IN THE COURT OF CLAIMS OF OHIO

65 South Front Street, 3rd Floor
Columbus, Ohio 43215

COURT'S COPY

SUBPOENA

RETURN OF SERVICE

Darlene Lane Ferraro Plaintiff	:	
v.	:	Case No. 2011-10371 Judge Patrick M. McGrath
Ohio State University Medical Center Defendant	:	

FILED
COURT OF CLAIMS
OF OHIO
2013 NOV 27 PM 4: 11

TO: **Sergeant Myron Sulminski**
Brook Park Police Department
17401 Holland Rd.
Brook Park, OH 44142

YOU ARE HEREBY COMMANDED TO:

X Attend and give testimony at a **(trial)** (~~hearing~~) on the date, time and at the place specified below.

___ Attend and give testimony at a deposition in the county where the deponent resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of court.

___ Produce documents, electronically stored information, or tangible things at a (trial) (hearing) (deposition) on the date, time and at the place specified below.

___ Produce and permit inspection and copying of any designated documents or electronically stored information prior to the date and at the time and place specified below 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 civil 34(A)(3), on the date and at the time and place specified below. *Description of land or other premises:* ___.

DATE **Monday, December 9, 2013** **TIME** **2:00 p.m.**

PLACE **Court of Claims of Ohio, 65 South Front St., 3rd FL, Columbus, OH 43215.**

DESCRIPTION OF ITEMS TO BE PRODUCED: ___

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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 under divisions (A)(1)(b)(ii), (iii), (iv), or (v) of this rule need not appear in person at the place of production or inspection unless commanded to attend and give testimony at a deposition, hearing or trial.

(b) Subject to division (D)(2) of this rule, a person commanded to produce under divisions (A)(1)(b)(ii),(iii),(iv), or (v) of this rule 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 production. If objection is made, the party serving the subpoena shall not be entitled to production 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 t compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the production 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 a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial as described by Civ. R. 26(B)(4), if the fact or opinion does not describe specific events or occurrences in dispute and results from study by that expert that was not made 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) If a motion is made 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, at the person's option, produce them as they are kept in the usual course of business or organized and labeled to correspond with the categories in the subpoena. A person producing documents or electronically stored information 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) If a request does not specify the form or forms for producing electronically stored information, a person responding to a subpoena may produce the information in a form or forms in which the information is ordinarily maintained if that form is reasonably useable, or in any form that is reasonably useable. Unless ordered by the court or agreed to by the person subpoenaed, a person responding to a subpoena need not produce the same electronically stored information in more than one form.

(3) A person need not provide discovery of electronically stored information when the production imposes undue burden or expense. On motion to compel discovery or for a protective order, the person from whom electronically stored information is sought must show that the information is not reasonably accessible because of undue burden or expense. If a showing of undue burden or expense is made, the court may nonetheless order production of electronically stored information if the requesting party shows good cause. The court shall consider the factors in Civ. R. 26(B)(4) when determining if good cause exists. In ordering production of electronically stored information, the court may specify the format, extent, timing, allocation of expenses and other conditions for the discovery of the electronically stored information.

(4) 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.

(5) If information is produced in response to a subpoena that 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 receiving party must promptly return, sequester, or destroy the specified information and any copies within the party's possession, custody or control. A party may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim of privilege or of protection as trial-preparation material. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

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 issued. A subpoenaed person or that person's attorney who frivolously resists 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 the 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.

Civil Rule 45 (F) Privileges

Nothing in this rule shall be construed to authorize a party to obtain information protected by any privilege recognized by law, or to authorize any person to disclose such information.

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

I RECEIVED THIS SUBPOENA ON November 22 2013, AND SERVED THE PARTY NAMED ON THE REVERSE HEREOF

BY Certified Mail ON November 25, 2013

I WAS UNABLE TO COMPLETE SERVICE FOR THE FOLLOWING REASON:

_____

_____

2013 NOV 27 PM 3:22

Sheriff's Fees

Service _____

Mileage _____

Copy _____

Total _____

FILED
COURT OF CLAIMS
OF OHIO

(Signature of Serving Party)

Circle One: Deputy Sheriff, Process Server, Other, Attorney, Deputy Clerk

UNITED STATES
POSTAL SERVICE

Date: November 25, 2013

Beth Smith:

The following is in response to your November 25, 2013 request for delivery information on your Certified Mail™ item number 9171999991703039004062. The delivery record shows that this item was delivered on November 25, 2013 at 10:13 am in BROOKPARK, OH 44142. The scanned image of the recipient information is provided below.

Signature of Recipient :

Robin Sinclair

Address of Recipient :

17401 Holland Rd

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service