

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

In re:

PROVIDENCE FINANCIAL  
INVESTMENTS, INC.,

Case No. 16-20516-AJC  
Chapter 7  
(Jointly Administered)

PROVIDENCE FIXED INCOME FUND,  
LLC,

Case No. 16-20517-AJC

Debtors.

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**SECOND AMENDED NOTICE OF RULE 2004 EXAMINATION DUCES TECUM**

Maria Yip, the Chapter 7 Trustee (the “Trustee”), for the jointly administered estates of Providence Financial Investments, Inc. and Providence Fixed Income Fund, LLC (the “Debtors”), by and through undersigned counsel, will examine, under oath:

| <b>Examinee</b>   | <b>Date and Time</b>                                | <b>Location</b>  |
|---|---|--|
| Records Custodian<br>Wells Fargo Bank, N.A.<br>350 E. Las Olas Blvd., #100<br>Fort Lauderdale, FL 33301 | <b>Friday, March 17, 2017</b><br><b>@ 1:00 p.m.</b> | Berger Singerman LLP<br>1450 Brickell Avenue, Ste. 1900<br>Miami, FL 33131<br><b>(DOCUMENTS MAY BE<br/>PRODUCED IN LIEU OF<br/>APPEARANCE)</b> |

The examination may continue from day to day until completed. If the examinee receives this notice less than 14 days prior to the scheduled examination date, the examination will be rescheduled upon timely request to a mutually agreeable time.

The examination is pursuant to Bankruptcy Rule 2004 and will be taken before an officer authorized to record the testimony. The scope of the examination shall be as described in Bankruptcy Rule 2004. **The Examinee is required to produce all documents listed on Schedule A to the undersigned attorney on or before Friday, March 17, 2017.**

Dated: February 28, 2017

Respectfully submitted,

BERGER SINGERMANN LLP  
*Counsel for the Trustee*  
1450 Brickell Avenue, Suite 1900  
Miami, FL 33131  
Tel. (305) 755-9500  
Fax (305) 714-4340

By: /s/ James D. Gassenheimer  
James D. Gassenheimer  
Florida Bar No. 959987  
[jgassenheimer@bergersingerman.com](mailto:jgassenheimer@bergersingerman.com)

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was served on the 28<sup>th</sup> day of February, 2017, by electronic transmission through the Court's CM/ECF system upon all parties on the attached Electronic Mail Notice List and via first class, U.S. Mail upon Records Custodian, Wells Fargo Bank, N.A., 350 E. Las Olas Blvd., #100, Fort Lauderdale, FL 33301.

/s/ James D. Gassenheimer  
James D. Gassenheimer

**SCHEDULE "A"**

**DEFINITIONS**

1. "Bank Accounts" shall mean any bank accounts maintained for any of Debtors and/or their affiliates listed in Table A attached hereto.

2. "Buzaneli" means Antonio Buzaneli.

3. "Rivera" means Julio Rivera.

4. The term "claim" shall have the meaning ascribed to in section 101(5) of the Bankruptcy Code.

5. The term "communication" includes the transmittal of information (in the form of facts, ideas, opinions, inquiries or otherwise).

6. The term "control" means in your possession, custody, or control or under your direction, and includes in the possession, custody or control of those under the direction of you or your parents, affiliates, subsidiaries, officers, directors, shareholders, members, employees, servants, agents, representatives, attorneys, investigators and any person or entity acting or who has acted by or on their behalf.

7. The term "Debtors" shall collectively mean Providence Financial Investments, Inc., and Providence Fixed Income Fund LLC, including any of their predecessors, affiliates, assigns, employees, agents, and others purporting to act on its behalf as filed in the United States Bankruptcy Court, Southern District of Florida, Jointly Administered Case No. 16-20516-AJC, including but not limited to Antonio Buzaneli, Julio Rivera, Jose Ordonez, Lazka P. Garrido, Jose Edward Araujo, Richard Silveira, Valerie Silveira, Veronica Alvarado, Victoria Stienstra, Alexander Branning, and Priscilla Sawaya.

