

RETURN OF SERVICE

**UNITED STATES DISTRICT COURT
Southern District of Florida**

Case Number: 13-17273-BKC-JKO

IN RE::

**COMPREHENSIVE CLINICAL DEVELOPMENT, INC. AND
COMPREHENSIVE CLINICAL DEVELOPMENT NW, INC.**

DEBTORS.

_____ /

For:


GENOVESE, JOBLOVE & BATTISTA, P.A.
100 S.E. 2nd Street, 44th Floor
Miami, FL 33131

Received by Lightning Legal Couriers on the 16th day of October, 2014 at 12:00 pm to be served on **DR. ALBERT WAXMAN, 9703 COLLINS AVENUE, UNIT 1100C, BAL HARBOUR, FL 33154.**

I, Ivan Lopez, do hereby affirm that on the **18th day of October, 2014 at 9:00 am, I:**

SUBSTITUTE - RESIDENTIAL served by delivering a true copy of the **SUBPOENA FOR RULE 2004 EXAMINATION DUCES TECUM & WITNESS FEE CHECK FOR \$50.00** with the date and hour of service endorsed thereon by me, to: **MARGARITA WAXMAN as SPOUSE** at the address of: **9703 COLLINS AVENUE, UNIT 1100C, BAL HARBOUR, FL 33154**, the within named person's usual place of **Abode**, who resides therein, who is fifteen (15) years of age or older and informed said person of the contents therein, pursuant to F.S. 48.031 (1).

Under Penalties of Perjury, I declare I have read the foregoing document and the facts stated in it are true. I certify that I am over the age of 18, have no interest in the above action. NO NOTARY REQUIRED PURSUANT TO F.S. 92.525(2)



Ivan Lopez
Process Server

**Lightning Legal Couriers
9280 SW 64 Street
Miami, FL 33173
(786) 286-4167**

Our Job Serial Number: LTN-2014002531

10-18-14 9:00a
Margarita
Waxman/Spooson

United States Bankruptcy Court
Southern District of Florida
www.flsb.uscourts.gov

In re

COMPREHENSIVE CLINICAL DEVELOPMENT,
INC. and COMPREHENSIVE CLINICAL
DEVELOPMENT NW, INC.

CASE NOS. 13-17273-BKC-JKO &
13-17282-BKC-JKO
CHAPTER 7
(Jointly Administered under
Case No. 13-17273-BKC-JKO)

Debtors.

To: Dr. Albert Waxman
9703 Collins Avenue, Unit 1100C
Bal Harbour, FL 33154-2246

**SUBPOENA FOR RULE 2004
EXAMINATION *DUCES TECUM***

■ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, and Local Rule 2004-1.

PLACE: Genovese, Joblove & Battista, P.A. 100 S.E. Second Street, Suite 4400 Miami, Florida 33131	DATE AND TIME: December 2, 2014 2:00 p.m. EST
---------------------------------------------------------------------------------------------------------	--------------------------------------------------

The examination will be recorded by this method: **By an officer authorized to record testimony**

■ **Production:** You, or your representatives, must also bring with you to the examination the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

Documents to be produced: All documents and records in your custody, possession, or control of and/or relating to the Debtors.

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: October 8, 2014

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's Signature

The name, address, email address, and telephone number of the attorneys representing **Marc P. Barmat, Chapter 7 Trustee**, who issues or requests this subpoena, is:

David C. Cimo, Esq., Florida Bar No. 775400
Marilee A. Mark, Esq., Florida Bar No. 725961
Genovese Joblove & Battista, P.A.
100 SE 2nd Street, 44th Floor
Miami, FL 33131
dcimo@gjb-law.com
mmark@gjb-law.com
Tel: (305) 349 2300
Fax: (305) 349 2310

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (name of individual and title, if any): _____
on (date) _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (date) _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount
of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A 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. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena 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 party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt. The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Access to Subpoena Materials

Fed. R. Civ. P. 45(a) Committee Note (2013)

- Parties desiring access to information produced in response to this subpoena will need to follow up with the party serving the subpoena to obtain such access.
- The party serving the subpoena should make reasonable provisions for prompt access.
- The court for the district where compliance with the subpoena is required has authority to order notice of receipt of produced materials or access to them.