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VERMONT SUPERIOR COURT
CHITTENDEN UNIT
CIVIL DIVISION

LORI FRANK, et al., Petitioners	
v.	Docket No. 989-10-17 Cncv
MARTINA KACER DRAWDY, Respondent	

RULING ON PETITION FOR OUT OF STATE SUBPOENA

By request filed October 27, 2017, counsel for plaintiffs (here, Petitioners) in a New York civil action (Index No. CV-2014-0144380) presented a subpoena seeking to compel the attendance of a Vermont resident (Respondent) at a video deposition scheduled in Burlington, Vermont on November 1, 2017 at 1:00 pm. However, Petitioner’s request does not fully comply with Rule 45.

The Vermont Rules of Civil Procedure incorporate the Uniform Interstate Depositions and Discovery Act, which “governs depositions and discovery conducted in Vermont in connection with a civil action brought in another state.” V.R.C.P. 45(f)(1). The rule requires that a foreign subpoena be “issued under authority of a court of record of a foreign jurisdiction.” V.R.C.P. 45(f)(2)(B) and (E); *see also* Reporter’s Notes—2011 Amendment, V.R.C.P. 45 (“Under the [Act], litigants can present a clerk of the court located in the state where discoverable materials are sought with a subpoena *issued by a court in the trial state.*”) (emphasis added). The subpoena here was not issued by a New York court.

The subpoena also does not comply with Rule 45(f)(3)(C)(i), which requires a foreign subpoena to “conform to the requirements of Rule 45 and other applicable provisions of these rules” Rule 45(a) provides that “[e]very subpoena shall . . . set forth the text of subdivisions (c) and (d) of this rule” V.R.C.P. 45(a)(1)(D). Subdivisions (c) and (d) list the protections afforded to persons subject to subpoenas and their duties in responding to subpoenas. That text is not set forth in the subpoena here.

Order

The petition for an out of state subpoena is denied. Petitioners must fully comply with Rule 45 before the court will issue the subpoena.

SO ORDERED at Burlington this 27th day of October, 2017.

Robert A. Mello
Superior Court Judge