United States Department of Labor
OFFICE OF ADMINISTRATIVE LAW JUDGES

In Re:

_____

(Plaintiff/Complainant/Claimant)

v.

OALJ Case No:

_____

(Defendant/Respondent/Employer/Carrier)

SUBPOENA TO APPEAR AND TESTIFY AT A HEARING

To:

Address _____

City _____ State ____ Zip Code _____

YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a formal hearing in the above captioned proceeding. When you arrive, you must remain at the location of the proceeding until the judge or a court officer allows you to leave. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place of Testimony: _____

Date: _____

Time: _____

YOU MUST ALSO BRING WITH YOU the following documents, electronically stored information, or objects (blank if not applicable):

The provisions of Code of Federal Regulations (CFR) 29 C.F.R. §§18.56(c) and 18.52(a), relating to your protection as a person subject to a subpoena, and 29 CFR §§18.56(d) and 18.56(e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

This subpoena is issued upon the application of (indicate attorney/representative for named party):

(Person requesting subpoena) (Address and Telephone Number)

Firm Name _____

Name _____ Address _____

Bar Number _____ City _____

Phone Number _____ State ____ Zip Code _____

If this subpoena commands the production of documents, electronically stored information, or tangible things, a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. 29 C.F.R. §18.56(b)

IN WITNESS WHEREOF the undersigned United States Department of Labor Administrative Law Judge has signed this subpoena.

_____ _____

Signature of U.S. Administrative Law Judge Date

NOTICE: This subpoena is only valid in proceedings before the Office of Administrative Law Judges or Office of Workers' Compensation Programs. To be valid, this subpoena must bear a raised United States Department of Labor (USDOL) seal, and the signature of a Department of Labor (DOL) administrative law judge.

Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges
[Code of Federal Regulations, Title 29, Part 18]

29 C.F.R. §18.56 Subpoenas
(c)(3) *Motion to quash or modify subpoena*. Provides that the person against whom the subpoena is directed may file a motion to quash or modify the subpoena, setting forth why the subpoena should be withdrawn or why it should be limited in scope. Pursuant to 29 CFR §18.33(d), the Party that requested the subpoena must file a response within 14 days after such motion is served.

(e) *Failure to comply*. Provides that if the person fails to comply with a subpoena, the party adversely affected by the failure may, when authorized by statute or law, apply to the appropriate district court to enforce the subpoena.

29 C.F.R. §18.22 Representation
(b) *Categories of representation.* Provides that any person compelled to testify in a proceeding in response to a subpoena may be accompanied, represented, and advised by a qualified representative.

29 C.F.R. §18.52 Protective orders
(a) *In general*. Upon motion by a party or person from whom discovery is sought, and for good cause shown, the administrative law judge may make an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:
(1) Forbidding the disclosure or discovery;
(2) Specifying terms, including time and place, for the disclosure or discovery;
(3) Prescribing the discovery method of discovery other than the one selected by the party seeking discovery;
(4) Forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;
(5) Designating the persons who may be present while discovery is conducted;
(6) Requiring that the deposition be sealed and opened only on the judge's order;
(7) Requiring a trade secret or other confidential research, development or commercial information not be revealed or be revealed only in a specified way; and,
(8) Requiring the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the judge directs.

18 U.S.C. §1505 Obstruction of proceedings
Whoever acts with an improper purpose, including making a false or misleading statement or by withholding, concealing, altering or destroying a document or other information, or by threats or force influences, obstructs or impedes the due an proper administration of law under which any pending proceeding before an agency of the United States, shall be fined and imprisoned not more than 5 years.

HIPAA NOTICE: In regard to the Privacy of Individually Identifiable Health Information under the Health Insurance Portability and Accountability Act of 1996, if this subpoena does not bear a raised USDOL seal and the signature of a DOL administrative law judge, it is not valid under 45 C.F.R. §§164.512(e), 164.512(f) or 164.512(l).

Federal Rules of Civil Procedure [Applied by 29 C.F.R. §18.10(a)]
Rule 45 Subpoena
(c) Protecting a Person Subject to a Subpoena.

(c)(1) Provides that the 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 and the issuing court must enforce this duty and impose an appropriate sanction on a party or attorney who fails to comply.
(c)(2) Provides that, unless ordered to appear for a deposition or hearing, a person ordered to produce documents, electronically stored information, or tangible things, or to permit inspection of premises, need be present at the place of production or inspection. The person subject to the subpoena may also object to producing the documents, electronically stored information, or tangible things, or to permit inspection of premises, by giving written notice to the party or attorney responsible for issuing and serving the subpoena. The written objection must be made before the date of requested performance or 14 days from receiving the subpoena, whichever is earlier.
(c)(3) Provides that the person subject to the subpoena may file a motion to quash (stop) or limit the scope of a subpoena because there is not enough time to comply with the subpoena, the person would incur substantial expense requiring travel more than 100 miles to comply, privileged or protected matter would be disclosed, or other undue burden would result.

(d) Duties in Responding to a Subpoena.
(d)(1) Requires that the person responding to the subpoena produce documents as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the subpoena. If the subpoena does not specify a form for producing electronically stored information, the person responding must produce it in the form in which it is usually maintained or in another reasonably usable form.
(d)(2) Require that a person withholding subpoenaed information because it is privileged information or subject to protection as trial-preparation material must expressly make such claim and describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing the privileged or protected information, will enable the parties to assess the claim of privilege or protection.

(e) Contempt. Provided that a U.S. District Court may hold a person in contempt if the person fails to obey the subpoena without adequate excuse, such as those reasons in Rule 45(c)(3).

PROOF OF SERVICE

On I received this subpoena and served it pursuant to 29 CFR §18.56(b) as follows:

Person served (print name)

Date of Service

Place of Service

Manner of Service

☐ I have also tendered to the witness fees for one day's attendance and the mileage allowed by law, in the amount of $ _____

☐ I have not tendered witness fees for one day's attendance and for the mileage allowed by law.

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Address:

Signature of Server

Date

Name of Server (Print Name)

City:

State:

ZIP: