

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel., MUNICIPAL)
CONSTRUCTION EQUIPMENT)
OPERATORS' LABOR COUNCIL, et al.)
)
Relators)
)
vs.)
)
CITY OF CLEVELAND, et al.)
)
Respondents)

CASE NO. 2006-2056

RELATORS' NOTICE OF FILING SUBPOENAS

Stewart D. Roll (Reg. #0038004)
Persky, Shapiro & Arnoff Co., L.P.A.
Signature Square II
25101 Chagrin Boulevard, Suite 350
Beachwood, Ohio 44122
Phone: (216) 360-3737
Fax No. (216) 593-0921
sroll@perskylaw.com

COUNSEL FOR RELATORS

Robert J. Triozzi, Esq.
Director of Law City of Cleveland
Theodora M. Monegan, Esq.
Chief Assistant Director of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114
Phone: (216) 664-2800
Fax No. (216) 664-2663
tmonegan@city.cleveland.oh.us

COUNSEL FOR RESPONDENTS

FILED
SEP 21 2007
CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel., MUNICIPAL)	
CONSTRUCTION EQUIPMENT)	CASE NO. 2006-2056
OPERATORS' LABOR COUNCIL, <i>et al.</i>)	
)	
Relators,)	
)	
vs.)	
)	NOTICE
CITY OF CLEVELAND, <i>et al.</i>)	
)	
Respondents.)	

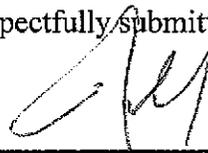
PLEASE TAKE NOTICE THAT Relator Municipal Construction Equipment Operators' Labor Council, by and through its undersigned counsel, hereby gives notice that it is filing the following original executed Subpoenas with the Court in this matter, which Subpoenas are attached as exhibits to the herein Notice:

- (1) Richard Sensenbrenner, Commissioner,
Department of Finance, Division of Accounts,
601 Lakeside Ave., Room 19
Cleveland, Ohio 44114
- (2) Robert J. Triozzi, Esq.
Department of Law
601 Lakeside Ave., Room 106
Cleveland, Ohio 44114
- (3) Algeron A. Walker,
Division of Treasury
601 Lakeside Ave.
Cleveland, Ohio 44114
- (4) Sharon Dumas, Ohio Director
Department of Finance
601 Lakeside Ave., Room 104
Cleveland, Ohio 44114

- (5) Edwin Gabriel, Principal Clerk
Department of Finance
601 Lakeside Ave., Room 19
Cleveland, Ohio 44114

- (6) Douglas Divish, Commissioner
Department of Finance
Division of Information, Technology and Services
205 West St. Clair, 4th Floor
Cleveland, Ohio 44113

Respectfully submitted,



STEWART D. ROLL (Reg. #0038004)
Persky, Shapiro & Arnoff Co., L.P.A.
Signature Square II
25101 Chagrin Boulevard, Suite 350
Cleveland, Ohio 44122-5687
Telephone: (216) 360-3737
Fax: (216) 593-0921
*Representing Relator CEO Union and
Individual Relators*

CERTIFICATE OF SERVICE

A copy of the foregoing Relator's Notice of Filing Subpoenas, along with copies of the attached Subpoenas, have been served upon the following via first class, U.S. mail, postage prepaid, this 17th day of September, 2007:

Lindsey Williams, Assistant Attorney General
Constitutional Office Section
30 E. Broad Street, 17th Floor
Columbus, OH 43215-3428

Robert J. Triozzi, Esq.
Theodora M. Monegan, Esq.
William Sweeney, Esq.
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
Cleveland, OH 44114-1077



STEWART D. ROLL (Reg. #0038004)
*Representing Individual Relators and
the Municipal Construction Equipment
Operators' Labor Council*

IN THE COURT OF COMMON PLEAS

SUBPOENA CIVIL RUE 45

THE STATE OF OHIO

ss.

