

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, EASTERN DIVISION

H AND M SERVICES, LLC v. ALLIANCE INVENTORY SERVICE,
LLC, et al.

No. 2:23-cv-2822, United States District Court for the Southern District of Ohio, Eastern Division (November 21, 2025)

SUMMARY

The United States District Court for the Southern District of Ohio adopted a Magistrate Judge’s Report and Recommendation and held Robert Queen II and BC Inventory, LLC in contempt for failing to comply with a subpoena and appear at a show-cause hearing. The court imposed a \$100-per-day fine on each party beginning May 28, 2024, until compliance, and ordered them to pay the plaintiff’s reasonable attorney’s fees and costs related to the contempt proceedings.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Eastern Division
WRITING FOR THE COURT	Algenon L. Marbley
JURISDICTION	United States District Court for the Southern District of Ohio
DECIDED	November 21, 2025
DOCKET	2:23-cv-2822
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending that nonparty subpoena recipients Robert Queen II and BC Inventory, LLC be held in contempt, fined \$100 per day until compliance, and ordered to pay reasonable attorney's fees and costs.
STANDARD OF REVIEW	Clear-error review of the Report and Recommendation; failure to object ordinarily waives appellate review.
PRECEDENTIAL VALUE	unpublished district court opinion and order

TOPICS

- contempt
- sanctions
- discovery dispute
- attorney fees
- civil procedure

PRACTICE AREAS

civil procedure

commercial litigation

remedies

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Report and Recommendation when no objections were filed.
2. Whether Robert Queen II and BC Inventory, LLC could be held in contempt under Federal Rule of Civil Procedure 45(g) for failing without adequate excuse to obey a subpoena and related court orders.
3. Whether a coercive fine of \$100 per day and an award of reasonable attorney's fees and costs were appropriate sanctions for the subpoena noncompliance.

HOLDINGS

1. The district court adopted the magistrate judge's Report and Recommendation because no objections were filed and the recommendation was not shown to contain clear error.
2. A person served with a subpoena may be held in contempt under Federal Rule of Civil Procedure 45(g) when the person fails without adequate excuse to obey the subpoena or an order related to it; Robert Queen II and BC Inventory, LLC met that standard.
3. A coercive fine of \$100 per day, beginning May 28, 2024 and continuing until compliance with Rule 45, together with reasonable attorney's fees and costs incurred in connection with the show-cause motion and hearing, was appropriate.

KEY QUOTATIONS

“Under Federal Rule of Civil Procedure 45, a district court “may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.”” (III)

“As such, this Court is presented with clear and convincing evidence that shows that Robert Queen II and BC Inventory, LLC violated definite and specific orders to respond to Plaintiff’s subpoena.” (III)

FACTUAL BACKGROUND

Robert Queen II and BC Inventory, LLC were served with Plaintiff's subpoena duces tecum on March 9, 2024, but failed to respond or comply after Plaintiff's counsel requested compliance by email. They also failed to appear at the court-ordered May 28, 2024 show-cause hearing and did not communicate any excuse for their noncompliance. They remained noncompliant after service of the magistrate judge's Report and Recommendation.

PROCEDURAL HISTORY

Plaintiff served Robert Queen II and BC Inventory, LLC with a Rule 45 subpoena on March 9, 2024. They did not respond, did not appear at the May 28, 2024 show-cause hearing, and did not comply within fourteen days after service of the Report and Recommendation or file objections. The district court adopted the Report and Recommendation and imposed the recommended contempt sanctions.

DISPOSITION

other

CASES CITED

- Thomas v. Arn, 474 U.S. 140, 144-45, 151 (1985)
- Howard v. Sec'y of HHS, 932 F.2d 505, 508-09 (6th Cir. 1991)
- United States v. Walters, 638 F.2d 947, 950 (6th Cir. 1981)
- Neuman v. Rivers, 125 F.3d 315, 322 (6th Cir. 1997)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION H AND M SERVICES, LLC,: Plaintiff,: Case No.: 2:23-cv-2822 v.: Judge
Algenon L. Marbley ALLIANCE INVENTORY SERVICE,: Magistrate Judge Chelsey M. Vascura
LLC, et al.,: Defendants.: OPINION & ORDER Before this Court is the Magistrate Judge's Report
and Recommendation ("R&R") (ECF No. 46), which recommends that Robert Queen II and BC
Inventory, LLC be held in contempt for failure, without adequate excuse, to obey the subpoena
served upon them by Plaintiff on March 9, 2024, and that a fine of \$100.00 per day be imposed on
each of them until they respond to the subpoena.