8. The term “document” has the broadest meaning accorded to it by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, and includes without limitation all written, typed, printed, reproduced, filmed, stored, or recorded material of any kind, in the possession, custody, or control of you or any of your past or present agents, employees, consultants, attorneys or other persons acting on your behalf, including but not limited to any of the following: correspondence; letters; memoranda; interoffice memoranda; writings; notes; notebooks; charts; electronic mail; studies; plans; analyses; work papers; statistical records; bills and other billing records; receipts; books; press releases; reports; contracts and agreements; records, summaries, memorializations, minutes, agendas or notes of meetings, conferences, telephone calls, or other conversations; calendars and diaries; appointment books and message pads; photographs; tape recordings or other audio or video records; handwritten notes or notations in any form; computer tapes, disks, and other data compilations from which information can be obtained, including, without limitation, electronic or computerized data compilations (including electronic mail), electronic bookkeeping and accounting records (including QuickBooks files), and any printouts thereof; attachments and enclosures; and any drafts of the foregoing.

9. “All documents” means every document or group of documents as above defined that are known to you or that can be located or discovered by reasonably diligent search.

10. The term “including” means including but not limited to.

11. “Maria Yip” means the Chapter 7 Trustee for the estate of Providence Financial Investments, Inc. and Providence Fixed Income Fund LLC as filed in the United States Bankruptcy Court, Southern District of Florida, Jointly Administered Case No. 16-20516-AJC.

12. “You” and/or “Your” means the Examinee and any agent or other third party acting on its behalf.

### **INSTRUCTIONS**

1. Unless otherwise indicated, the applicable time period for these requests is from January 1, 2010 through and including the date of your response.

2. These requests are continuing in nature, so as to require supplemental responses if you obtain or discover further, contradictory or different documents subsequent to the date of your production. Such supplemental responses, if any, shall be filed from time to time promptly upon the discovery by you of such supplemental documents. Each request is to be responded to separately and as completely as possible. The omission of any document or other item of information from the response shall be deemed a representation that such document or item is not known to the Examinee, its counsel, and/or other representatives or agents of the Examinee.

3. Produce not only those documents in your possession, custody or control, but also those documents in the possession, custody or control of any of your parents, affiliates, subsidiaries, officers, directors, shareholders, members, employees, servants, agents, representatives, attorneys, investigators and any person or entity now acting or who has ever acted by or on your behalf.

4. In responding to these document requests, you are required to obtain and furnish all information available to you and any of your employees, agents, representatives, or attorneys and to obtain and furnish all documents, written and/or electronic, that are in your possession or under your control, or in the possession or under the, control of any of your employees, agents, representatives, and/or attorneys.

5. If any privilege is asserted as to any document required to be produced hereby:

(a) identify each such document by stating (i) the type of document, (ii) its general subject matter, (iii) the date of the document, and (iv) the identity of each person who prepared, signed or participated in the preparation of the document, as well as each addressee and recipient;

(b) state the precise nature of the privileged claimed;

(c) state the basis for the privilege claimed relative to the specific information contained in the document; and

(d) state all facts contained within the document, deleting only opinions, theories, mental impressions and non-factual statements.

6. If any document was, but is no longer, in Your possession, custody or control, provide the following information:

(a) identify the document;

(b) state the disposition of the document and the date such disposition was made;

(c) identify the present custodian of the document and state his address or, if the document no longer exists, so state; and

(d) identify the person who made the decision regarding the disposition of the document.

7. All documents that exist in electronic format shall be produced in the format in which they are maintained, including all meta-data, unless the parties agree to an alternative means of production.

8. All Documents produced pursuant hereto are to be produced as they are kept in the usual course of business and shall be organized and labeled (without permanently marking the item produced) so as to correspond with the categories of each numbered request hereof.