Cuyahoga County

STATE OF OHIO, ex rel., MUNICIPAL CONSTRUCTION EQUIPMENT OPERATORS' LABOR COUNSEL, et al.

No. Supreme Court Case No. 2006-2056

Plaintiff

vs.

CITY OF CLEVELAND, et al.

Defendant

Judge

To: Richard Sensenbrenner, Commissioner,

Department of Finance, Division of Accounts

601 Lakeside Ave., Room 19

Cleveland, Ohio 44114

YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the court without leave. Fail not under penalty of the law. Your appearance is required on the _____ of _____ 2002 at _____ o'clock _____ M. in Courtroom No. _____ of the:

Justice Center-Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

Cuyahoga County Courthouse
One Lakeside Avenue
Cleveland, Ohio 44113

X YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of deposition in the above case. Persky, Shapiro & Arnoff Co., L.P.A.

25101 Chagrin Boulevard, Suite 350

Beachwood, Ohio 44122

September 24, 2007

10:00 a.m.

PLACE OF DEPOSITION

DATE

TIME

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE

TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE

TIME

To insure taxation of their fees, witnesses must report each attendance to the Clerk of Courts of Common Pleas on the first floor of the Justice Center.

Section 2335.06 of the Ohio Revised Code provides that witnesses are entitled to receive \$12.00 for each full day's attendance and \$6.00 for each half day's attendance, plus ten cents per mile traveled to and from his place of residence outside the City of _____ proper. Such fees are taxed as costs and mailed to the witness upon payment of the costs.

Stewart D. Roll, Esq.

ATTORNEY NAME

SIGNATURE

Persky, Shapiro & Arnoff Co., L.P.A.

25101 Chagrin Blvd., Suite 350, Beachwood, OH 44122

ADDRESS

[216] 241-3737

Plaintiffs/Relators

REPRESENTING

September 14

DATE

, 2007

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the 14th day of September, 2007

I served this Subpoena on the within named:

Richard Sensenbrenner
as follows: By personally serving the subpoena upon the offices of Richard Sensenbrenner
Department of Finance, 601 Lakeside Ave, Rm. 19, Cleveland, OH 44114.
SHERIFF'S FEES

Service on _____ \$ _____

By Paul R. Re
Deputy Sheriff/Attorney

_____ Copy _____

_____ Miles Travel _____

Return _____

\$ _____

Subscribed and sworn to before me, a Notary

Mary Ann Schleimer

This 17th day of September, 2007

MARY ANN SCHLEIMER, ESQ.
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.

Witness entitled to _____ miles

RULE 45. RULES OF CIVIL PROCEDURE, Parts C & D:

(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 WHO 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 PART;

(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 OR 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.

(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 DOCUMENTS 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 CONTEST THE CLAIM.

IN THE COURT OF COMMON PLEAS

SUBPOENA CIVIL RUE 45

THE STATE OF OHIO

ss.

Cuyahoga County

STATE OF OHIO, ex rel. MUNICIPAL CONSTRUCTION EQUIPMENT OPERATORS' LABOR COUNSEL, et al.

No. Supreme Court Case No. 2006-2056

Plaintiff

vs.

CITY OF CLEVELAND, et al.

Defendant

Judge

To: Robert J. Triozzi, Esq.

Department of Law

601 Lakeside Avenue, Room 106

Cleveland, Ohio 44114

YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the court without leave. Fail not under penalty of the law. Your appearance is required on the _____ of _____ 2002 at _____ o'clock _____ M. in Courtroom No. _____ of the:

Justice Center-Courts Tower 1200 Ontario Street Cleveland, Ohio 44113

Cuyahoga County Courthouse One Lakeside Avenue Cleveland, Ohio 44113

X YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of deposition in the above case. Persky, Shapiro & Arnoff Co., L.P.A.

25101 Chagrin Boulevard, Suite 350

Beachwood, Ohio 44122

September 24, 2007

2:00 p.m.

