 3, 2013, and “Plaintiffs’ Notice Of Withdrawal Of Subpoena” (Document Nos. 3, 4) filed July 19, 2013. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the pending motion, the record, and applicable authority, the undersigned will deny the motion as moot.

The pending motion filed by Escapes!, Inc. et al. (“Respondents”) seeks to quash non-party subpoenas issued to Festiva Development Group, LLC and Festiva Hospitality Group, Inc. by the Palm Beach Vacation Owner’s Association (“Petitioner”). (Document No. 1). It appears that the Petitioner and Respondent are involved in an action before the American Arbitration Association, and/or the United States District Court for the Southern District of Alabama. (Document Nos. 2, 2-1). The subpoenas in question, issued by this Court, demanded the production of certain documents at a P.O. Box in Mobile, Alabama on July 5, 2013 at 10:00 a.m. (Document No. 2-1).

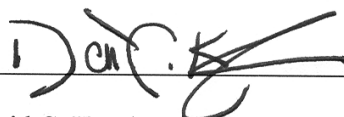
Respondents' "...Motion To Quash" and "Brief In Support..." assert, *inter alia*, that the subpoenas did not provide proper notice, that the documents sought are privileged and/or irrelevant, and that the descriptions of the documents sought are vague, ambiguous and overly broad. (Document Nos. 1, 2). Moreover, the undersigned notes that it is unclear that the subpoenas were issued by the proper court. See Fed.R.Civ.P. 45(a)(2) ("[a] subpoena must issue as follows . . . for production or inspection, . . . from the court for the district where the production or inspection is to be made").

On July 19, 2013, Petitioner filed its "...Notice Of Withdrawal Of Subpoena" (Document Nos. 3, 4). As such, Petitioner has voluntarily withdrawn the subpoenas in question, and apparently concedes that the subpoenas were issued without adequate notice under Fed.R.Civ.P. 45(b)(1). Id. To date, Respondents have declined to file a response to Petitioner's "...Notice Of Withdrawal Of Subpoena."

Under these circumstances, the undersigned is persuaded that the pending motion to quash is moot.

IT IS, THEREFORE, ORDERED that "Escapes Respondents' Objections To Non-Party Subpoenas And Motion To Quash" (Document No. 1) is **DENIED AS MOOT**.

Signed: July 31, 2013



David C. Keesler
United States Magistrate Judge

