

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
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.

**RE-NOTICE OF RULE 2004 EXAMINATION DUCES TECUM OF NOAH
FRANZBLAU**

PLEASE TAKE NOTICE that Marc P. Barmat, Chapter 7 Trustee of the bankruptcy estate of the above-styled Debtors, by the undersigned attorney, will take the examination *duces tecum* of the below- referenced individual, under oath, at the date, time, and location indicated below.

Examinee	Date/Time	Location
Noah Franzblau*	March 4, 2015 10:30 a.m. EDT	GENOVESE, JOBLOVE & BATTISTA, P.A. 100 S.E. Second Street, Suite 4400 Miami, Florida 33131 *Via telephone - dial in information to be provided prior to the examination

The examination may continue from day to day until completed. If the examinee receives this notice less than 14 days prior to the scheduled examination date, the examination will be rescheduled upon timely request to a mutually agreeable time.

The examination is pursuant to Bankruptcy Rule 2004 and Local Rule 2004-1, and will be recorded and will be recorded by a certified court reporter. The scope of the examination shall be as described in Bankruptcy Rule 2004.

Pursuant to Local Rule 2004-1 no order shall be necessary, and the Bankruptcy Rule 2004, the subpoena served on the examinee is attached to this notice.

X Production: The examinee or your representatives, must also bring with you to the examination the documents, electronically stored information, or objects described below and on the attached subpoena, and must permit inspection, copying, testing, or sampling of the materials.

PRODUCTION OF DOCUMENTS

At the time of the examination, the examinee is requested to produce all documents and records in the examinee's possession, custody, or control of and/or relating to the Debtors.

Dated this 13th day of February, 2015.

GENOVESE JOBLOVE & BATTISTA, P.A.
Special Counsel for the Trustee
100 Southeast 2nd Street, 44th Floor
Miami, FL 33131
Tel: (305) 349-2300
Fax: (305) 428-8804

By: /s/ David C. Cimo
David C. Cimo, Esq.
Fla. Bar No. 775400
Email: dcimo@gjb-law.com
Marilee A. Mark, Esq.
Fla. Bar No. 725961
Email: mmark@gjb-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served to all parties on the attached Service List, via CM/ECF, first-class postage-prepaid U.S. Mail and/or email, this 13th day of February, 2015.

By: /s/ David C. Cimo
David C. Cimo, Esq.

SERVICE LIST

13-17273-JKO Notice will be electronically mailed to:

Joaquin J Alemany on behalf of Creditor Akros Pharma Inc.
joaquin.alemany@hklaw.com, jose.casal@hklaw.com

Marc P Barmat
barmat.trustee@furrcohen.com, mpb@trustesolutions.net

Amardeep K Bharj on behalf of Interested Party GlaxoSmithKline
abharj@cspalaw.com, bclarke@cspalaw.com

Russell M. Blain on behalf of Creditor Eli Lilly and Company
rblain.ecf@srbp.com, rblain@srbp.com

Russell M. Blain on behalf of Creditor Janssen Research & Development, LLC
rblain.ecf@srbp.com, rblain@srbp.com

Russell M. Blain on behalf of Creditor Lilly USA, LLC
rblain.ecf@srbp.com, rblain@srbp.com

Leyza F. Blanco, Esq. on behalf of Creditor Cigna Health and Life Insurance Company
leyza.blanco@gray-robinson.com, jceide@gray-robinson.com;lnegron@gray-robinson.com;lleana.Christianson@gray-robinson.com

Daniel F Blanks, Esq. on behalf of Creditor Mylan, Inc.
dblanks@mcguirewoods.com,
aabbott@mcguirewoods.com;WTravis@mcguirewoods.com;sfox@mcguirewoods.com

Jacqueline Calderin, Esq. on behalf of Debtor Comprehensive Clinical Development NW, Inc.
jc@ecclegal.com, bankruptcy@ecclegal.com;nsocorro@ecclegal.com

Jacqueline Calderin, Esq. on behalf of Debtor Comprehensive Clinical Development, Inc.
jc@ecclegal.com, bankruptcy@ecclegal.com;nsocorro@ecclegal.com

Jacqueline Calderin, Esq. on behalf of Interested Party Comprehensive Clinical Development NW, Inc.
jc@ecclegal.com, bankruptcy@ecclegal.com;nsocorro@ecclegal.com

Robert P. Charbonneau, Esq. on behalf of Debtor Comprehensive Clinical Development NW, Inc.
rpc@eccounsel.com, nsocorro@ecclegal.com;bankruptcy@ecclegal.com

Robert P. Charbonneau, Esq. on behalf of Debtor Comprehensive Clinical Development, Inc.
rpc@eccounsel.com, nsocorro@ecclegal.com;bankruptcy@ecclegal.com

Robert P. Charbonneau, Esq. on behalf of Interested Party Comprehensive Clinical Development NW, Inc.
rpc@eccounsel.com, nsocorro@ecclegal.com;bankruptcy@ecclegal.com