PLACE OF DEPOSITION

DATE

TIME

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE

TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE

TIME

To insure taxation of their fees, witnesses must report each attendance to the Clerk of Courts of Common Pleas on the first floor of the Justice Center.

Section 2335.06 of the Ohio Revised Code provides that witnesses are entitled to receive \$12.00 for each full day's attendance and \$6.00 for each half day's attendance, plus ten cents per mile traveled to and from his place of residence outside the City of _____ proper. Such fees are taxed as costs and mailed to the witness upon payment of the costs.

Stewart D. Roll, Esq.

ATTORNEY NAME

Handwritten signature of Stewart D. Roll

SIGNATURE

Persky, Shapiro & Arnoff Co, L.P.A.

25101 Chagrin Blvd., Suite 350, Beachwood, OH 44122

ADDRESS

[216] 241-3737

Plaintiffs/Relators

REPRESENTING

September 14

DATE

, 2007

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the 14th day of September, 2007

I served this Subpoena on the within named:

Robert J. Trozzi, Esq.

as follows: By personally serving the subpoena upon the office of Robert J. Trozzi, Department of Law, 601 Lakeside Ave., Room 106, Cleveland, OH 44114

SHERIFF'S FEES

Service on _____ \$ _____

_____ Copy _____

_____ Miles Travel _____

Return _____

\$ _____

Witness entitled to _____ miles

By Paul R. Roney
Deputy Sheriff/Attorney

Subscribed and sworn to before me, a Notary

Mary Ann Schleimer

This 17th day of September, 2007

MARY ANN SCHLEIMER, ESQ.
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.

RULE 45. RULES OF CIVIL PROCEDURE, Parts C & D:

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

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(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 OR 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.

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IN THE COURT OF COMMON PLEAS

SUBPOENA CIVIL RUE 45

THE STATE OF OHIO

ss.

Cuyahoga County

STATE OF OHIO, ex rel., MUNICIPAL CONSTRUCTION EQUIPMENT OPERATORS' LABOR COUNSEL, et al.

Plaintiff

No. Supreme Court Case No. 2006-2056

vs.

CITY OF CLEVELAND, et al.

Defendant

Judge

To: Algeron A. Walker

Division of Treasury

601 Lakeside Avenue

Cleveland, Ohio 44114

YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the court without leave. Fail not under penalty of the law. Your appearance is required on the of 2002 at o'clock M. in Courtroom No. of the:

Justice Center-Courts Tower 1200 Ontario Street Cleveland, Ohio 44113

Cuyahoga County Courthouse One Lakeside Avenue Cleveland, Ohio 44113

X YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of deposition in the above case. Persky, Shapiro & Arnoff Co., L.P.A.

25101 Chagrin Boulevard, Suite 350

Beachwood, Ohio 44122

September 24, 2007

12:00 p.m.

PLACE OF DEPOSITION

DATE

TIME

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE

DATE

TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE

TIME

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Stewart D. Roll, Esq.

ATTORNEY NAME

SIGNATURE

Persky, Shapiro & Arnoff Co, L.P.A.

25101 Chagrin Blvd., Suite 350, Beachwood, OH 44122

ADDRESS

[216] 241-3737

Plaintiffs/Relators

REPRESENTING

September 14

DATE

, 2007

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the 14th day of September, 2007

I served this Subpoena on the within named:

Algeron A. Walker

as follows: By personally delivering the subpoena to the office of Algeron A. Walker, Room 115, Treasurer's Office, 601 Lakeside Ave, Cleveland, OH 44114
SHERIFF'S FEES

Service on _____ \$ _____

By Paul R. Rous
Deputy Sheriff/Attorney

_____ Copy _____

_____ Miles Travel _____

Return _____

\$ _____

Subscribed and sworn to before me, a Notary

MaryAnn Schleimer

This 17th day of September, 2007

MARY ANN SCHLEIMER, ESQ.
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.

