



IT IS ORDERED as set forth below:

Date: November 12, 2009

James E. Massey

James E. Massey
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

CASE NO. 05-80212

David Ronald Michal and Christine Renee
Michal,

CHAPTER 7

Debtors.

JUDGE MASSEY

Patricia A. McColm,

Plaintiff,

v.

ADVERSARY NO. 06-9036

David Ronald Michal and Christine Renee
Michal,

Defendants.

**ORDER DENYING APPLICATION FOR ORDER TO SHOW CAUSE
RE CONTEMPT FOR FAILURE TO COMPLY WITH SUBPOENAS**

Plaintiff seeks to compel the attendance at a deposition of Robert M. Cronic, a non-party, who, Plaintiff alleges, failed to obey a subpoena issued by the United States Bankruptcy Court

for the Eastern District of California. As Plaintiff points out, citing *Fincher v. Keller Ind. Inc*, 129 F.R.D 123 (M.D. N.C. 1990), the proper court to enforce a subpoena to a non-party is the court that issued that subpoena. Plaintiff asserts that personnel at the U. S. Bankruptcy Court for the Eastern District of California failed to schedule the matter for a hearing there, and she asks that this Court step in to remedy the situation. This Court is bound by the Rules, however. Fed. R. Civ P. 37(a)(2), made applicable by Fed. R. Bankr. P. 7037, provides:

(2) Appropriate Court. A motion for an order to a party must be made in the court where the action is pending. A motion for an order to a nonparty *must* be made in the court where the discovery is or will be taken.

(Emphasis added.) Plaintiff's remedy was to file a motion with the court that issued the subpoena. Even if Plaintiff made such a motion and that court has not acted on the motion, that circumstance is not an exception to the command of Rule 37(a)(2). For this reason, Plaintiff's motion for an order to show cause to compel or sanction Robert M. Cronin is DENIED.

END OF ORDER