

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CAROLYN WHITLEY

CIVIL ACTION

VERSUS

NO. 15-595-BAJ-RLB

**PINNACLE ENTERTAINMENT, INC.
OF DELAWARE, ET AL.**

ORDER

Before the Court is a Motion to Compel Production of Subpoenaed Documents (R. Doc. 38) filed by Defendants PNK (Baton Rouge) Partnership d/b/a L’Auberge Casino & Hotel and Pinnacle Entertainment, Inc. of Delaware (collectively, “PNK”) on July 21, 2016. The Motion seeks an order compelling the production of documents from the non-party Financial Indemnity Company pursuant to a Rule 45 subpoena served on July 13, 2016.

Rule 45 provides that “[a]t any time, *on notice to the commanded person*, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.” Fed. R. Civ. P. 45(d)(2)(B)(i) (emphasis added).

A court may not order compliance with a subpoena under Rule 45 unless the subpoenaed party and the parties to the action have first been provided notice of the motion to compel. *See, e.g., Shaw Grp., Inc. v. Zurich Am. Ins. Co.*, No. 12-257, 2014 WL 68604, at *1 (M.D. La. Jan. 8, 2014), *reconsideration denied*, 2014 WL 204244 (M.D. La. Jan. 17, 2014). Here, the record does not indicate that the non-party Financial Indemnity Company has been served with a copy of PNK’s Motion to Compel.¹

Based on the foregoing,

¹ PNK’s Motion incorrectly suggests that the Court has the responsibility of serving the Motion on the non-party or otherwise satisfying a party’s obligations under Rule 45.

IT IS FURTHER ORDERED that PNK shall serve a copy of the Motion to Compel (R. Doc. 38) and this Order on the non-party Financial Indemnity Company within **5 days** of the date of this Order.

IT IS FURTHER ORDERED that PNK shall file into the record a certificate of service indicating that PNK has served a copy of the instant Motion and this Order on the non-party Financial Indemnity Company within **7 days** of the date of this Order.

IT IS FURTHER ORDERED that the non-party Financial Indemnity Company shall file any response to PNK's Motion to Compel (R. Doc. 38) **within 14 days** of the date it is served with the Motion to Compel and this Order.

Signed in Baton Rouge, Louisiana, on August 1, 2016.



RICHARD L. BOURGEOIS, JR.
UNITED STATES MAGISTRATE JUDGE