

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

KURIAN DAVID, ET AL.

CIVIL ACTION

VERSUS

NO. 08-1220

SIGNAL INTERNATIONAL, L.L.C, ET AL.

SECTION "E" (3)

RELATED CASE:

LAKSHMANAN PNNAYAN ACHARI, ET AL.

CIVIL ACTION

VERSUS

**NO. 13-6218 C/W
13-6219, 13-6220,
13-6221, 14-762**

SIGNAL INTERNATIONAL, L.L.C., ET AL.

SECTION "E" (3)

RELATES TO: 08-1220, 13-6218

ORDER

On August 27, 2014, the Motion to Quash Signal's Bank Records Subpoenas [Doc. #1709] in Civil Action No. 08-1220 (*David*) and the Motion to Quash Signal's Bank Records Subpoenas [Doc. #299] in Civil Action No. 13-6218 (*Achari*) came on for oral hearing before the undersigned. Present were Eben Colby on behalf of the Chakkiyattil plaintiffs, Meredith Stewart on behalf of the David plaintiffs, and Mitchell Hasenkampf and Elham Rabbani on behalf of Signal International, L.L.C. After the oral hearing, the Court took the motions under advisement. Having reviewed the

motions, the oppositions, and the case law, the Court rules as follows.

I. Background

This Court has oft repeated the factual background of this lawsuit in earlier orders^{see} *David v. Signal Int'l, L.L.C.*, Civ. A. No. 08-1220, 2012 WL 4344540 (E.D. La. Sept. 21, 2012), and will not do so again. The background of the related cases is near-identical to that of *David*.

II. Law and Analysis

Defendant Signal International, L.L.C. ("Signal") served subpoenas on both Capital One and Merchant & Marines ("M&M") banks, seeking the personal bank records of hundreds of individuals, including the plaintiffs in the *David* and *Achari* cases.

Plaintiffs contend that the subpoenas are not compliant with Louisiana law for two reasons. Citing Louisiana Revised Statute §6:333(C)(2), they first argue that the subpoenas failed to include the required affidavit in which the subpoenaing party attests that a copy of the subpoena was served on each customer whose records are sought. Plaintiffs also maintain that service was not made at least fifteen business days before the return date. The return dates on the subpoenas were only eight days after service.

Citing case law, plaintiffs ask the Court to quash the subpoenas and order Signal to comply with Louisiana law.

Signal has withdrawn its subpoena to Capital One. The only one in dispute is thus the one propounded to M&M. Signal maintains that because plaintiffs allege financial coercion – even that Signal directed M&M to not release funds from plaintiffs' own bank accounts to them – it has the right to discover how plaintiffs purchased new cars, took cross-country vacations and purchased other luxuries.

Citing Federal Rule of Civil Procedure 45, Signal contends that the only ground on which plaintiffs may move to quash the subpoenas is that they require the disclosure of privileged or protected matter. Signal notes that plaintiffs make no substantive objections to the subpoena.

Signal also argues that plaintiffs can not rely on Section 6:333, which specifically excludes from the statute's scope any bank that is neither domiciled in, nor having its principal place of business in, nor engaging in the business of banking in Louisiana. Signal notes that there is no dispute that M&M bank does not operate in Louisiana and is based in Pascagoula, Mississippi.

Even were the statute to apply, Signal argues that the Court must apply Louisiana's conflict-of-laws provisions. Under that analysis, Mississippi has the greater interest in the application of its own laws.

Plaintiffs note that Section 6:333 provides an alternative definition for a "bank": "'Bank' shall also mean a savings bank, a savings and loan association, a company issuing credit cards, or any other business offering credit." Because M&M issues credit cards and offers credit, plaintiffs argue that Section 6:333 applies to it.

Plaintiffs also contend that Louisiana's interest in providing notice to individuals whose bank records have been subpoenaed does not conflict with Mississippi law. Because Louisiana law does not *per se* prevent the production of bank records (only requiring notice and an opportunity to object), plaintiffs maintain that there is no conflict with Mississippi law.

