

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MILLARD BALTZELL and)	
RUTH BALTZELL,)	
)	
Plaintiffs,)	
)	
vs.)	No. 04-042-DV
)	
FREIGHTLINER CORPORATION,)	
LUFKIN INDUSTRIES, INC., and)	
R & R TRUCKING COMPANY,)	
)	
Defendants.)	

ORDER GRANTING BLACKBURN & MCCUNE, P.L.L.C.'S MOTION TO
QUASH SUBPOENA
AND
ORDER DENYING BLACKBURN & MCCUNE, P.L.L.C.'S MOTION FOR
PROTECTIVE ORDER AS MOOT

Before the court is the December 20, 2004 motion of Blackburn & McCune, P.L.L.C. requesting that the court quash the subpoena issued by the United States District Court for Western of District Tennessee on November 23, 2004 that requires Blackburn & McCune to produce and permit inspection and copying of certain documents at a certain place and time. In the event that this court denies the motion to quash, Blackburn & McCune has filed an accompanying motion for a protective order regarding the documents sought in the subpoena. Both motions have been referred to the United States Magistrate Judge for determination. For the following reasons, the motion to quash is granted and the motion for protective order is

denied as moot.

Rule 45(a)(2) of the Federal Rules of Civil Procedure states
in part:

If separate from a subpoena commanding the attendance of a person, a subpoena for production or inspection shall issue from the court for the district in which the production or inspection is to be made.

The subpoena referred to in this motion was issued by the clerk in the Western District of Tennessee. The subpoena commands that Blackburn & McCune produce documents and objects on December 13, 2004, at the offices of Vowell & Jennings in Nashville, Tennessee. Nashville, Tennessee is located in the Middle District of Tennessee. Clearly, the subpoena was issued in the wrong district. Accordingly, the motion to quash the subpoena is granted, and the motion for protective order is denied as moot.

IT IS SO ORDERED this 18th day of January, 2005.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE