

PROBATE COURT OF FRANKLIN COUNTY, OHIO

373 SOUTH HIGH STREET, COLUMBUS, OHIO 43215

SUBPOENA

-VS-

Case No. _____

TO:

FOR CLERK USE ONLY:

Deposit

_____ (Name) Witness Fee \$12.00 \$ _____

_____ (Address) Service by Franklin County Sheriff ... \$38.00 \$ _____

_____ (City-State-Zip) Total \$ _____

Service by other means to be coordinated by requesting party.

YOU ARE HEREBY COMMANDED TO:

_____ ATTEND AND GIVE TESTIMONY AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.

_____ ATTEND AND PRODUCE (DOCUMENTS) (TANGIBLE THINGS) AT A (TRIAL) (HEARING) (DEPOSITION) ON THE DATE, TIME AND AT THE PLACE SPECIFIED BELOW.

_____ PRODUCE AND PERMIT INSPECTION AND COPYING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY DESIGNATED DOCUMENTS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.

_____ PRODUCE AND PERMIT INSPECTION AND COPYING, TESTING OR SAMPLING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY TANGIBLE THINGS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.

_____ PERMIT ENTRY UPON THE FOLLOWING DESCRIBED LAND OR OTHER PROPERTY, FOR THE PURPOSES DESCRIBED IN CIV. R. 34(A)(3), ON THE DATE AND AT THE TIME SPECIFIED BELOW. *DESCRIPTION OF LAND OR OTHER PREMISES:* _____

DAY _____ DATE _____ TIME _____ .

PLACE _____ .

_____ DESCRIPTION OF ITEMS TO BE PRODUCED: _____ .

THE STATE OF OHIO

Franklin County, ss

To the Sheriff of _____ County, Ohio

Greetings: **YOU ARE HEREBY COMMANDED TO SUBPOENA THE ABOVE NAMED PERSON.**

WITNESS MY HAND AND SEAL OF SAID COURT THIS _____ DAY OF _____ 20_____

ROBERT G. MONTGOMERY, JUDGE AND EX-OFFICIO CLERK OF THE PROBATE COURT

BY: _____ .

SIGNATURE OF

(Deputy Clerk/Attorney for (Plaintiff) (Defendant))

REQUESTING PARTY INFORMATION:

NAME: _____
(Attorney for (Plaintiff) Defendant) or (Plaintiff) or (Defendant)

ATTORNEY CODE: _____ TELEPHONE NUMBER: (_____) _____ .

NOTE: FILE IN TRIPLICATE AND READ ALL INFORMATION ON THE REVERSE SIDE OF THIS SUBPOENA.

CIVIL RULE 45 (C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A PARTY OR AN ATTORNEY RESPONSIBLE FOR THE ISSUANCE AND SERVICE OF A SUBPOENA SHALL TAKE REASONABLE STEPS TO AVOID IMPOSING UNDUE BURDEN OR EXPENSE ON A PERSON SUBJECT TO THAT SUBPOENA.

(2) (a) A PERSON COMMANDED TO PRODUCE AND PERMIT INSPECTION AND COPYING OF DESIGNATED BOOKS, PAPERS, DOCUMENTS, OR TANGIBLE THINGS, OR INSPECTION OF PREMISES, NEED NOT APPEAR IN PERSON AT THE PLACE OF PRODUCTION OR INSPECTION UNLESS COMMANDED TO APPEAR FOR DEPOSITION, HEARING, OR TRIAL.

(b) SUBJECT TO DIVISION (D) (2) OF THIS RULE, A PERSON COMMANDED TO PRODUCE AND PERMIT INSPECTION AND COPYING MAY, WITHIN FOURTEEN DAYS AFTER SERVICE OF THE SUBPOENA OR BEFORE THE TIME SPECIFIED FOR COMPLIANCE IF SUCH TIME IS LESS THAN FOURTEEN DAYS AFTER SERVICE, SERVE UPON THE PARTY OR ATTORNEY DESIGNATED IN THE SUBPOENA WRITTEN OBJECTIONS TO INSPECTION AND COPYING OF ANY OR ALL OF THE DESIGNATED MATERIALS OR OF THE PREMISES. IF OBJECTION IS MADE, THE PARTY SERVING THE SUBPOENA SHALL NOT BE ENTITLED TO INSPECT AND COPY THE MATERIALS OR INSPECT THE PREMISES EXCEPT PURSUANT TO AN ORDER OF THE COURT BY WHICH THE SUBPOENA WAS ISSUED. IF OBJECTION HAS BEEN MADE, THE PARTY SERVING THE SUBPOENA, UPON NOTICE TO THE PERSON COMMANDED TO PRODUCE, MAY MOVE AT ANY TIME FOR AN ORDER TO COMPEL THE PRODUCTION. AN ORDER TO COMPEL PRODUCTION SHALL PROTECT ANY PERSON WHOSE IS NOT A PARTY OR AN OFFICER OF A PARTY FROM SIGNIFICANT EXPENSE RESULTING FROM THE INSPECTION AND COPYING COMMANDED.

