

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

SHAKESPEARE AND CO.  
CORPORATION and SHAKESPEARE  
AND CO. HAMBURG, LLC,

Movants,

v.

Case No: 2:18-mc-4-FtM-29CM

INNOVATIVE FOOD HOLDINGS,  
INC.,

Respondent.

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**ORDER**

This matter comes before the Court upon review of Movants' Motion to Compel (Doc. 1) filed on February 15, 2018. This matter pertains to a pending lawsuit in the United States District Court for the Eastern District Kentucky. On July 14, 2017, U.S. Foods, Inc. ("U.S. Foods") filed a Complaint against Shakespeare and Co. Corporation and Shakespeare and Co. Hamburg, LLC (collectively, "Shakespeare"). *US Foods, Inc. v. Shakespeare & Co. Corp.*, No. 5:17-cv-00295-DCR-REW (E.D. Ky. July 14, 2017).

On January 4, 2018, Shakespeare served a subpoena seeking production of documents ("Subpoena") on Innovative Food Holdings, Inc. ("Innovative") because Shakespeare believes Innovative and U.S. Foods collectively inflated prices, resulting in damages to Shakespeare. Doc. 1 at 2, 19. The Subpoena, issued by the United States District Court for the Eastern District of Kentucky, commanded Innovative to produce the requested documents in Lexington, Kentucky on January 24, 2018. Doc.

1-3 at 2. Innovative objected to the Subpoena on various grounds. Doc. 1 at 2-14. In response, Shakespeare suggested to limit the time frame of the Subpoena and asked Innovative to produce documents at the office of Shakespeare's counsel in Fort Lauderdale, Florida. *Id.* at 3. Innovative did not produce any requested documents. *Id.* Shakespeare moves to compel Innovative to comply with the Subpoena on or before March 1, 2018. *Id.* at 1.

Rule 45 of the Federal Rules of Civil Procedure governs issuance of and compliance with a subpoena. Rule 45(d)(2)(B)(i) states, "[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). Here, Shakespeare may not move this Court for an Order compelling Innovative's production because this Court did not issue the Subpoena, and the compliance with the Subpoena is not required in this district. *See id.*; Doc. 1-3 at 2. As written, the Subpoena is issued by and requires compliance in the Eastern District of Kentucky. Doc. 1-3 at 2. Even assuming the place of compliance has changed to Fort Lauderdale, Florida, the compliance still is not required in this district. Doc. 1 at 3. Thus, the Court will deny without prejudice this motion and direct Shakespeare to re-file this motion in the appropriate district.

ACCORDINGLY, it is hereby

**ORDERED:**

Movants' Motion to Compel (Doc. 1) is **DENIED without prejudice.**

**DONE** and **ORDERED** in Fort Myers, Florida on this 16th day of February,  
2018.

  
CAROL MIRANDO  
United States Magistrate Judge

Copies:  
Counsel of record