9. Production of Electronically Stored Information (“ESI”) or any electronically stored data shall be in native format unless otherwise agreed and in the form more fully described on **Exhibit 1** attached. In producing Documents consisting of electronically stored data in machine-readable form in response to any Request, provide such data in a form that does not require specialized or proprietary hardware or software.

10. It is requested that all ESI be produced as native files and single-page TIFF images with corresponding load files. Each image and native file shall be produced along with its corresponding metadata and extracted text.

11. In producing the documents called for herein, segregate the documents so as to identify the numbered requests to which such documents respond.

12. A request for a document shall include a request for all drafts thereof and all revisions and modifications thereto.

**DOCUMENTS TO BE PRODUCED**

1. All account statements, canceled checks, deposit tickets, electronic funds transfers (EFT) and/or wire transfers pertaining to any and all accounts held in the name of the Debtors, for the period of 2010 through the present, including, but not limited to the Bank Accounts.
2. Any and all documents reflecting the opening and closing of any and all bank accounts held in the name of the Debtors, including, but not limited to the Bank Accounts.
3. All Communications between You and the Debtors related to any and all Bank Accounts.
4. Any and all documents evidencing the due diligence performed by You at the time of or prior to the opening of any and all Bank Accounts.
5. All financial statements issued by the Debtor between 2010 and the present.
6. Any and all documents evidencing Communications related to or referring to in any way to the Debtors or the Bank Accounts.
7. Any and all documents relating to loans or revolving lines of credit personally guaranteed by Buzaneli and/or Rivera.
8. Any and all Documents reflecting internal memorandums relating to the Debtors or the Bank Accounts.
9. Any and all reports submitted by You or agents thereof to any federal or state agencies referencing or regarding the Debtors or the Bank Accounts.
10. All authorizations by You to allow overdrafts of the Bank Accounts.
11. Any and all policies, procedures, and training manuals and materials used or in force during the period 2010 through the present that addressed or covered suspicious activity reporting, fraud alert reporting, potential fraud alert reporting and client activity reporting.
12. Your policies and procedures relating to the review of account activity, including all documents to which the policies and procedures refer, such as appendices, exhibits or other policies or guidelines incorporated by reference, that were applicable during the time period 2010 through the present.
13. All policies and procedures, and agreements received from any third party that performed services related to the monitoring and reporting of transactions involving any of the Debtors' Bank Account(s), during the time period 2010 through the present.
14. All reports generated, triggered, alerted, issues and/or produced for any of the Bank Account(s).



15. All alerts generated by any transaction related to the Bank Account(s), and all Documents related to any review resulting from such alerts, any Documents relating to any investigation of an alert or review of an alert, but not including any Suspicious Activity Reports.

16. Any and all review, analysis, and/or investigation of activity in the Bank Account(s) regardless of whether such activity was characterized as, or determined to be, unusual, irregular, improper, questionable, illicit or suspicious, but not including any Suspicious Activity Reports.

17. Any and all documents supporting Suspicious Activity Reports relating to the Bank Accounts, but not including any Suspicious Activity Reports.

## Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive email notice/service for this case.

- Eyal Berger eyal.berger@akerman.com, jeanette.martinez@akerman.com
- Sergio M Cabanas SergioCabanasLaw@aol.com, ef.cabanaslaw@yahoo.com;dkent@cabanaslawfirm.com;Jzenon@cabanaslawfirm.com
- Richard J Cole rcole3@gmail.com, rc3@colecolelaw.com
- Catherine E Douglas catherine.douglas@akerman.com, jeanette.martinez@akerman.com
- James D Gassenheimer jgassenheimer@bergersingerman.com, efile@bergersingerman.com;efile@ecf.inforuptcy.com
- Joan M Levit joan.levit@akerman.com, charlene.cerda@akerman.com
- James B Miller bkcmiami@gmail.com
- Office of the US Trustee USTPRegion21.MM.ECF@usdoj.gov
- Susan R Sherrill-Beard sherrill-beards@sec.gov, atltreorg@sec.gov;berlina@sec.gov;martinc@sec.gov
- Andrea M Stewart amstewartlaw@gmail.com
- Maria Yip trustee@yipcpa.com, myip@ecf.epiqsystems.com

