

VERMONT SUPERIOR COURT  
CHITTENDEN UNIT  
CIVIL DIVISION

MORGAN SMITH,  
Petitioner

v.

CHRISTOPHER ANTONICCI and  
TAMMY DAVIS,  
Respondents

Docket No. 827-9-16 Cncv

RULING ON MOTION FOR OUT OF STATE SUBPOENA

By request filed September 26, 2016, counsel for Petitioner in a New Hampshire family court action (649-2015-DM-00302) presented a subpoena seeking to compel the attendance of two Vermont residents (Respondents) at a “Final Hearing” scheduled in Keene, New Hampshire on October 18, 2016 at 9:00 am. However, Petitioner’s request—through counsel not admitted to practice in Vermont—is unaccompanied by citation to any legal authority empowering this court to grant such relief.

While Vermont has enacted the Uniform Act to Secure the Attendance of Witnesses from Without the State in Criminal cases, 13 V.S.A. § 6642, no similar statutory authority exists with respect to civil or family actions. 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). But Rule 45(f) does not contemplate an order issued by a Vermont court compelling a citizen of Vermont to submit to the authority of another state, except for the limited purpose of making discovery within the State of Vermont. *See Wilcox v. Fish*, No. 310-7-14 Wmcv, 2014 WL 6852886, \*1 (Vt. Super. July 15, 2014) (Wesley, J.). The court further notes that appropriate relief, assuming any is available, would be in the Family Division rather than the Civil Division.

Order

The request for an out of state subpoena is denied as outside the court’s jurisdiction. Petition dismissed.

Dated at Burlington this 30th day of September, 2016.

Robert A. Mello  
Superior Court Judge