

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GREAT NORTHERN INSURANCE
COMPANY,

Plaintiff,

v.

ADT SECURITY SERVICES, INC.,

Defendants.

MISC No. 08-80191 JSW

**ORDER RE PETITION FOR
ISSUANCE OF SUBPOENA**

On October 2, 2008, Petitioner, Great Northern Insurance Company as a subgrogee of Croastion Fraternal Union (“Great Northern”) filed a petition for issuance of a Supboena Duces Tecum compelling the Custodian of Records of Radionics Bosch to appear for a deposition on October 16, 2008, and produced specified documents. The deposition subpoena relates to an action pending in the Western District of Pennsylvania entitled *Great Northern Insurance Company a/s/o Croatian Fraternal Union v. ADT Security Services, Inc.*, No. 2:06-CV-90.

Great Northern has requested a court order issuing the subpoena. However, pursuant to Federal Rule of Civil Procedure 30(a)(2), a party seeking to take a deposition must obtain leave of court under the following circumstances:

- (A) if the parties have not stipulated to the deposition and:
 - (i) the deposition would result in more than 10 depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third party defendants;
 - (ii) the deponent has already been deposed in the case; or
 - (iii) the party seeks to take the deposition before the time specified in Rule 26(d), unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave

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the United States and may be unavailable for examination in this country after that time; or

(B) the deponent is confined in prison.

Fed. R. Civ. P. 30(a)(2).

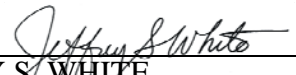
Great Northern has not indicated that any of the conditions that require a court order granting leave to take a deposition are present in this case. Furthermore, pursuant to Federal Rule of Civil Procedure 45(a)(3), it appears that the attorney who requested the subpoena is authorized to issue the subpoena.

If any of the circumstances set forth in Rule 30(a)(2) are present in this case, Great Northern should submit a supplemental request to the Court for issuance of the subpoena. At this juncture, however, the Court denies, without prejudice, the petition as moot because the Court concludes that Great Northern does not require an order issuing the subpoena in order for the deposition scheduled for October 16, 2008, to go forward.

Great Northern is FURTHER ORDERED to serve a copy of this Order on all interested parties in this case.

IT IS SO ORDERED.

Dated: October 7, 2008



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE