

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

***In Re SUBPOENA TO  
PAUL T. KENDRICK***

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***No. 2:14-mc-44-JHR***

***ORDER GRANTING MOTION TO COMPEL COMPLIANCE WITH SUBPOENA***

Fr. Paul E. Carrier, S.J., a defendant in a civil action now pending in the District of Connecticut, seeks an order compelling Paul T. Kendrick, a Maine resident, to comply with a subpoena served on him on January 13, 2014, seeking the production of certain documents and things. Motion of Paul E. Carrier to Compel Compliance with Subpoena (“Motion”) (ECF No. 1) at 1 & Exh. 1 (the subpoena). Mr. Kendrick has not responded to the motion.<sup>1</sup>

An attorney representing Fr. Carrier has spoken with Mr. Kendrick, in an unsuccessful attempt to resolve the matter, before filing this motion. Declaration of Timothy P. O’Neill (ECF No. 2) ¶ 13.

Without a response from Mr. Kendrick, this court is not in a position to evaluate the subpoena under the standards of Federal Rule of Civil Procedure 45. The court is directed to be sensitive to the costs imposed on third parties by subpoenas, *see, e.g., Cusumano v. Microsoft Corp.*, 162 F.3d 708, 717 (1st Cir. 1998), but in this case no information about the costs or other burdens that may be imposed upon Mr. Kendrick by the subpoena has been presented to the court. *See* 9A C. Wright & A. Miller, *Federal Practice & Procedure* § 2459 at 446 (3d ed. 2008) (burden of proving undue burden or oppressiveness is on party served with subpoena).

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<sup>1</sup> Mr. Kendrick is the defendant in an ongoing civil case in this court, *Hearts with Haiti, Inc., et al. v. Paul T. Kendrick*, No. 2:13-cv-33-JAW, in which the plaintiffs are represented by the same law firm representing Fr. Carrier here.

With the exception of Request No. 21 seeking documents concerning Mr. Kendrick's travel to Haiti from 1998 to present, which I find to be overbroad and not sufficiently relevant, Fr. Carrier has demonstrated that the items he seeks from Mr. Kendrick are relevant to his defense in the Connecticut action and not available elsewhere. Motion at 6-8. Based on this showing, and the lack of any opposition from Mr. Kendrick, Local Rule 7(b), the motion to compel is **GRANTED**, and Mr. Kendrick is **ORDERED** to produce all items responsive to the subpoena within 14 days of the date of this order to the address in Maine specified in the subpoena, excepting documents responsive to Request No. 21.

**NOTICE**

*In accordance with Federal Rule of Civil Procedure 72(a), a party may serve and file an objection to this order within fourteen (14) days after being served with a copy thereof.*

*Failure to file a timely objection shall constitute a waiver of the right to review by the district court and to any further appeal of this order.*

Dated this 28<sup>th</sup> day of March, 2014.

/s/ John H. Rich III  
John H. Rich III  
United States Magistrate Judge

**Respondent**

**PAUL T KENDRICK**

**Movant**

**FR PAUL E CARRIER SJ**

represented by **KELLY M. HOFFMAN**  
**NORMAN, HANSON & DETROY**  
**TWO CANAL PLAZA**  
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