

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION**

**KING LINCOLN BRONZEVILLE
NEIGHBORHOOD ASSOCIATION, ET AL.,**

PLAINTIFFS,

VS.

JENNIFER BRUNNER, ET AL.,

DEFENDANTS.

CASE NO. 2:06-CV-745

JUDGE MARBLEY

MAGISTRATE JUDGE KEMP

**PLAINTIFFS' RESPONSE TO NONPARTY MICHAEL CONNELL'S
OCTOBER 14, 2008, MOTION TO QUASH PLAINTIFFS' OCTOBER 8, 2008
SUBPOENA OF MICHAEL CONNELL, ISSUED FROM
THE NORTHERN DISTRICT OF OHIO**

On October 8, 2008, Plaintiffs issued a new subpoena to Michael Connell from the Northern District of Ohio, in accordance with Rule 45(a)(2)(B) and for the convenience of the deponent.

The subpoena is attached as Exhibit B to Connell's Motion to Quash filed in this court on October 14, 2008.

The Northern District of Ohio, as the issuing court, has exclusive jurisdiction over objections and enforcement of Plaintiffs' October 8, 2008, subpoena. Moore's Federal Practice 3D § 45.11[1][b] and *In re Digital Equipment Corp.*, 949 F.2d 228, 231 (8th Cir. 1991). On October 17, 2008, Michael Connell filed notice with this court that he had moved to quash the Plaintiffs' October 8, 2008 subpoena before the Northern District of Ohio Court.

On October 31, 2008, at an expedited hearing on motion of Plaintiffs, U.S. District Judge

Solomon Oliver denied the motion to quash and ordered the deposition to proceed on November 3, 2008. A copy of the minutes of Judge Oliver's order is attached hereto as "Exhibit A." Michael Connell's deposition was taken by the plaintiffs on November 3, 2008.

Wherefore, Michael Connell's motion to quash filed in this court should be deemed superceded by its filing in the Northern District of Ohio, and moot by virtue of its denial by that court and the fact that the deposition has now been taken.

Respectfully submitted,
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CERTIFICATE OF SERVICE

This is to certify a copy of the foregoing was served upon counsel of record by means of the Court's electronic filing system on this 4th day of November 2008.

/s/ Clifford O. Arnebeck, Jr.