**EXHIBIT 1**

**Production of Electronically Stored Information (ESI)  
FORM OF PRODUCTION**

The Trustee requests that all ESI be produced as single- page Tagged Image File Format (“TIFF “ or “.tiff”) images with accompanying load files as reflected below:

ESI will be produced (printed and loaded) in 300DPI resolution or greater, Group IV Monochrome Tagged Image File Format (.TIFF or .tiff) files in single-page format, with native files and word searchable OCR/extracted text (Optical Character Recognized – i.e. searchable text). Load files will be provided in Summation (.DII) format including an “@Fulltext PAGE or Doc” token for loading of OCR/Extracted text files. The text file containing the OCR/Extracted Text shall be produced in single page format with the name corresponding to its associated image. It should also be in the same folder as the tiff images. Color pages should be produced as color JPEG images.

By agreement, native documents will not be produced for Redacted Documents, which will be produced in 300DPI Group IV Monochrome Tagged Image File Format (.TIFF or .tiff) files without native files or redacted information. Metadata for redacted files shall be produced. Metadata which discloses the content of redacted information may be withheld.

The specs are:

Single page tiff images

Single page text files (preferred), MultiPage text files, also known as “Document level”

Summation load file (.dii)

Metadata text file with the ^ | delimiters, do not use the , ‘ delimiters.

The files should be delivered with the following folder structure:

Images – contains the tiff and txt files, up to 50,000 items.

Data – contains the dii file and the metadata text file

Natives – contains the native files.

In general, Summation accepts images with the following set protocols:

(i) Load requirements for images only:

- Single page Group 4 Tiff files, resolution 300 dpi
- Must use Bates numbers to identify Tiff files names
- Summation Load File requirements:
  - @C ENDDOC# GT000003
  - @T GT000001
  - @D @\Images\001\  
GT000001.tif

- GT000001.txt  
GT000002.tif
- GT000003.tif  
(ii) Load requirements for images with OCR:
- Single page level OCR Text files corresponding to the Tiff file names
- Summation Load File requirements:
  - @FullTEXT Page  
@C ENDDOC# GT000003  
@T GT000001  
@D @\Images\001\  
GT000001.tif
  - GT000001.txt  
GT000002.tif
  - GT000001.txt  
GT000003.tif
  - GT000001.txt

The following metadata fields will be produced: (Metadata is defined as “unaltered metadata that exists at the time of collection”).

- a. Beg Doc;
- b. End Doc;
- c. Attachment Beg;
- d. Attachment End;
- e. Attachment Range;
- f. Attachment Count;
- g. Author E-mail;
- h. Author Name;
- i. Recipients;
- j. CC;
- k. BCC;
- l. Subject;
- m. Sent Time and Date;
- n. Parent;
- o. File Type (e.g. .xls, .doc., .ppt)
- p. File Name
- q. Custodian
- r. Hidden Cells,
- s. Hidden Text
- t. Create Date,
- u. Last Modification,
- v. Last Access,
- w. Last Save (date and username)
- x. Formulas

For .xls (Excel) file the following additional metadata fields should be included

