

5/11 / - ATTEMPT . 5-12-15 . 11:18 . 1X20 . CC  
CZC

5/18



# Court of Claims of Ohio

The Ohio Judicial Center  
65 South Front Street, Third Floor  
Columbus, OH 43215  
614.387.9800 or 1.800.824.8263  
www.cco.state.oh.us

2 - EXP. 5-19-15 - 11:22 - 1X0 . CC

## SUBPOENA

TRANSAMERICA BUILDING COMPANY, INC.

Plaintiff/Counter Defendant

V.

OHIO SCHOOL FACILITIES COMMISSION, etc.

Defendant/Counter Plaintiff/Third-Party  
Plaintiff/Counter Defendant

V.

LEND LEASE (US) CONSTRUCTION, INC.

Third-Party Defendant/Counter  
Plaintiff/Fourth-Party Plaintiff

And

STEED HAMMOND PAUL INC., etc.

Third-Party Defendant/Fourth-Party  
Plaintiff

V.

BERARDI PARTNERS, INC., et al.

Fourth-Party Defendants

Case No. 2013-00349

Referee Samuel Wampler

# ORIGINAL

### FAILURE OF SERVICE RETURN OF SERVICE

FRANKLIN COUNTY SHERIFF  
2015 MAY 11 PM 1:47

To: Jason Kuhn  
1158 Waterford Pointe Circle P/R  
Columbus, Ohio 43228  
Franklin County

### YOU ARE HEREBY COMMANDED TO:

Attend and give testimony at trial on the date, time and at the place specified below.

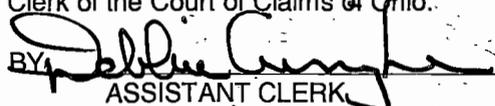
Date: May 18, 2015 Time: 9:00 a.m. Place: Court of Claims of Ohio, The Ohio Judicial Center, 65 South Front Street, 3<sup>rd</sup> Floor, Columbus, Ohio 43215

THE STATE OF OHIO

County, ss To the Sheriff of Franklin County, Ohio, Greetings:

**YOU ARE HEREBY COMMANDED TO SUBPOENA THE ABOVE NAMED PERSON.**

Witness My Hand and Seal of Said Court this 8th Day of May, 2015  
Clerk of the Court of Claims of Ohio.

BY:   
ASSISTANT CLERK

FILED  
COURT OF CLAIMS  
OF OHIO  
2015 MAY 21 AM 10:52

REQUESTING PARTY INFORMATION: Jerry K. Kasaj, Attorney for Ohio School Facilities Commission Telephone Number: (614) 752-6373

\*\*\*Please contact Damich Dawson, paralegal for additional scheduling information\*\*\*

NOTE: READ ALL INFORMATION ON THE REVERSE SIDE OF THIS SUBPOENA.

**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 to 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 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 under Civ. R.26(B)(3) or (4), 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.

**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.

\*\*\*\*\*

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

I RECEIVED THIS SUBPOENA ON \_\_\_\_\_, AND SERVED THE PARTY NAMED ON THE REVERSE  
HEREOF BY \_\_\_\_\_ ON \_\_\_\_\_

I WAS UNABLE TO COMPLETE SERVICE FOR THE FOLLOWING REASON:  
\_\_\_\_\_

**Sheriff's Fees**

Service \_\_\_\_\_  
Mileage \_\_\_\_\_ (Number of miles \_\_\_\_\_)  
Copy \_\_\_\_\_  
Total \_\_\_\_\_

(Signature of Serving Party) \_\_\_\_\_  
**Circle One:** Deputy Sheriff \_\_\_\_\_ Attorney \_\_\_\_\_  
Process Server \_\_\_\_\_ Duty Clerk \_\_\_\_\_  
Other \_\_\_\_\_

FILED  
 COURT OF CLAIMS  
 AND DAMAGES  
 OF OHIO  
 2015 MAY 21 AM 10:52



Franklin County Sheriff's Office  
 Sheriff Zach Scott  
 410 S High Street 2<sup>nd</sup> Floor, Columbus Ohio, 43215  
 Sheriff Service Return



STATE OF OHIO  
 COUNTY OF FRANKLIN

**FAILURE OF SERVICE**

**ORIGINAL**

Date Writ Received: 05/11/2015

County: Franklin

City:

State: OH

Case Number: 201300349

Plaintiff and Defendant:

Transamerica Building Company Inc Vs Berardi Partners Inc

Date Writ Served/Return:

05/19/2015

Served to: Jason Kuhn

Expired

Served at: 1158 Waterford Pointe Circle  
 Columbus, Oh 43228

Service Type: Subpoena

Service Attempts:

Time:

Mileage:

Service Information:

05/19/2015

11:22 AM

0

Expired

05/12/2015

11:18 AM

20

Attempted/Contact Info Left

TOTAL SHERIFF'S FEE:

Service: 10.00

Mileage: 21.00

Postage: 0.00

Total: 31.00

Paid: 0.00

Balance: 31.00

FED ID #31-6400067

ZACHARY SCOTT, SHERIFF  
 FRANKLIN COUNTY, OHIO

BY:

*Robert Carlisle*

ROBERT CARLISLE  
 DEPUTY SHERIFF

**Return the portion below with payment, Thank You.**

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City:

State: OH

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FILED  
 COURT OF CLAIMS  
 OF OHIO  
 2015 MAY 21 AM 10:51