Witness entitled to _____ miles

RULE 45. RULES OF CIVIL PROCEDURE, Parts C & D:

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IN THE COURT OF COMMON PLEAS

SUBPOENA CIVIL RUE 45

THE STATE OF OHIO

ss.

Cuyahoga County

STATE OF OHIO, ex rel. MUNICIPAL CONSTRUCTION EQUIPMENT OPERATORS' LABOR COUNSEL, et al.

No. Supreme Court Case No. 2006-2056

Plaintiff

vs.

CITY OF CLEVELAND, et al.

Defendant

Judge

To: Sharon Dumas, Ohio Director

Department of Finance

601 Lakeside Avenue, Room 104

Cleveland, Ohio 44114

YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the court without leave. Fail not under penalty of the law. Your appearance is required on the _____ of _____ 2002 at _____ o'clock _____ M. in Courtroom No. _____ of the:

Justice Center-Courts Tower 1200 Ontario Street Cleveland, Ohio 44113

Cuyahoga County Courthouse One Lakeside Avenue Cleveland, Ohio 44113

X YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of deposition in the above case. Persky, Shapiro & Arnoff Co., L.P.A.

25101 Chagrin Boulevard, Suite 350

Beachwood, Ohio 44122

September 24, 2007

1:00 p.m.

PLACE OF DEPOSITION

DATE

TIME

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PLACE

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Stewart D. Rolt, Esq.

ATTORNEY NAME

Handwritten signature of Stewart D. Rolt

SIGNATURE

Persky, Shapiro & Arnoff Co, L.P.A.

25101 Chagrin Blvd., Suite 350, Beachwood, OH 44122

ADDRESS

[216] 241-3737

Plaintiffs/Relators

REPRESENTING

September 14

DATE

, 2007

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the 14th day of September, 2007

I served this Subpoena on the within named:

Sharon Dumas

as follows: By personally serving the subpoena upon the offices of Sharon Dumas, Department of Finance, 601 Lakeside Ave, Rm. 104 Cleveland, OH 44114.
SHERIFF'S FEES

Service on _____ \$ _____

By Paul R. Reed
Deputy Sheriff/Attorney

_____ Copy _____

_____ Miles Travel _____

Return _____

\$ _____

Witness entitled to _____ miles

Subscribed and sworn to before me, a Notary

Mary Ann Schleimer

This 17th day of September, 2007

MARY ANN SCHLEIMER, ESQ.
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.

RULE 45. RULES OF CIVIL PROCEDURE, Parts C & D:

(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 WHO 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 PART;

(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 OR 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.

(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 DOCUMENTS 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 CONTEST THE CLAIM.

IN THE COURT OF COMMON PLEAS

SUBPOENA CIVIL RUE 45

THE STATE OF OHIO

ss.

Cuyahoga County

STATE OF OHIO, ex rel. MUNICIPAL CONSTRUCTION EQUIPMENT OPERATORS' LABOR COUNSEL, et al.

No. Supreme Court Case No. 2006-2056

Plaintiff

vs.

CITY OF CLEVELAND, et al.

Defendant

Judge

To: Edwin Gabriel, Principal Clerk

Department of Finance

601 Lakeside Avenue, Room 19

Cleveland, Ohio 44114

YOU

ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the court without leave. Fail not under penalty of the law. Your appearance is required on the of 2002 at o'clock M. in Courtroom No. of the:

Justice Center-Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

Cuyahoga County Courthouse
One Lakeside Avenue
Cleveland, Ohio 44113

X YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of deposition in the above case. Persky, Shapiro & Arnoff Co., L.P.A.

25101 Chagrin Boulevard, Suite 350

Beachwood, Ohio 44122

September 24, 2007

9:00 a.m.

PLACE OF DEPOSITION

DATE

TIME

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE DATE TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES DATE TIME

To insure taxation of their fees, witnesses must report each attendance to the Clerk of Courts of Common Pleas on the first floor of the Justice Center.

