

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior Judge Walker D. Miller

Civil Action No. 08-cv-02383-WDM-KMT

ORACLE, USA, INC., a Colorado corporation, et al.,

Plaintiffs,

v.

SAP AG, a German corporation, et al.,

Defendants.

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**ORDER ON RECOMMENDATION OF MAGISTRATE JUDGE**

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Miller, J.

This case is before me on the recommendation of Magistrate Judge Kathleen M. Tafoya (doc no 13), filed March 27, 2009, that the Motion to Quash Subpoena Duces Tecum (doc no 1) filed by Interested Party Spinnaker Management Group, LLC be granted. No party has filed an objection to the recommendation therefore no party is entitled to *de novo* review. 28 U.S.C. § 636(b).

This case concerns the issuance of a subpoena from this court concerning ongoing litigation in the United States District Court for the Northern District of California. Magistrate Judge Tafoya recommends that the motion to quash be granted because the subpoena requires that documents be produced in California. Fed. R. Civ. P. 45(a)(2)(c) prescribes that such a subpoena must issue from the court from the district in which the documents are to be produced. Therefore, the subpoena should be issued by the California court, not this court, because this court has no authority to enforce the subpoena. See, e.g., *Falicia*

*v. Advanced Tenant Servs.*, 235 F.R.D. 5, 11 (D.D.C.2006).

I agree with Magistrate Judge Tafoya's analysis and will accept the recommendation in its entirety.

Accordingly, it is ordered:

1. The recommendation of Magistrate Judge Kathleen M. Tafoya (doc no 13) is accepted.
2. The Motion to Quash Subpoena Duces Tecum (doc no 1) is granted. The subpoena issued by Plaintiffs to Spinnaker Management Group, LLC is quashed and this case is dismissed.

DATED at Denver, Colorado, on April 14, 2009.

BY THE COURT:

s/ Walker D. Miller  
United States Senior District Judge