

STATE OF MISSOURI )  
 ) SS  
CITY OF ST. LOUIS )

MISSOURI CIRCUIT COURT  
TWENTY-SECOND JUDICIAL CIRCUIT  
(City of St. Louis)

In re: the Matter of: )  
 )  
 [REDACTED], Minor Child )  
 by his Next Friend, JAROD )  
 [REDACTED], and )  
 )  
 JAROD [REDACTED] )  
 Individually, )  
 xxx-xx-[REDACTED], )  
 )  
 Petitioners, )  
 )  
 vs. )  
 )  
 [REDACTED] )  
 xxx-xx-unknown, )  
 )  
 Respondent. )

Case: [REDACTED]  
Division No. [REDACTED]

ORDER

The Court has before it Petitioners' and [REDACTED] Law Firm, PC's Joint Motion to Quash and for Protective Order. The Court now rules as follows.

On March 16, 2017, Respondent filed a subpoena via Missouri's electronic filing system ordering [REDACTED] Law Firm, PC, to appear and produce "[a]ll statements for professional services rendered and costs incurred on behalf of Jarod [REDACTED] and copies of all payments made and by whom payments were made for professional services." [REDACTED] Law Firm represents Petitioners in this matter but is not a party to this case.

Petitioners and [REDACTED] Law Firm seek the order of this Court quashing the subpoena, entering a protective order holding that the requested discovery not be had, and ordering Respondent to pay attorneys' fees related to this motion.

Rule 57.09(d) states:

A subpoena may be served by:

- (1) The sheriff or a sheriff's deputy, or
- (2) Any other person who is not a party and is not less than 18 years of age.

Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to that person the fees and mileage the witness would have been entitled to receive for attending court pursuant to subpoena.

The general rule of discovery found in Rule of Civil Procedure 56.01(b)(1) is that the parties may obtain information regarding any matter relevant to the subject matter involved in the pending action. State ex rel. Ford Motor Co. v. Westbrooke, 151 S.W.3d 364, 366 (Mo. banc 2004). Information is relevant if it is "reasonably calculated to lead to the discovery of admissible evidence." Rule 56.01; State ex rel. Stecher v. Dowd, 912 S.W.2d 462, 464 (Mo. banc 1995). "The party seeking discovery shall bear the burden of establishing relevance." Rule 56.01(b)(1); See also Ford Motor Co., 151 S.W.3d at 366.

Rule 56.01(c), which authorizes protective orders, states:

Upon motion by a party or by the person from whom discovery is sought, and for good cause

shown, the court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) that the discovery not be had;
- (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
- (4) that certain matters not be inquired into, or that the scope of discovery be limited to certain matters; ...

Rule 56.01(b)(1) does not permit discovery of privileged material unless the privilege has been waived. The party asserting the privilege usually has the burden of proof to show that the privilege applies. State ex rel. Ford Motor Co., 151 S.W.3d at 367. "The attorney-client privilege attaches to: (1) [i]nformation transmitted by voluntary act of disclosure; (2) between a client and his lawyer; (3) in confidence; (4) by a means which, so far as the client is aware, discloses the information to no third parties other than those reasonably necessary for the transmission of the information or for the accomplishment of the purpose for which it is to be transmitted." White v. City of Ladue, 422 S.W.3d 439, 447 (Mo. App. E.D. 2013).

"The attorney-client privilege is a fundamental policy, to which disclosure is the exception." State ex rel. Behrendt v. Neill, 337 S.W.3d 727, 730 (Mo. App. E.D. 2011). "Absent a waiver, privileged materials are immune from discovery." Id.

In this case, the subpoena at issue was not properly served on [REDACTED] Law Firm under Rule 57.09(d). In addition, Petitioners have shown that the requested documents include privileged material. The Court finds that it should quash the subpoena and enter a protective order.

The Court will not exercise its discretion to order Respondent to pay attorneys' fees and costs related to this motion. See Vincent's Jewelers v. State, 483 S.W.3d 485, 487 (Mo. App. E.D. 2016).

THEREFORE, it is Ordered that Petitioners' and [REDACTED] Law Firm, PC's Joint Motion to Quash and for Protective Order is hereby GRANTED.

The subject subpoena electronically filed by Respondent on March 16, 2017, is hereby QUASHED.

The Court enters its protective order that the discovery requested in the subpoena not be had under Rule 56.01(c).

SO ORDERED:

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Judge Paula P. Bryant  
St. Louis City Circuit Court  
Division 9

Dated: \_\_\_\_\_