

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

MCDONALD'S USA LLC

and

MID-SOUTH ORGANIZING COMMITTEE

Cases 10-CA-131969
10-CA-132995
10-CA-134812
10-CA-134816

ORDER¹

The Employer's petition to quash subpoena duces tecum B-1-JDCRTV is granted in part and denied in part. The subpoena seeks contact information for employees who have worked at the Employer's facility since February 1, 2014. However, the Regional Director issued a consolidated complaint on December 19, 2014 concerning the allegations in Cases 10-CA-131969 and 10-CA-134812. Therefore, the information sought regarding those allegations is not relevant to a determination by the Region as to whether a complaint is warranted. Accordingly, the petition to revoke is granted with respect to information regarding employees employed from February 1, 2014 through May 31, 2014 (the time period applicable solely to the aforementioned cases).²

With respect to Cases 10-CA-132995 and 10-CA-134816, the subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² This Order is without prejudice to the Region's issuance of a further subpoena seeking the additional information should the other subpoenaed documents provided by the Employer prove inadequate to determine the merits of the charges in Cases 10-CA-132995 and 10-CA-134816.

102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena.³ See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Accordingly, we deny the petition to revoke the subpoena with respect to information pertaining to the allegations in Cases 10-CA-132995 and 10-CA-134816;

³ With respect to burdensomeness, Member Johnson notes that the original subpoena effectively asked for contact information for approximately 92 employees, which in his view, is overbroad in these circumstances. Even with the narrowed subpoena, he would additionally find the following: The remaining charges in Cases 10-CA-132995 and 134816 allege that the Employer violated Section 8(a)(3) and (1) by disciplining employee James Woods beginning on June 13 and discharging him on July 17 because of his union and protected concerted activity. The Employer contends that the subpoena should be limited to those individuals who worked *at the times* of Woods' incidents of claimed misconduct that are at issue in those charges, and further contends that such incidents occurred "on only the following dates: June 13, 22, 25, 30, and July 7 and July 8, 2014." Member Johnson would grant the petition and revoke the subpoena, without prejudice to a later subpoena by the Region, except as to the requested employees who worked *on any of those dates*.

With respect to privacy, Member Johnson also would find in accordance with his stated views in other subpoena cases that, to the extent that a state law privacy interest is implicated by a petitioner's privacy claim, that such privacy interest would be generally cognizable in the context of objections to Board subpoenas. See *Taylor Farms Pacific, Inc./Slingshot Connections, LLC/Abel Mendoza, Inc.*, 32-CA-116854 (05/23/2014). However, here the Employer argued a generalized privacy objection but made no showing that the disclosure of the sought-after types of contact information of the potential witnesses would be protected under state law, and he accordingly does not reach the issue here. See generally, *Patterson v. Convention Center Authority*, 421 S.W.3d 597 (Tenn.2013) (state court of appeals found that state statutes did not prevent the disclosure of third party contactor's employee contact information to union, and declined to find public policy exception that would exempt disclosure of employee residential addresses from statutory requirement of openness).

specifically, the Employer shall provide contact information for employees employed from June 1, 2014 through the date of the subpoena.

Dated, Washington, D.C., February 9, 2015

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
HARRY I. JOHNSON, III,	MEMBER