

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**DAVID GARLAND ATWOOD, II**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO: 1:12CV168-SA-DAS**

**MIKE CHENEY,  
ET AL.**

**DEFENDANTS**

**ORDER**

This matter is before the court on Martin Pace's motion (#143) and seeks to quash plaintiff's subpoena *ad testificandum*. Having considered the motion, the court finds that it does not comply with the Federal Rule of Civil Procedure 45 and cannot be granted.

Plaintiff's subpoena commands Pace, a non-party who currently resides in Vicksburg, Mississippi, to travel to Jackson, Mississippi and provide deposition testimony. In addition to subjecting him to unnecessary and undue burden, Pace argues that the subpoena exceeds the scope of this court's previous order, which specifically limited plaintiff to asking only a handful of questions from his original motion for discovery. However, under Rule 45, a motion to quash must be brought in the court for the district in which compliance is required. Fed. R. Civ. P. 45(d)(3)(A). Therefore, the proper forum for Pace's motion to quash is the United States District Court for the Southern District of Mississippi, Jackson Division. Nevertheless, the court reiterates that Pace is only responsible for answering those questions previously authorized. *See* Doc. 94 (permitting plaintiff to ask only the following questions from his motion for discovery (#67): Questions 28-29, 32-34, 36-37, 39, 73 and 74).

IT IS, THEREFORE, ORDERED THAT Martin Pace's motion to quash is hereby denied because it was filed in the wrong court.

SO ORDERED this, the 9<sup>th</sup> day of February, 2016.

/s/ David A. Sanders  
UNITED STATES MAGISTRATE JUDGE