

LCV2022610824

RUDERMAN & ROTH, LLC

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Attorneys for non-party witnesses Allan C. Roth, Esq. and Ellen M. Horn, Esq.

STACIE PERCELLA,

Plaintiff,

v.

JAMES M. DAVIS, individually; CITY OF BAYONNE; XYZ Corp 1-3 (fictitious entities); John Does 1-5 (fictitious individuals)

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Docket No.: HUD-L-00177-18

Civil Action

**ORDER DENYING DUPLICATIVE
MOTION TO QUASH**

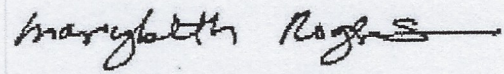
THIS MATTER having been brought before the Court on Motion of Ruderman & Roth, LLC, Attorneys for non-party witnesses Allan C. Roth, Esq. and Ellen M. Horn, Esq. for an Order to Quash Plaintiff's Subpoenas to Allan C. Roth, Esq. and Ellen M. Horn, Esq., and the Court having considered the moving papers and any response thereto, and the Court having heard oral argument, if any, and the Court having considered the matter, and for good cause shown:

IT IS ON THIS 24th day of March, 2022,

ORDERED, that this motion is DENIED because it is a duplicate;

IT IS FURTHER ORDERED, that service of this Order shall be deemed effectuated upon all parties upon its upload to e-Courts. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the date of this Order.

The Court's Order on the City of Bayonne's motion to quash (LCV2022466209) shall govern.



Hon. Marybeth Rogers, J.S.C.

LCV2022466209

FLORIO PERRUCCI STEINHARDT CAPPELLI TIPTON & TAYLOR, LLC

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STACIE PERCELLA

Plaintiff,

v.

JAMES M. DAVIS, individually; CITY OF
BAYONNE; XYZ Corp 1-3 (fictitious entities);
John Does 1-5 (fictitious individuals)

Defendants

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION
: HUDSON COUNTY
:
: DOCKET NO.: HUD-L-177-18
:
: Civil Action
:
: **ORDER TO QUASH**
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:
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THIS MATTER having come before the Court by Defendant, City of Bayonne, by its counsel, Florio Perrucci Steinhardt Cappelli Tipton & Taylor, LLC, on a Motion to Quash, and/or a Protective Order, Plaintiff's Subpoenas Duces Tecum to Allan Roth, Esq., Ellen Horn, Esq., Gary La Pelusa, and Notices in Lieu of a Subpoena to Joseph DeMarco, James M. Davis, Gary Chmielewski, Donna Russo, and Bernadette Nestico and the Court having considered the papers submitted herein, and for good cause shown,

IT IS HEREBY ORDERED this 24th day of March, 2022 as follows:

1. This motion is **PARTIALLY GRANTED**;
2. Plaintiff's Subpoenas Duces Tecum to Allan Roth, Esq. is QUASHED pursuant to Rule 1:9-2;

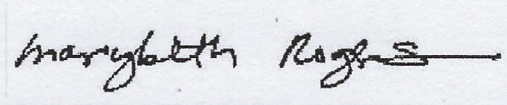
3. Defendant's Motion for a Protective Order is GRANTED limiting Plaintiff's Notices in Lieu of a Subpoena to Ellen Horn, Esq., Joseph DeMarco, James M. Davis, Gary Chmielewski, Donna Russo, Gary La Pelusa, and Bernadette Nestico pursuant to Rule 4:10-3.

IT IS FURTHER ORDERED, that service of this Order shall be deemed effectuated upon all parties upon its upload to e-Courts. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the date of this Order.

Plaintiff's deposition subpoena on Allan Roth is quashed because Roth was retained by the City to work on discipline and investigations of the actions of the Plaintiff. Roth and City were in attorney-client relationship, and therefore, the Court finds that most of the Plaintiff's questions would be barred by the attorney-client privilege. However, Plaintiff may seek unprivileged and relevant information from Roth via information subpoena.

As to Ellen Horn, the Court disagrees with the Movant that there is an attorney-client privilege. Horn was employed by the City as a Hearing Officer and rendered a decision regarding the Plaintiff's disciplinary charges. There is no attorney-client relationship here, and the Court rejects such argument.

As to all other individuals, including Ellen Horn, the Court agrees that the questioning should be limited to relevant parts of the Plaintiff's Amended Complaint. Plaintiff shall not sail on a fishing expedition, but only seek relevant information. This is ordered pursuant to R. 4:10-3.



Hon. Marybeth Rogers, J.S.C.

 Unopposed
 X Opposed