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Sample subpoena response letter

In litigation, a party will often use a third-party subpoena to obtain documents from individuals, businesses, or other entities that are not parties to the lawsuit. Introduction In litigation, a party will often use a third-party subpoena to obtain documents from individuals, businesses, or other entities that are not parties to the lawsuit. Many individuals and businesses have received a third-party subpoena and wondered whether they should respond, how to respond, what, if any concerns they should have, and what, if any, precautions they should take. The following guidelines and steps explain how to approach responding to a third-party subpoena for documents, and highlight issues you should consider when responding. (In a future article, I will address some additional considerations for responding to a third-party subpoena for testimony.) Initial Steps to Take When You are Served with a Third-Party Subpoena for Documents When you are served with a third-party subpoena for documents, there are several critical steps you should take to ensure you will comply with the subpoena and its corresponding requirements.

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT, IV AND
FOR SEMINOLE COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,
vs.
GEORGE ZIMMERMAN,
Defendant.

CASE NO.: 2012-001803-CFA

AMENDED NOTICE OF OBJECTION TO SUBPOENA

COMES NOW the Defendant, GEORGE ZIMMERMAN, by and through his undersigned counsel, and files this his Amended Notice of Objection to Subpoena intended to be issued by the State of Florida to the Altamonte Family Practice, 249 Maidland Avenue, Suite 1000, Altamonte Springs, Florida 32701, and as grounds therefore states as follows:

- The records requested are privileged medical records of Mr. Zimmerman to which he has, and maintains, his privacy.
- The subpoena is overbroad and will include information which is irrelevant to this matter, nor will this information lead to any relevant or admissible information.
- The State has, in the past, taken the position that all information received by it, regardless of relevance or admissibility, will be disclosed and thereby subject to release to the public pursuant to our discovery rules.

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Consider Engaging an Attorney. If you are a business and do not have an in-house legal department, or if you are an individual and do not have an attorney, you should consider engaging an attorney. An attorney will help guide you through the process, including many of the items and steps in this article. For instance, an attorney would be helpful if the subpoena requests a large number of documents. An attorney will also help you understand whether you have any legal exposure you should worry about. It is not uncommon for a party in litigation to use the subpoena process to obtain information regarding a non-party for purposes of determining whether it should file a lawsuit against that non-party. There is nothing improper about that strategy so long as the information being obtained is relevant to the litigation. I have been involved in these situations, and it is surprising to see how often a recipient of a subpoena is unaware of the secondary risk of legal exposure lurking beneath the subpoena process. An attorney will help mitigate that exposure by formulating an effective strategy for responding to and/or challenging the subpoena. Businesses: Notify Anyone Else of Importance If you are an individual, and the subpoena is directed to you personally, whether you should notify anyone else will depend on the types of documents being requested. If any documents requested are in someone else's possession, but can be considered to be in your "possession, custody, or control," you should notify the person who has those documents that you were served with a subpoena. Examples of such documents include, but are not limited to, documents in the possession of your accountant, documents you provided to an attorney, and documents you provided to a consultant. If you are a business, you should notify your lead in-house attorney or general counsel, any other in-house attorneys, high-level corporate officers and executives, and, if necessary, an outside attorney with appropriate litigation experience. In addition, if any documents are in the possession of an affiliated company (such as a partner, parent, or subsidiary), you should notify that company of receipt of the subpoena. Calendar the Deadline for Responding to the Third-Party Subpoena When you are served with a third-party subpoena, you should immediately mark the date on your calendar when a response is due. The date will be identified on the subpoena itself. (In rare instances, the date identified will be too soon, in which case there are steps you can take to protect yourself.

Republic of the Philippines
4th Judicial Region
MUNICIPAL TRIAL COURT
Victoria, Laguna

JUAN D. EMBALMER
Plaintiff,
vs.
JULIANA B. DIKDIKAN
Defendant.

X-----X

ATTY. WILLIAM SHAKESPEARE
Clerk of Court IV
Municipal Trial Court
4th Judicial Region
Victoria, Laguna

MOTION FOR ISSUANCE OF SUBPOENA DUCES TECUM
AND AD TESTIFICANDUM

COMES NOW, the plaintiff through the undersigned counsel, and unto this Honorable Court request for the issuance of *Subpoena duces tecum* and *Subpoena ad testificandum*, requiring the person named hereafter to attend and testify at the hearing on November 28, 2019 at 8:30 A.M., at the Municipal Trial Court of Victoria Laguna in relation to the instant _____ proceedings for the purpose of proving the allegations in paragraph _____ of the complaint that the defendant failed to _____

