

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

NU IMAGE, INC.,

Plaintiff,

vs.

Case No. 2:11-cv-545-FtM-29SPC

DOES 1-3, 932,

Defendant.

ORDER

This matter comes before the Court on review of the Magistrate Judge's Report and Recommendation (Doc. #162) filed on April 12, 2012, recommending that John Doe #545's Motion to Dismiss/Sever and for a Protective Order and/or to Quash Subpoena (Doc. #61) be denied. No objections were filed and the time to object has expired.

John Doe #545 argues improper joinder, and that the third-party subpoena should be quashed because it is "overly broad and unreasonable" and "issued for the sole purpose annoying, harassing, embarrassing, and causing undue burden and expense." (Doc. #61, p. 5.) John Doe #545 further seeks to dismiss the complaint. The Court agrees with the Magistrate Judge that the subpoena was not issued for an improper purpose, and that the motion should otherwise be denied.

Although personal jurisdiction was not raised by John Doe #545, an Opinion and Order (Doc. #244) was issued on May 23, 2012,

finding that the allegations in the Complaint insufficiently plead personal jurisdiction over defendants under the Florida long-arm statute and the Due Process Clause. (Doc. #244.) For the reasons stated therein, the subpoena will be quashed.

Accordingly, it is now


ORDERED:

1. The Magistrate Judge's Report and Recommendation (Doc. #162) is **adopted**.

2. John Doe #545's Motion to Dismiss/Sever and for a Protective Order and/or to Quash Subpoena (Doc. #61) is **DENIED**.

3. The subpoena is **quashed** for failure to allege personal jurisdiction in the Complaint.

DONE AND ORDERED at Fort Myers, Florida, this 24th day of May, 2012.



JOHN E. STEELE
United States District Judge

Copies:
Counsel of record
John Doe #545