

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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ABC,

Plaintiff,

Index No. \_\_\_\_\_

-against-

XYZ,

Defendant.

**SUBPOENA DUCES TECUM**

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TO: EFG, Esq.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

YOU ARE HEREBY COMMANDED, pursuant to New York Civil Practice Law and Rules (“CPLR”) Articles 23 and 31, to produce at the offices of \_\_\_\_\_, Attn: \_\_\_\_\_, within twenty (20) days of the service of this subpoena, the documents in your possession custody or control described in the attached Schedule I.

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued and subject you to all the penalties provided by the CPLR.

Dated: New York, New York  
\_\_\_\_\_, 20\_\_

By: PQR, Esq.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DEFINITIONS**

The following definitions shall apply to each of the requests set forth below:

A. “Communication” and “Correspondence” mean any transmittal of information, by and to whomever made and by any means whatsoever, including but not limited to oral, written, electronic or otherwise, and all documents reflecting such communication.

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B. “Complaint” means the Complaint dated and filed on \_\_\_\_\_, in this action.

C. The terms “concern,” “concerning,” “evidencing,” “relating to,” “relate,” “relates to,” “related to,” “referring or relating to,” “referring to,” “regarding,” “comprising,” “comprise,” and “refer or relate to” mean, in whole or in part, alluding to, responding to, concerning, relating to, connected with, involving, commenting on, in respect of, about, associated with, discussing, evidencing, showing, describing, reflecting, analyzing, summarizing, memorializing, consisting of, constituting, identifying, stating, tending to support, tending to discredit, referring to, or in any way touching upon the subject at issue.

D. “Defendant” means XYZ.

E. “Document” or “Documents” shall have the broadest reasonable meaning and includes, but is not limited to, writings, drawings, printed material, facsimiles, graphs, maps, charts, drafts, photographs, phonorecords or other sound recordings, microfilm or microfiche, computer data, electronic mail and other data compilations of whatever kind from which information can be obtained, translated, if necessary, through detection devices into reasonably usable form, and all other materials within the meaning of “document” under the Civil Practice Law and Rules.

F. “ESI” means electronically stored information.

G. “Identify” with respect to persons, means to give, to the extent known, the person’s full name, present or last known address, present or last known telephone number, and the capacity in which the person was employed or otherwise acting at all times relevant to a specific interrogatory. With respect to a business entity or other organization, “identify” means to provide its name and last known address and telephone number. With respect to statements and other communications,

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“identify” means to set forth whether the communication was oral or in writing, the speaker or writer, the recipient or recipients, the date, and the substance of the communication.

H. “Including” shall be construed to mean including, but not limited to and shall be construed as a term of inclusion, not exclusion.

I. The “Parties” means the ABC and XYZ, and their respective or collective agents, employees, representatives, assigns and/or any entities that operate on or for their respective or collective behalves or benefit.

J. “Person” or “persons” means natural persons and/or any business, legal or governmental entity, or association.

K. “Plaintiff” means ABC.

L. “You” or “Your” means all of the following: EFG, Esq., \_\_\_\_ (law firm), and those acting under his direction.

M. “Third Party” or “Third Parties” means any person or entity other than ABC or XYZ.

N. The past tense of a verb includes the present tense and vice-versa.

O. The masculine shall include the feminine and neuter, and the plural shall include the singular, and vice-versa.

P. Without limiting the above, reference to any entity other than a natural person includes the entity; each of its predecessors and successors; each of its present and former agents, servants, employees, representatives, attorneys, assistants, advisors, subsidiaries, affiliates, divisions, joint ventures, partners, officers, directors, trustees or administrators; all persons or

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entities acting or purporting to act on behalf of or in concert with the entity; and all persons or entities under or subject to the entity's direction or control.

**INSTRUCTIONS**

A. You shall produce all Documents requested that are in Your possession, custody or control, or that You have the legal right or practical ability to obtain, whether located at Your home or at any of Your offices, at the offices or homes of family members, agents, successors or assigns, accountants, attorneys, assistants, bankers, affiliates or others, or at any other place, including in any remote or online storage (including, for example, in a Web-based or other online Document storage system, contact storage or management system, calendar system or email account), anywhere in the world.

B. Documents shall be produced in a manner that reasonably indicates which particular documents are being produced in response to specific requests, or in the manner they are kept in the ordinary course of business.

C. In the event that any Document called for by these requests is withheld on the basis of a claim of attorney-client privilege, work product immunity, or any other grounds, provide the information set forth in CPLR 3122(b).

D. If any of the information requested is available in machine-readable form (such as punch cards, paper or magnetic tapes, drums, disks, zip disks, hard drives, flash drives, CDs, DVDs or core storage), state the form in which it is available and describe the type of computer or other machinery required to read the record.

E. If You maintain that any Document or record responsive to these Requests has been destroyed or is no longer in Your possession, custody or control, state whether it: (1) is missing or lost; (2) has been destroyed; (3) has been transferred, voluntarily or involuntarily, to others; or (4)

has been disposed of in some other manner. In addition, where possible, set forth: (i) the content of said Documents; (ii) the location of any copies of said Document; (iii) the date of such destruction; and (iv) the name of any person(s) who ordered, authorized or participated in such destruction.

F. If there are no Documents or things responsive to a particular request, You shall so state in writing in Your response.

G. Each Document request shall be construed independently and, unless otherwise indicated, no request shall limit the scope of any other request.

H. Each request herein contemplates production of the entire matter without abbreviation, expurgation or modification.

I. These are continuing requests for the production of Documents and things. If, after making Your initial production, You or Your attorneys, agents or representatives, obtain or become aware of any further Documents or things responsive to these Requests, You are requested to promptly produce such additional Documents or things.

J. ESI should be produced in single-page, black and white, TIFF Group IV, 300 DPI TIFF images with the exception of spreadsheet type files, source code, audio and video files, which should be produced in native format. If an original document contains color, the document should be produced as single-page, 300 DPI JPG images with JPG compression and a high quality setting as to not degrade the original image.

K. Unless otherwise indicated, the Requests seek Documents generated, sent, written or received from \_\_\_\_\_(date) to the present.

**SCHEDULE I**  
(List of documents)