Number of lines

Number of paragraphs

Number of slides

Number of notes

Number of hidden Slides

Number of multimedia clips

Hyperlink base

Security

TABLE A

|   |
|---|
| Abio Financial Group, Inc., a Texas corporation   |
| <i>All American Quality Corporation, a dissolved Florida corporation</i>                      |
| BPA Associates Investment & Trading Company, Inc., a Florida corporation                      |
| Antonio Buzaneli d/b/a BPA Capital S.A.   |
| BPA Global Holdings, Inc., a Delaware corporation   |
| BPA Fomento Mercantil Investimento e Participações Ltda. (Brazil)                             |
| BPA Holdings, Inc., a Florida corporation   |
| BPA International (Brazil)  |
| Antonio Buzaneli d/b/a BPA Operating  |
| Antonio Buzaneli d/b/a BPA Quality Products   |
| BPA Restaurants, LLC, a Florida corporation   |
| BPA Sourcing, Inc., a Delaware corporation  |
| BPA Technology, Inc., a Florida corporation   |
| Antonio Buzaneli d/b/a Bric SA Corp   |
| Brazilian Fire Corp., a Florida corporation   |
| EMAB Holdings Corp., a Delaware corporation   |
| Global Social Technologies Corp., a Delaware corporation                                      |
| Antonio Buzaneli d/b/a HML Import and Export  |
| HNH USA Corp., a Florida corporation  |
| International Monetary Mortgage Fund, Inc., a Florida corporation                             |
| New Horizon Financial Corporation, a Delaware corporation                                     |
| Nextvel Corporation, a Puerto Rico corporation  |
| PFI Global Corp., a Delaware corporation  |
| PFI Global Corp., a dissolved Florida corporation   |
| PFIF, Inc., a Delaware corporation  |
| PFIF, Inc., a dissolved Florida corporation   |
| PLP Capital Partners, a Delaware corporation  |
| Providence Asia Finance & Trading Corp., a Delaware corporation                               |
| Providence Capital Ventures, LLC, a Delaware corporation                                      |
| Providence Entertainment & Media, Inc., a Delaware corporation                                |
| Providence Global, Inc., a Delaware corporation   |
| Providence Growth Fund LLC, a Delaware corporation  |
| Providence Health Corporation, a Delaware corporation   |
| Providence Holdings International, Inc., a Delaware corporation                               |
| Providence Management Services, LLC, a Delaware corporation                                   |
| Providence Motors and Equipment Corporation, a Florida corporation                            |
| Providence Partners, LLC, a Delaware corporation  |
| Providence Partners International, LLC, a Delaware corporation                                |
| Providence Preferred Corp. (Hong Kong)  |
| Providence Private Markets Corp., a Delaware corporation                                      |
| Providence Realty Advisors, LLC f/k/a Providence Realty Companies, LLC, a Florida corporation |
| Antonio Buzaneli d/b/a Providence Strategic Ventures, LLC                                     |
| Providence Trade International Corporation, a Delaware corporation                            |
| Providence Worldwide Travel Corp., a Delaware corporation                                     |
| The Providence Companies, LLC, a Florida corporation  |
| Siente Y Vive International Foundation, a Delaware corporation                                |
| BPA Internacional Importacao e Exportacao Ltda, a Brazilian company                           |

