

1 Stephen C. Mazzara (SBN 251849)
smazzara@goldbergsegalla.com
2 GOLDBERG SEGALLA LLP
777 S. Figueroa Street, Suite 2000
3 Los Angeles, CA 90017-5818
Mailing Address:
4 P.O. Box 17220
Los Angeles, CA 90017
5 Telephone: 213-415-7200
Facsimile: 213-415-7299

6
7 Attorney for Defendants
BLACK JACK FIRE PROTECTION
DISTRICT; and DAVID CALHOUN
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 ANKENETH CORBIN,

12 Plaintiff,

13 v.
14

15 BLACK JACK FIRE PROTECTION
DISTRICT; and
16 DAVID CALHOUN,

17 Defendants.
18

Case No.

**PETITION TO OPEN
MISCELLANEOUS CASE IN
ORDER TO SERVE THIRD PARTY
SUBPOENA DUCES TECUM**

19 COME NOW Defendants BLACK JACK FIRE PROTECTION DISTRICT
20 and DAVID CALHOUN (“Defendants”), by and through undersigned counsel, to
21 Petition to open a miscellaneous case, and state as follows:

22 1. ANKENETH CORBIN (“Plaintiff”) sued BLACK JACK FIRE
23 PROTECTION DISTRICT and DAVID CALHOUN for age discrimination, race
24 discrimination, and retaliation at the Circuit Court of St. Louis, Missouri on
25 February 14, 2023.

26 2. The suit was removed to the United States District Court for Eastern
27 District of Missouri with Case Number 4:23-cv-00516-JAR. See **Exhibit A**.

28 3. As parties carried out discovery, Defendants started receiving

1 harassing electronic messages from an anonymous third party(ies) in relation to the
2 aforementioned pending suit.

3 4. One of the electronic messages was sent from
4 blasterkaren341@gmail.com and kimvanhooser1955@gmail.com addresses.

5 5. Defendants intend to find locate the third party(ies) post or sending the
6 harassing messages with the mentioned email and making disparaging online posts
7 on the mentioned websites.

8 6. The emails and websites were created with a Google, LLC's domain.

9 7. In order to get the information needed to locate the third parties,
10 Defendants have to subpoena documents from Google, LLC in accordance with
11 Federal Rules of Civil Procedure 45.

12 8. Defendants intend to open a miscellaneous case with this Court in
13 order to properly serve the attached third party subpoena duces tecums on Google,
14 LLC. See **Exhibit B**.

15 9. WHEREFORE, Defendants respectfully request that this Court enter
16 judgment in its favor.

17 Dated: December 18, 2023

GOLDBERG SEGALLA LLP

18 By: /s/ Stephen C. Mazzara

19 STEPHEN MAZZARA
20 Attorney for Defendants
21 BLACK JACK FIRE
22 PROTECTION DISTRICT; and
23 DAVID CALHOUN
24
25
26
27
28

EXHIBIT A

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served through the Court's eFiling system and/or by facsimile, hand delivery, electronic mail, or U.S. Mail, postage prepaid, this 21st day of April, 2023 to all counsel of record.

/s/ John M. Allen

EXHIBIT B

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri



ANKENETH CORBIN

Plaintiff

BLACK JACK FIRE PROTECTION DISTRICT and
DAVID CALHOUN

Defendant

Civil Action No. 4:23-cv-00516-JAR

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

Corporation Service Company
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

(Name of person to whom this subpoena is directed)

4 *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Exhibit A

Place: 777 Tower 777 S. Figueroa Street, Suite 2000 Los Angeles, California 90017	Date and Time: 01/17/2023 11:00 am
--	---

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 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 (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/18/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Livinus C. Isioma

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

BLACK JACK FIRE PROTECTION DISTRICT and DAVID CALHOUN, who issues or requests this subpoena, are:
8000 Maryland Ave, Suite 640 Email: lisioma@goldbergsegalla.com
St. Louis, MO 63105 Phone: 3114 446 3350

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 the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

EXHIBIT A

- (a) Request information on the following email address: kimvanhooser1955@gmail.com. The following is needed:
- (1) The name and address of the person who created the email address;
 - (2) The IP address where the email address was created; and
 - (3) Any and all other information regarding the creation of the email address.
- (b) Request information on the following email address: blasterkaren341@gmail.com. The following is needed:
- (1) The name and address of the person who created the email address;
 - (2) The IP address where the email address was created; and
 - (3) Any and all other information regarding the creation of the email address.

Civil Action No. 4:23-cv-00516-JAR

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 \$ _____ 0.00 _____ .

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

Date: _____
_____ *Server’s signature*

_____ *Printed name and title*

_____ *Server’s address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(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, electronically stored information, or tangible 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.