



Fw: Federal Rule of Civil Procedure 45
Bernida Evans to: Bernida Evans

02/16/2012 03:51 PM

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From: "Henry M. Sneath" <hsneath@DRI.org>
To: <peter_mccabe@ao.uscourts.gov>
Date: 02/16/2012 03:27 PM
Subject: Federal Rule of Civil Procedure 45
Sent by: "Nancy Gundlach" <ngundlach@DRI.org>

Dear Mr. McCabe:

DRI—The Voice of the Defense Bar, is an international organization that includes more than 22,000 attorneys involved in the defense of civil litigation. DRI is the world's largest organization comprised of defense and in-house attorneys. The organization is 22,000 members strong. DRI's goals include seeking to improve the civil justice system and to seek balance in the system. We support the proposed amendments to Rule 45. The amendments improve the civil justice system.

DRI supports the clarification that the court issuing subpoenas is the court where the action is pending regardless of the location of compliance with the subpoena. We also agree that disputes relating to subpoenas should be resolved by the court where the compliance will occur in order to provide the least burdensome resolution for the party being subpoenaed. Further, we agree that the parties and the person responding to the subpoena should consent to the transfer of any subpoena-related dispute to the issuing court, otherwise, the dispute cannot be transferred absent extraordinary circumstances. We do not believe that extraordinary circumstances is too great a burden for transfer.

We wholeheartedly agree that with the proposed amendment which clarifies that the issuing court cannot issue nationwide trial subpoenas. We agree that a party or a party's officer may be subpoenaed within 100 miles of his business or residence or within the state where he personally transacts business or lives. This amendment, as well as the amendment which requires that disputes relating to subpoenas be resolved in the compliance court, combine to focus on the inconvenience that subpoenas cause to party officers and to non-parties and attempt to lessen the inconvenience while serving justice as well.

DRI also supports the amendment to the rule to provide for notice of subpoena to other parties to the litigation which will allow an opportunity to object to the subpoena.

We appreciate the opportunity to comment.

Very truly yours,

Henry M. Sneath, President

Henry M. Sneath | DRI PRESIDENT

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