1. The Manager
Bank of the Philippine Islands
Bank of the Philippine Islands
Juan Dela Cruz St.,
Santa Cruz, Laguna

See below.) If you believe you may need an extension of time to respond, you should request one right away. In these situations, an attorney is a good conduit through which to negotiate extensions. Any requests for extensions and any agreed extensions should be reduced to writing. An email memorializing the communication will suffice. Businesses: Issue a "Litigation Hold" or "Legal Hold" Notice When a business is served with a subpoena, to ensure these documents can be identified and provided, the business should issue a "litigation hold" or "legal hold" notice to its employees. This is a written document that provides notice that employees must preserve any documents or other information that may be responsive to the subpoena. Such documents may include emails, recordings, handwritten notes, and electronic documents such as Microsoft Word documents or Microsoft Excel spreadsheets. An attorney usually has a form for litigation holds that can be used and adapted for your purposes. These notices should be broad and encompass any kind of document you believe has been generated or used by your business. A litigation hold, in part, demonstrates that you fulfilled your initial obligation to locate documents responsive to the subpoena. Begin Collecting Documents An individual who is served with a third-party subpoena can usually collect the documents requested by the subpoena without significant effort. An individual should search for documents in locations where he or she has either worked on or created documents. These locations include file cabinets, email accounts, social media accounts, desk drawers, etc. A business, however, can experience some difficulties. The document collection process can prove daunting if the volume of responsive documents is large, or if there are more than a few employees who have such documents. A business should adopt the following steps for collecting documents: Identify all individuals who have responsive documents A business must identify anyone who potentially may have documents responsive to the subpoena.

COMPTROLLER OF PUBLIC ACCOUNTS
P.O. BOX 13528
AUSTIN, TX 78711-3528

AP 70

Letter 2: Second Request for Records

January 27, 2003

Tom Jones, President
124 State Street
Austin, TX 78711

Re: ABC Corporation - TPE 12345678901
State and Local Sales and Use Tax

Dear Tom Jones:

On December 27, 2002, a records request letter was sent to you with a response deadline of January 27, 2003. This deadline has not been met and we are therefore again requesting the below records for the audit period of February 1, 1995 through December 31, 2001. This is a general list of records that will be required to conduct the audit. This list is not meant to be all-inclusive and the actual records required may be extended based upon the nature and complexity of your business as well as any other pertinent factors.

Sales summaries and invoices	Computerized accounting records
Contracts with customers	Asset and expense purchase invoices
Materials purchase invoices	Depreciation schedules (assets)
Federal Income Tax Returns and work papers	Charts of accounts
General and subsidiary journals and ledgers	Customer lists
Financial Statements	Bank statements
Current files of resale exemption certificates	

The Comptroller is authorized to issue administrative subpoenas requiring the production of all records and documents that relate to the taxpayer's business for purposes of inspection and audit. If such records and documents are not produced under a subpoena, the Comptroller will take legal action in State District Court to compel their production. Furthermore, a corporate taxpayer's failure to comply with a Comptroller's subpoena to produce records may also result in the Secretary of State forfeiting the corporate charter or certificate of authority to conduct business in Texas.

Should you refuse to cooperate with the Comptroller's auditor and make the records available by February 10, 2003, then the Comptroller's office will take immediate action to protect the State's interest.

I anticipate your full cooperation with this audit so the steps listed above will prove unnecessary. If you have any questions concerning this matter, please contact me at _____.

Sincerely,

Sam Hall
Audit Manager

cc: Sue Craig, Auditor
Jose Williams, Audit Supervisor
Richard Jones, Legal Counsel

These individuals can include employees, attorneys, independent contractors, or IT personnel. It is better to be overly broad in this effort so no one is overlooked. Instruct individuals on how to search for and collect documents Once a business has identified individuals who have responsive documents, it should instruct them on what to search for (i.e., the requests in the subpoena will provide guidance on what to search for), how to collect it, who to give it to, and any precautions that should be taken. If you are relying on individual employees to search for and collect documents, they must be monitored. I cannot emphasize the importance of that directive enough. If an employee finds him/herself in a troublesome situation with an incriminating email or other document, they may take matters into their own hands and delete or destroy the document. This conduct exposes you to significant penalties in connection with the litigation discovery process. You should ensure employees are acting appropriately and turning over all responsive documents, good or bad. If a large volume of email or electronic documents is involved, a business should engage an attorney or an outside vendor to assist with, and even conduct, the search and collection effort. Outsourcing this process will often be more cost-effective for a business than committing valuable internal resources to the endeavor. Review the Documents Collected for Responsiveness, Privilege, and Confidentiality Once you have assembled all the documents you gathered or instructed others to gather for you, you should review them carefully for three purposes: if a document is not responsive to a request in the subpoena (i.e., it does not relate to any request in the subpoena), you have no obligation to – and should not – produce it. This suggestion, in part, relates to my earlier point about engaging an attorney to help you determine if the subpoena is a means for obtaining information about you for a future lawsuit.

