Vermont Superior Court
Filed 11/18/26
Orange Unit

VERMONT SUPERIOR COURT
Orange Unit
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802-685-4610
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CIVIL DIVISION
Case No. 25-CV-04546

Connie Button et al v. Carolyn Button

ENTRY REGARDING MOTION

Title: Motion to Quash Subpoena - John W. Durkee, CPA (Motion: 8)
Filer: Antonietta Girardi Dutil
Filed Date: October 26, 2026

The motion is GRANTED, subject to the following considerations.

A threshold question of standing is presented as to the motion to quash. Generally, the respondent would be best situated to move to quash or otherwise seek relief with respect to compliance with a subpoena. The applicable court rules do not appear to directly confer upon another party the right to intervene.

V.R.C.P. 45(c)(3)(A) provides:

> On timely motion, the court for which a subpoena was issued shall quash or modify the subpoena if it
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> (i) fails to allow reasonable time for compliance;
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> (ii) requires a resident of this state to travel to attend a deposition more than 50 miles one way unless the court otherwise orders; requires a nonresident of this state to travel to attend a deposition at a place more than 50 miles from the place of service unless another convenient place is fixed by order of court, or
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> (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
>
> (iv) subjects a person to undue burden.

The Rule is silent, however, as to who may assert such objection. Contextually, V.R.C.P. 45(d) would imply that the duty of compliance, and thus to object to a subpoena, is placed upon the individual served the subpoena. Situations where a privilege or authority exist may provide grounds for a party to the proceeding (or another third party) to move to quash.

Here, Defendant seeks tax information concerning two decedents: Jean Button and Brian Button, and their respective estates. The estate of Mr. Button is closed, and court records indicate that Jean Button was executor of the estate. See Case No. 24-PR-01664. The estate of Jean Button remains an open Probate Division matter, collateral to this litigation. See Case No. 25-PR-02607. Plaintiff, Connie Button, is the executor of Mrs. Button's estate and to the extent that Mrs. Button's estate held the residual interests of Mr. Button's estate she would be in position to exercise any such rights.

The respondent to the subpoena, John Durkee, is a certified public accountant. In this role, or even the less formal role of a tax preparer, there are limitations on the authority to disclose client information. 26 V.S.A. § 82(a) provides that:

> No firm or any of its employees or other public accountants engaged by the firm, shall disclose any confidential information obtained in the course of a professional engagement except with the consent of the client or former client or as disclosure may be required by law, legal process, or the standards of the profession.

Additionally, 32 V.S.A. § 5902 provides that:

> A person shall be fined not more than $1,000.00 or imprisoned for not more than one year, or both, if he or she receives any information furnished by a taxpayer to enable such person to prepare or have prepared for such taxpayer a return of the tax imposed by this chapter or a declaration of estimated tax required by this chapter and he or she:
>
> (1) uses any such information for any purpose other than the preparation of the return or declaration or makes any such information available to any other person for any such purpose, unless a valid consent, as described in section 5901 of this title, to so use such information or to so make such information available has been obtained; or
>
> (2) uses any such information, or makes any such information available, for a purpose not specified in such valid consent.

32 V.S.A. § 5903 provides that tax return information may be produced upon order of a court. Under both authorities, consent of the taxpayer is requisite to any disclosure, even by subpoena unless issued directly by a court.

In this view, although not a formal privilege, the court concludes that Plaintiff, Connie Button, has sufficient standing and interest to move to quash the issued subpoena on grounds of declining consent for the release of such records. The court finds little utility in compelling Mr. Durkee to formally move for such relief, given he is effectively bound by statute to not produce such documentation in response to Defendant's subpoena.

Pursuant to V.R.C.P. 45(b)(2) Defendant may move to compel production of the records, however, the court at this juncture is skeptical as to how these records are relevant to the partition action. Instead, the ostensible concerns about waste or misuse of estate funds appears to be a matter within the control and responsibility of the Probate Division. The matter before the Civil Division is limited in scope and the historical income and tax return records of the decedents seem to bear no relevance as to any contested issue in this case.

So ordered.

Electronically signed on Tuesday, November 17, 2026 pursuant to V.R.E.F. 9(d)



Rory T. Thibault
Superior Court Judge