|   |
|---|
| Providence Equipamentos, Servicos, Importacao e Exportacao Ltda, a Brazilian company                    |
| BPA Quality Products Importacao e Exportacao De Equipamentos Medicos Ltda – Epp, a Brazilian company    |
| Satya Vitae Desenvolvimento Humano Ltda, a Brazilian company  |
| Suba Propaganda Ltda, a Brazilian company   |
| Providence Turismo, Viagens e Servicos S.A., a Brazilian company  |
| Providence Recursos Naturais Importacao e Exportacao S.A., a Brazilian company                          |
| Providence Fomento Mercantil Investimentos e Participacoes Ltda, a Brazilian company                    |
| BPA Trading, Importacao, Exportacao, Industria, Participacoes e Investimentos Ltda, a Brazilian company |
| BPA Empreendimentos e Participacoes S.A., a Brazilian company   |
| Santa Elisabeth Empreendimentos e Participacoes S.A., a Brazilian company                               |
| Lumiere Fomento Mercantil Investimentos e Participacoes S.A., a Brazilian company                       |
| Providence Locacao De Veiculos Blindados Ltda, a Brazilian company,                                     |
| Veneza Comercio De Artigos Para Presentes Ltda, a Brazilian company                                     |
| Providence Brazilian Brands e Participacoes S.A., a Brazilian company                                   |
| Providence Solutions Participacoes S.A., a Brazilian company  |
| Providence Spe Holding S.A., a Brazilian company  |
| Providence Health Care, Investimentos e Participacoes S.A., a Brazilian company                         |
| Providence Entretenimento, Lazer, Viagens E Participacoes S.A., a Brazilian company                     |
| A.J. Participacoes Ltda Lumiere Exportacao, Importacao e Participacoes Ltda, a Brazilian company        |
| Providence Midia Importacao, Exportacao, Servicos e Eventos Do Brasil S.A., a Brazilian company         |
| Providence Global Ltd., a Guernsey company  |
| Providence Investment Funds PCC Limited, a Guernsey company   |
| Providence Investment Management International Limited, a Guernsey company                              |
| Providence Bonds II, PLC., f/k/a Providence Bonds July 2015 PLC, United Kingdom                         |
| Lumiere Wealth (London) Limited, United Kingdom   |
| Lumiere Tours International Limited f/k/a Lumiere Tours Limited, United Kingdom                         |
| Lumiere Lifestyle Limited f/k/a Providence Transport & Logistics Limited Private Limited                |
| Providence Bonds PLC, United Kingdom  |
| Lumiere Financial Advisory Limited Providence Financial Solutions Limited, United Kingdom               |
| Providence Wealth Limited, United Kingdom   |

UNITED STATES BANKRUPTCY COURT

Southern District of Florida

In re Providence Financial Investments, Inc., et al.  
Debtor

Case No. 16-20516-AJC

Chapter 7

**SUBPOENA FOR RULE 2004 EXAMINATION**

To: Records Custodian, Wells Fargo Bank, N.A., 350 East Las Olas Blvd., #100, Fort Lauderdale, FL 33301  
(Name of person to whom the subpoena is directed)

**Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure and Local Rule 2004-1.

|  |   |
|--|---|
| PLACE<br>Berger Singerman LLP<br>1450 Brickell Avenue, Ste. 1900<br>Miami, FL 33131<br>Attn: James D. Gassenheimer, Esq. | DATE AND TIME<br><b>Friday, March 17, 2017 @ 1:00 p.m.</b><br><b>DOCUMENTS MAY BE PRODUCED<br/> IN LIEU OF APPEARANCE</b> |
|--|---|

The examination will be recorded by this method: \_\_\_\_\_

**Production:** You, or your representatives, must also bring with you to the examination the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

**See attached Second Amended Notice of Rule 2004 Examination *Duces Tecum***

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: February 28, 2017

CLERK OF COURT

OR

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

/s/ James D. Gassenheimer  
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) Maria M. Yip, Chapter 7 Trustee who issues or requests this subpoena, are:

James D. Gassenheimer, Esq., Berger Singerman LLP, 1450 Brickell Ave., Ste. 1900, Miami, FL 33131, Tel. 305-755-9500

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).



**PROOF OF SERVICE**

**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)**

I received this subpoena for (name of individual and title, if any): \_\_\_\_\_  
on (date) \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on (date) \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's signature

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Server's address

Additional information concerning attempted service, etc.:

**Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)**  
**(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)**

**(c) Place of compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing 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.

**For Access to Subpoena Materials**

Fed. R. Civ. P. 45(a) Committee Note (2013)

- Parties desiring access to information produced in response to this subpoena will need to follow up with the party serving the subpoena to obtain such access.
- The party serving the subpoena should make reasonable provisions for prompt access.
- The court for the district where compliance with the subpoena is required has authority to order notice of receipt of produced materials or access to them.