Even if there were, plaintiffs argue, Louisiana has an interest in enforcing its bank laws. They note that here, a Louisiana law firm acting under the authority of a Louisiana-based court, has compelled the production of bank records to a Louisiana address. They thus contend that Louisiana has an interest in enforcing the 15-day notice to individuals.

Plaintiffs also maintain that the subpoenas are overbroad. They note that the subpoenas seek production of every single banking record related to hundreds of individuals. They contend that the request is all based on the testimony of one individual, Hemant Khuttan, who testified that he bought a car and that he believes that others had done so as well. Plaintiffs argue that they had no access to public transportation to obtain necessities. Some employees thus pooled money together to purchase a car. They contend that this hardly constitutes "luxuries."

Plaintiffs maintain that exploring hundreds of individuals' bank records for a period of years is not reasonably calculated to lead to the discovery of admissible evidence. They argue that Signal should be required to specify what information it seeks. Plaintiffs also ask that they be allowed to review the information first to redact personal identifying and financial information.

For the following reasons, the Court grants the motions in part. Rule 26(b)(1) provides that "[p]arties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense." Fed. R. Civ. P. 26(b)(1). The rule specifies that "[r]elevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." *Id.* The discovery rules are accorded a broad and liberal treatment to achieve their purpose of adequately informing litigants in civil trials. *Hebert v. Lando*, 441 U.S. 153, 176 (1979). Nevertheless, discovery does have "ultimate and necessary boundaries." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978) (quoting *Hickman v. Taylor*, 329 U.S. 495, 507 (1947)). Further, "it is well established that the scope of discovery is within the sound discretion of the trial court." *Coleman v. Am. Red Cross*, 23 F.3d 1091, 1096 (6th Cir. 1994).

Rule 45 governs the issuance of subpoenas, and provides that on timely motion, the issuing court must quash or modify a subpoena if it requires disclosure of privileged or other protected matter, or otherwise subjects the subpoenaed person to undue burden. Fed. R. Civ. P. 45(c)(3). Under Rule 45(c)(1), “[a] party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.” Fed. R. Civ. P. 45(c)(1).

The Court first pretermits the question of whether Louisiana or Mississippi law applies. Whether M&M is a "bank" under the second definition of Section 6:333 is a merits determination for the District Court. Even were this Court to so hold, however, quashing the subpoenas at this point and on this ground would be no more than an exercise in formality. At this point in the litigation, plaintiffs have had more than 15 days to object to the subpoenas, which they have done in their motion and in their reply.

Plaintiffs argue only that the subpoenas are overbroad; M&M does not make this argument. While the subpoenas seek bank records for hundreds of individuals, the Court finds that the time frames are limited and, with regard to some individuals, mere days or months. However, the Court concludes that at this late stage of the litigation,¹ the best course of action here is to order Signal to re-propound the subpoenas and limit them at this time to the named plaintiffs in the *David* and *Achari* lawsuits. The return date shall be **fifteen (15) days from the date of service**. The Court also orders Signal to make the return of the documents on counsel for plaintiffs. This will allow plaintiffs to redact the documents, should circumstances so warrant, of irrelevant and/or personal

¹ August 8, 2014 – the date on which plaintiffs filed their motions – was the discovery deadline.

information in line with the numerous protective orders in these lawsuits. Plaintiffs shall do so **within fifteen (15) days of receipt of the documents** and shall then produce the documents to Signal.

III. Conclusion

For the foregoing reasons,

IT IS ORDERED that the Motion to Quash Signal's Bank Records Subpoenas [Doc. #1709] in Civil Action No. 08-1220 and the Motion to Quash Signal's Bank Records Subpoenas [Doc. #299] in Civil Action No. 13-6218 are GRANTED IN PART as outlined above.

New Orleans, Louisiana, this 16th day of September, 2014.

Handwritten signature of Daniel E. Knowles, III in black ink.

DANIEL E. KNOWLES, III
UNITED STATES MAGISTRATE JUDGE