



## Law Offices

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August 5, 2014

Attorney Matthew Dexter  
Kirkland & Ellis  
601 Lexington Avenue  
New York, NY 10022

RE: Safelite Group, Inc. and Safelite Solutions, LLC v. George Jepsen; Civil Action No. 3:13-cv-1068  
Auto Glass of New England, LLC- Hamden

SUBJECT: Objection to Subpoena Duces Tecum Pursuant to Rule 45(d)(2)(B) of the Fed. Rules of Civ. Proc.

Dear Attorney Dexter,

The undersigned has been engaged by Auto Glass of New England, LLC-Hamden in connection with the above referenced subpoena duces tecum served upon it. Please take notice of this engagement of counsel and direct all correspondence regarding this matter to my attention. Please note that Auto Glass of New England, LLC-Hamden was dissolved and is not in business as of March 31, 2014, the date the Articles of Dissolution were issued.

This communication is being sent to you pursuant to Fed. R. of Civ. Pro. Rule 45(d)(2)(B). As a preliminary matter, the scope and breadth of your document production portion of your subpoena duces tecum and the time permitted to respond to the request is not aligned with Rule 45(d)(1), as it imposes an undue burden and expenses on my client associated with a reasonable attempt to comply with its command. Moreover, the documents requested are extremely overbroad and vague as a consequence of the content of your document requests, so as to make it impractical for the person to whom the subpoena is directed to have sufficient time to comply. Request for production of extensive documentation in less than thirty (30) days does

not meet this duty, which is impressed upon every person who issues a subpoena. There are no exigent circumstances to my client's knowledge that would require such a short period of time between the service of the subpoena and the production of documents.

Also, to the extent that the defined terms you have set forth in your subpoena exceed the definition of these terms as used in the Federal Rules or the decisional law that defines these terms they are objectionable as overbroad and overreaching. It appears to be a calculated attempt to make the definitions beyond comprehension and beyond a reasonable attempt to comply. This runs contrary to the words and spirit of the rules that govern this procedure. No person subject to a subpoena should have to guess if compliance has been accomplished due to self-serving definitions that leave the compliant party guessing if he/she has met this requirement.

Finally, the requirement that my client be obliged to produce documents that come into existence following compliance with this subpoena is unnecessarily burdensome and unduly harassing. My client is not a party to this action and further intrusion into its affairs and attempts to make it continue to be on the lookout for documents that may be within the scope of your subpoena imposes an unfair and unnecessary burden. This would be an unwelcomed intrusion into its business that is not slightly related to your claims in this matter. Regrettably, I do not read Rule 26(f) to require a non-party to whom a subpoena has been directed to continually supplement his/her disclosure, particularly for documents that are not in existence at the time the subpoena's compliance is due.

I would also note that your subpoena is not directed to a person in either his/her individual or representative capacity. We read Rule 45(b)(1) to require that the subpoena be directed to a person. The subpoena to which this objection is addressed is directed to an entity that does not identify a person in the entity to whom it is directed.

In addition to the above, my client has the following specific objections to the specific request set forth in the subpoena:

### **REQUEST FOR PRODUCTION NO. 1**

Objection: It is oppressive, overbroad and harassing to generally request my client to produce all documents related to P.A. 13-67. Moreover, these documents can be obtained with the same facility by you as can be attained by my client.

Equally burdensome is to request documents that relate to "the effects of an act of P.A. 13-67" (Conn. Gen. Stat. § 38a- 354). Besides being unduly vague and ambiguous in its content, the request seeks documents that are not related to any claim of your client. Written testimony submitted at legislative or administrative

hearings are public record to which you have equal access. This request is calculated to create an undue and burdensome hardship on my client which is inconsistent with your responsibilities as the party issuing the subpoena.

The request also seeks documents which ask my client to produce documents related to its participation in the governmental process and which could be attained by you through either the issuance of a subpoena on the public official or through a freedom of information request.

