

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BOIMAH FLOMO, <i>et al.</i> ,)	
<i>Plaintiffs,</i>)	
)	
<i>vs.</i>)	1:06-cv-00627-WTL-JMS
)	
BRIDGESTON AMERICAS HOLDING, INC., <i>et</i>)	
<i>al.</i> ,)	
<i>Defendants.</i>)	

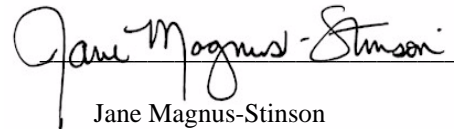
ORDER

Presently before the Court is Defendants’ Motion to Compel Production of Documents Related to Disciplinary Action and Lawsuit Against Plaintiffs’ Expert Dr. Judy Okawa (the “Motion to Compel”). [Dkt. 505.] There, Defendants complain that Dr. Okawa hasn’t produced all the documents required of her pursuant to a subpoena duces tecum that, as is relevant here, called for documents relating to professional discipline and professional lawsuits against her. [See dkt. 506-2 at 3.] They want a Court order requiring her to do so now.

Because Defendants seek to enforce a subpoena, Federal Rule of Civil Procedure 45 controls. And under Federal Rule of Civil Procedure 45, a party who has served a subpoena is “entitled to the materials identified in the subpoenas only pursuant to an order of the district court from which the subpoena[] w[as] issued.” *In re Digital Equipment Corp.*, 949 F.2d 228, 231 (8th Cir. 1991) (citations omitted). Unless and until the issuing court relinquishes jurisdiction to the court presiding over the underlying litigation—and a split of authority exists as to whether the issuing court can ever relinquish jurisdiction—the “federal court presiding over the main legal proceeding...lacks subject matter jurisdiction” to enforce the subpoena. *Fisher v. Hamilton*, 2006 Bankr. LEXIS 4075, *7 (Bankr. N.D. Ill. 2006) (citations and footnote omitted).

Here, Defendants seek to enforce a subpoena issued from the U.S. District Court for the District of Columbia to obtain discovery in this action. [See dkt. 506-2.] As the record doesn't indicate that that issuing court has ever relinquished jurisdiction over its subpoena, Defendants ask this Court for relief that this Court is jurisdictionally unable to provide. Accordingly, the Motion to Compel is **DENIED**.¹

06/07/2010


Jane Magnus-Stinson
United States Magistrate Judge
Southern District of Indiana

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¹ Even if this Court had jurisdiction to consider the merits, under the circumstances presented, the probative value of the additional discovery on this ancillary matter to the merits is likely outweighed the burden of compliance and would thus be improper. Fed. R. Civ. Pro. 26(b)(2)(iii).

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