(3) ON TIMELY MOTION, THE COURT FROM WHICH THE SUBPOENA WAS ISSUED SHALL QUASH OR MODIFY THE SUBPOENA, OR ORDER APPEARANCE OR PRODUCTION ONLY UNDER SPECIFIED CONDITIONS, IF THE SUBPOENA DOES ANY OF THE FOLLOWING:

(a) FAILS TO ALLOW REASONABLE TIME TO COMPLY;

(b) REQUIRES DISCLOSURE OF PRIVILEGED OR OTHERWISE PROTECTED MATTER AND NO EXCEPTION OR WAIVER APPLIES;

(c) REQUIRES DISCLOSURE OF AN UNRETAINED EXPERT'S OPINION OR INFORMATION NOT DESCRIBING SPECIFIC EVENTS OR OCCURRENCES IN DISPUTE AND RESULTING FROM THE EXPERT'S STUDY MADE NOT AT THE REQUEST OF ANY PARTY;

(d) SUBJECTS A PERSON TO UNDUE BURDEN.

(4) BEFORE FILING A MOTION PURSUANT TO DIVISION (C) (3) (d) OF THIS RULE, A PERSON RESISTING DISCOVERY UNDER THIS RULE SHALL ATTEMPT TO RESOLVE ANY CLAIM OF UNDUE BURDEN THROUGH DISCUSSIONS WITH THE ISSUING ATTORNEY. A MOTION FILED PURSUANT TO DIVISION (C) (3) (d) OF THIS RULE SHALL BE SUPPORTED BY AN AFFIDAVIT OF THE SUBPOENAED PERSON OR A CERTIFICATE OF THAT PERSON'S ATTORNEY OF THE EFFORTS MADE TO RESOLVE ANY CLAIM OF UNDUE BURDEN.

(5) IN CASES UNDER DIVISION (C) (3) (c) OR (C) (3) (d) OF THIS RULE, THE COURT SHALL QUASH OR MODIFY THE SUBPOENA UNLESS THE PARTY IN WHOSE BEHALF THE SUBPOENA IS ISSUED SHOWS A SUBSTANTIAL NEED FOR THE TESTIMONY OR MATERIAL THAT CANNOT BE OTHERWISE MET WITHOUT UNDUE HARDSHIP AND ASSURES THAT THE PERSON TO WHOM THE SUBPOENA IS ADDRESSED WILL BE REASONABLY COMPENSATED.

CIVIL RULE 45 (D) DUTIES IN RESPONDING TO SUBPOENA.

(1) A PERSON RESPONDING TO A SUBPOENA TO PRODUCE DOCUMENTS SHALL PRODUCE THEM AS THEY ARE KEPT IN THE USUAL COURSE OF BUSINESS OR SHALL ORGANIZE AND LABEL THEM TO CORRESPOND WITH THE CATEGORIES IN THE DEMAND. A PERSON PRODUCING DOCUMENT PURSUANT TO A SUBPOENA FOR THEM SHALL PERMIT THEIR INSPECTION AND COPYING BY ALL PARTIES PRESENT AT THE TIME AND PLACE SET IN THE SUBPOENA FOR INSPECTION AND COPYING.

(2) WHEN INFORMATION SUBJECT TO A SUBPOENA IS WITHHELD ON A CLAIM THAT IT IS PRIVILEGED OR SUBJECT TO PROTECTION AS TRIAL PREPARATION MATERIALS, THE CLAIM SHALL BE MADE EXPRESSLY AND SHALL BE SUPPORTED BY A DESCRIPTION OF THE NATURE OF THE DOCUMENTS, COMMUNICATIONS, OR THINGS NOT PRODUCED THAT IS SUFFICIENT TO ENABLE THE DEMANDING PARTY TO CONSENT THE CLAIM.

CIVIL RULE 45 (E) SANCTIONS.

FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED A CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA ISSUE. A SUBPOENAED PERSON OR THAT PERSON'S ATTORNEY FRIVOLOUSLY RESISTING DISCOVERY UNDER THIS RULE MAY BE REQUIRED BY THE COURT TO PAY THE REASONABLE EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, OF THE PARTY SEEKING THE DISCOVERY. THE COURT FROM WHICH A SUBPOENA WAS ISSUED MAY IMPOSE UPON A PARTY OR ATTORNEY IN BREACH OF DUTY IMPOSED BY DIVISION (C) (1) OF THIS RULE AN APPROPRIATE SANCTION, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, LOST EARNINGS AND REASONABLE ATTORNEY'S FEES.

***** * RETURN OF SERVICE * * * ****

I RECEIVED THIS SUBPOENA ON _____, AND SERVED THE PARTY NAMED ON THE REVERSE HEREOF

BY _____ ON _____

_____ I WAS UNABLE TO COMPLETE SERVICE FOR THE FOLLOWING REASON: _____

Sheriff's Fees

Service _____

Mileage _____

Copy _____

Total _____

(Signature of Serving Party)

Circle One: Deputy Sheriff Attorney

Process Server Deputy Clerk

Other _____