Section 2335.06 of the Ohio Revised Code provides that witnesses are entitled to receive \$12.00 for each full day's attendance and \$6.00 for each half day's attendance, plus ten cents per mile traveled to and from his place of residence outside the City of proper. Such fees are taxed as costs and mailed to the witness upon payment of the costs.

Stewart D. Roll, Esq.
ATTORNEY NAME

SIGNATURE

Persky, Shapiro & Arnoff Co, L.P.A.
25101 Chagrin Blvd., Suite 350, Beachwood, OH 44122
ADDRESS [216] 241-3737

Plaintiffs/Relators September 14, 2007
REPRESENTING DATE

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the 14th day of September, 2007

I served this Subpoena on the within named:

Edwin Gabriel

as follows: By personally serving the subpoena upon the offices of Edwin Gabriel, Department of Finance, 601 Lakeside Ave, Rm. 19, Cleveland, OH 44114

Service on _____ \$ _____

By Paul R. Rull
Deputy Sheriff/Attorney

_____ Copy _____

_____ Miles Travel _____

Subscribed and sworn to before me, a Notary

Return _____

Maryann Schleimer

\$ _____

This 17th day of September, 2007

Witness entitled to _____ miles

MARY ANN SCHLEIMER, ESQ.
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.

RULE 45. RULES OF CIVIL PROCEDURE, Parts C & D:

(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.

(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 PART;

(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.

(d) SUBJECTS A PERSON TO UNDUE BURDEN.

(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 WHO IS NOT A PARTY OR AN OFFICER OF A PARTY FROM SIGNIFICANT EXPENSE RESULTING FROM THE INSPECTION AND COPYING COMMANDED.

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(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.

(D) DUTIES IN RESPONDING TO SUBPOENA.

(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:

(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 DOCUMENTS 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.

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IN THE COURT OF COMMON PLEAS
SUBPOENA CIVIL RUE 45

THE STATE OF OHIO

ss.

Cuyahoga County

STATE OF OHIO, ex rel., MUNICIPAL CONSTRUCTION EQUIPMENT OPERATORS' LABOR COUNSEL, et al.

Plaintiff

No. Supreme Court Case No. 2006-2056

vs.

CITY OF CLEVELAND, et al.

Defendant

Judge

To: Douglas Divish, Commissioner

Department of Finance

Division of Information, Technology and Services

205 West St. Clair, 4th Floor

Cleveland, Ohio 44113

YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the court without leave. Fail not under penalty of the law. Your appearance is required on the of 2002 at o'clock M. in Courtroom No. of the:

Justice Center-Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

Cuyahoga County Courthouse
One Lakeside Avenue
Cleveland, Ohio 44113

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25101 Chagrin Boulevard, Suite 350

Beachwood, Ohio 44122

September 24, 2007

11:00 a.m.

PLACE OF DEPOSITION

DATE

TIME

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents or objects at the place, date, and time specified below (list documents or objects):

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Stewart D. Roll, Esq.

ATTORNEY NAME

SIGNATURE

Persky, Shapiro & Arnoff Co, L.P.A.

25101 Chagrin Blvd., Suite 350, Beachwood, OH 44122

ADDRESS

[216] 241-3737

Plaintiffs/Relators

REPRESENTING

September 14

DATE

, 2007

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the 14th day of September, 2007

I served this Subpoena on the within named:

Douglas DNish
as follows: By personally serving Douglas DNish at the Division of Information, Technology + Services, 205 W. St. Clair, 4th Floor, Cleveland, OH 44113

Service on _____ \$ _____
_____ Copy _____

_____ Miles Travel _____

Return _____
\$ _____

Witness entitled to _____ miles

By Paul R. Reus
Deputy Sheriff/Attorney

Subscribed and sworn to before me, a Notary

Maryann Schleimer

This 17th day of September, 2007

MARY ANN SCHLEIMER, ESQ.
NOTARY PUBLIC • STATE OF OHIO
My commission has no expiration date
Section 147.03 O.R.C.

RULE 45. RULES OF CIVIL PROCEDURE, Parts C & D:

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