Finally, records of my client's internal memos relating to its business practices are unrelated to your constitutional assault on the subject statute and cannot possibly be related to your claims in this lawsuit. Your requests represent an intrusion upon my client's private business affairs with its associates and employees. Given your client's demonstrated business plan to monopolize the business, production of these documents are calculated to discover my client's business practices and internal operating procedures under the guise of prosecuting this case.

## **REQUEST FOR PRODUCTION NO. 2**

Objection: The request that seeks documents which asks my client to produce "any documents concerning the Plaintiffs, including but not limited to Plaintiffs' communications with Policyholders" is vague and overbroad. The subpoena is not making any specific request but rather asking for any documents "including but not limited to." This statement is ambiguous and is requesting an unreasonable amount of information. All documents relating to the Plaintiff are not proximate to a reasonable production request. Asking my client to produce all documents concerning the Plaintiffs, which the Plaintiffs itself would have is unduly burdensome on my client and calculated to harass my client, who is not a party to this action. My client should not have to open its files based on a whim that they might possess information regarding your clients. How this information, which must have been obtained for public sources, assists your claim that the statute in question infringes on your client's free speech is a stretch beyond the elasticity of the liberal rules of pre-trial discovery. Moreover, Plaintiffs have the best means by which to gather these communications or information showing the manner in which Safelite refers Policyholders to Auto Glass Repair Shops. This request creates a hardship on Auto Glass of New England, LLC- Hamden (a dissolved entity) and it is oppressive, overbroad and harassing. My client is under no obligation to provide you with any agreements it might have, if any, with Safelite relating to services it provides. The nature of this request is designed to create an enormous and unreasonable amount of research and effort for my client since the Plaintiffs have this information readily available to it. This request is merely designed to harass and overburden my clients.

### **REQUEST FOR PRODUCTION NO. 3**

Objection: This request seeks “all documents concerning any Auto Glass claims Administrator, including but not limited to the Auto Glass Claims Administrator’s communications with Policyholders...” This is an unreasonable request as thousands of documents could be involved in this production, many of which do not relate to the lawsuit. This request is oppressive, vague and unduly burdensome. Plaintiffs have not shown why they are entitled to any information regarding Safelite’s communications with Policyholders or a need to obtain it from my client as it would appear that if anyone has this information it would be your client. Furthermore, this information and documentation is not only easily discoverable by Plaintiffs, but it is readily accessible to Plaintiffs and not to Auto Glass of New England, LLC- Hamden, a dissolved entity without the capacity to engage in this exhaustive review. My client, as a non-party to this lawsuit, is under no obligation to produce any documents it may have relating to this request. Records of my client’s communications with Policyholders and Auto Glass Repair Administrators relating to its business cannot possibly be related to your claims in this lawsuit and represent an intrusion upon my client’s private business affairs with its associates and employees.

### **REQUEST FOR PRODUCTION NO. 4**

Objection: Plaintiffs have no right to inquire into the private business and advertising practices of Auto Glass of New England, LLC-Hamden, even assuming it is an ongoing concern. This information is confidential and proprietary to my client’s business. The advertising of its services is in no way related to the lawsuit and is an intrusion into the private business affairs of the company without any corresponding benefit to the preparation of your client's case. The amount of money my client has spent in the past five years advertising its service is not relevant to Plaintiffs’ discovery. Safelite has no right to this information which does not impact on the frail claim that the relevant statute imposes on your clients' claim that the statute impinges upon its First Amendment right to free speech. As Safelite attempts to dominate the market on auto glass repair, it is seeking an extensive and unduly burdensome amount of information from competitors who do not enjoy the illegal relationship with the Safelite affiliates. My client is under no obligation, as a non-party and as a private business, to provide Plaintiffs with any information about its business operations and practices in a lawsuit that questions only the infringement of Safelite's alleged first amendment freedoms and commercial speech.

This objection is being leveled in accordance with Rule 45. Should you wish to discuss its content or desire to resolve the matter please do not hesitate to contact me.

Sincerely,

*Stephen P. Wright*

Stephen P. Wright

CC: Robinson & Cole  
Matthew Budzik