

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**ATLANTIC SPECIALTY INSURANCE
COMPANY,**

Plaintiff,

v.

Case No: 6:16-cv-1751-Orl-31KRS

SERGEY PASTUKOV,

Defendant.

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: PLAINTIFF'S MOTION TO COMPEL AND FOR ORDER
TO SHOW CAUSE AS TO DEPOSITION OF NON-PARTY
PATRICIA DRWAL AND FOR MISCELLANEOUS RELIEF
(Doc. No. 38)**

FILED: July 31, 2017

THEREON it is ORDERED that the motion is DENIED.

Counsel for Plaintiff, Atlantic Specialty Insurance Company, asks the Court to compel Patricia Drwal, a non-party, to appear for a deposition. Counsel states that it served Ms. Drwal with a subpoena for her to appear at a deposition on July 14, 2017 at an address in Chicago, Illinois. Ms. Drwal did not appear. Rather, she filed a motion in the United States District Court for the Northern District of Illinois seeking to quash or modify the subpoena. As of the writing of this order, that motion was still pending.

Counsel for Plaintiff attached to the motion a Notice of Taking Deposition. Doc. No. 38, at 9-10. This notice is not in the form required by Federal Rule of Civil Procedure 45(a). Accordingly, I directed counsel for Plaintiff to supplement the motion with a copy of the Rule 45 subpoena served on Ms. Drwal. Doc. No. 39. In response to that order, counsel for Plaintiff filed a document captioned Subpoena for Deposition. Doc. No. 40, at 4-5. This subpoena also does not comply with the requirements of Rule 45(a). Because it appears that Ms. Drwal was not served with a valid federal subpoena, this Court will not enforce it. *See, e.g., Cincinnati Ins. Co. v. Cochran*, No. 5:05cv93/RV/MD, 2005 WL 5277203, at * 3-4 (N.D. Fla. 2005). Further, because counsel for Plaintiff did not show good cause for serving a facially invalid subpoena, the request to waive the fourteen-day notice requirement to conduct the deposition of Ms. Drwal or to extend the discovery deadline is also not well taken.

Counsel for Plaintiff shall promptly provide counsel for Ms. Drwal with a copy of this order.

DONE and **ORDERED** in Orlando, Florida on August 1, 2017.

Karla R. Spaulding
KARLA R. SPAULDING
UNITED STATES MAGISTRATE JUDGE