The R&R also recommends that Robert Queen II and BC Inventory, LLC be ordered to pay the
attorney's fees and costs that Plaintiff reasonably incurred in connection with its motion for a show
cause hearing and Plaintiff's appearance at the May 28, 2024, show cause hearing.

For the reasons that follow, the Magistrate Judge's R&R (ECF No. 46) is ADOPTED, and Robert
Queen II and BC Inventory, LLC are held in CONTEMPT. This Court imposes upon each of them
a fine of \$100.00 PER DAY, from the date of the show cause hearing, May 28, 2024, until each
complies with the Rule 45 requirements for responding to a subpoena.

Finally, this Court ORDERS Robert Queen II and BC Inventory, LLC to pay the attorney's fees
and costs that Plaintiff reasonably incurred in connection with its motion for a show cause hearing
and appearance at the show cause hearing.

I. BACKGROUND This Court adopts the R&R's description of the facts and highlights the
following key facts for the purpose of analysis. First, Robert Queen II and BC Inventory, LLC
failed to respond to Plaintiff's subpoena duces tecum, which was served on March 9, 2024, and
failed to respond to an email by Plaintiff's counsel sent on April 12, 2024, requesting compliance
with the subpoena.

(ECF No. 46 at 1). On April 25, 2024, this Court ordered Robert Queen II and BC Inventory, LLC
to appear at a May 28, 2024, hearing and show cause for why they should not be held in contempt.

(ECF No. 46 at 1). Robert Queen II and BC Inventory, LLC failed to appear at this hearing. (ECF No. 46 at 1).

On May 28, 2024, the Magistrate Judge issued its R&R (ECF No. 46), recommending: (1) that Robert Queen II and BC Inventory, LLC be held in contempt for failure, without adequate excuse, to obey the subpoena served upon them by Plaintiff and that a fine of \$100.00 per day be imposed on each of them until they comply with the requirements for responding to a subpoena pursuant to Federal Rule of Civil Procedure 45; (2) that Robert Queen II and BC Inventory, LLC be ordered to pay the attorney's fees and costs that Plaintiff reasonably incurred in connection with its motion for a show cause hearing and Plaintiff's appearance at the show cause hearing; and (3) that these sanctions not be imposed should Robert Queen II and BC Inventory, LLC comply with the requirements for responding to a subpoena within fourteen days of being personally served with the R&R.

(ECF No. 46 at 2). Robert Queen II and BC Inventory, LLC did not respond to the subpoena within fourteen days of service of the R&R, nor did they file any objections to the R&R. II. STANDARD OF REVIEW Courts commonly review the Report and Recommendation for clear error, and failure to object ordinarily waives appellate review. See 28 U.S.C. § 636(b)(1); Fed.

R. Civ. P. 72(b); *Thomas 2 v. Arn*, 474 U.S. 140, 144-45, 151 (1985); *Howard v. Sec'y of HHS*, 932 F.2d 505, 508-09 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981); *Neuman v. Rivers*, 125 F.3d 315, 322 (6th Cir. 1997). III. LAW AND ANALYSIS Under Federal Rule of Civil Procedure 45, a district court "may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it." Fed.

R. Civ. P. 45(g). Here, Robert Queen II and BC Inventory, LLC failed to comply with the Rule 45 requirements for responding to a subpoena and failed to appear at the show cause hearing as ordered by this Court. (ECF No. 46 at 1). Despite the email request from Plaintiff's counsel, despite this Court's order to show cause, and despite the Magistrate Judge's R&R, Robert Queen II and BC Inventory, LLC failed to communicate any excuse for their lack of response.

(ECF No. 46 at 1). As such, this Court is presented with clear and convincing evidence that shows that Robert Queen II and BC Inventory, LLC violated definite and specific orders to respond to Plaintiff's subpoena. Further, given that Robert Queen II and BC Inventory, LLC's lack of response to the subpoena within fourteen days of the R&R, this Court determines that sanctions are appropriate.

IV. CONCLUSION Accordingly, this Court ADOPTS the Magistrate Judge's R&R (ECF No. 46) and holds Robert Queen II and BC Inventory, LLC in CONTEMPT. This Court imposes upon each of them a fine of \$100.00 PER DAY, from the date of the show cause hearing, May 28, 2024, until each complies with the Rule 45 requirements for responding to a subpoena.

Finally, this Court ORDERS Robert Queen II and BC Inventory, LLC to pay the attorney's fees and costs that Plaintiff reasonably 3 incurred in connection with its motion for a show cause hearing and appearance at the show cause hearing. IT IS SO ORDERED. ALGENON L. MA
UNITED STATES DISTRICT JUDGE DATED: November 21, 2025

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