David C. Cimo, Esq on behalf of Trustee Marc P Barmat

dcimo@gjb-law.com, gjbecf@gjb-law.com

Joseph Corrigan on behalf of Creditor Iron Mountain Information Management
bankruptcy2@ironmountain.com

Alan R Crane on behalf of Plaintiff Marc P. Barmat
acrane@furrcohen.com, pmouton@furrcohen.com;atty_furrcohen@bluestylus.com

Alan R Crane on behalf of Trustee Marc P Barmat
acrane@furrcohen.com, pmouton@furrcohen.com;atty_furrcohen@bluestylus.com

Drew M Dillworth on behalf of Creditor Wells Fargo Bank, N.A.
ddillworth@stearnsweaver.com,
mfernandez@stearnsweaver.com;bank@stearnsweaver.com;ross@stearnsweaver.com;dillworthcdp@ecf
.epiqsystems.com;cgraver@stearnsweaver.com

Ronald M Emanuel, Esq on behalf of Creditor Flatiron Capital, a division of Wells Fargo Bank, N.A.
ron.emanuel@emanlaw.com, meri.greenberger@emanlaw.com

John D Emmanuel, Esq on behalf of Creditor Cephalon, Inc.
emmanuel@fowlerwhite.com, sstorno@fowlerwhite.com

Heidi A Feinman on behalf of U.S. Trustee Office of the US Trustee
Heidi.A.Feinman@usdoj.gov

Jose R Florez on behalf of Interested Party Perrigo Israel Pharmaceuticals, LTD.
jose.florez@fowlerwhite.com, dawn.nunziato@bipc.com

Jose R Florez on behalf of Interested Party Perrigo Research and Development Company
jose.florez@fowlerwhite.com, dawn.nunziato@bipc.com

Gary M Freedman, Esq on behalf of Creditor Committee Creditor Committee
gfreedman@tabasfreedman.com, jackie@tabasfreedman.com;lise@tabasfreedman.com

Robert C Furr, Esq on behalf of Trustee Marc P Barmat
bnasralla@furrcohen.com, atty_furrcohen@bluestylus.com

Elan A Gershoni on behalf of Debtor Comprehensive Clinical Development, Inc.
EGershoni@joneswalker.com, aesharp@arnstein.com;mia-ctdocs@arnstein.com

Elan A Gershoni on behalf of Interested Party Comprehensive Clinical Development NW, Inc.
EGershoni@joneswalker.com, aesharp@arnstein.com;mia-ctdocs@arnstein.com

Nicole M Grimal on behalf of Debtor Comprehensive Clinical Development NW, Inc.
ng@ecclegal.com, nsocorro@ecclegal.com;bankruptcy@ecclegal.com

Nicole M Grimal on behalf of Debtor Comprehensive Clinical Development, Inc.
ng@ecclegal.com, nsocorro@ecclegal.com;bankruptcy@ecclegal.com

Nicole M Grimal on behalf of Interested Party Comprehensive Clinical Development NW, Inc.
ng@ecclegal.com, nsocorro@ecclegal.com;bankruptcy@ecclegal.com

Scott M. Grossman, Esq. on behalf of Interested Party Novartis Pharmaceuticals Corporation
grossmansm@gtlaw.com,
smithl@gtlaw.com; MiaLitDock@gtlaw.com; FTLLitDock@GTLaw.com; miaecfbky@gtlaw.com

Hollie N Hawn, Esq on behalf of Creditor Broward County
hhawn@broward.org, swulfekuhle@broward.org

Christopher A Jarvinen on behalf of Interested Party CNS Research Science, Inc.
cjarvinen@bergersingerman.com,
efile@bergersingerman.com; mdiaz@bergersingerman.com; efile@ecf.inforuptcy.com

Christopher A Jarvinen on behalf of Interested Party Clinical Research Advantage, Inc.
cjarvinen@bergersingerman.com,
efile@bergersingerman.com; mdiaz@bergersingerman.com; efile@ecf.inforuptcy.com

Wojciech F Jung on behalf of Interested Party Bristol-Myers Squibb Co. and Amylin Pharmaceuticals, LLC
wjung@lowenstein.com, bbuechler@lowenstein.com; cporter@lowenstein.com

Jeffrey T. Kucera, Esq on behalf of Creditor Pacific Avenue Professional Plaza II, LLC
jeffrey.kucera@klgates.com, linda.vasserot@klgates.com; docketing.east@klgates.com

Jeffrey T. Kucera, Esq on behalf of Creditor Pacific Avenue Professional Plaza LLC
jeffrey.kucera@klgates.com, linda.vasserot@klgates.com; docketing.east@klgates.com

Linda M Leali, Esq on behalf of Creditor Pierce County
lleali@lealilaw.com

Bernice C. Lee on behalf of Creditor Georgetown Center Investment Group, Inc.
blee@sfl-pa.com, vchapkin@sfl-pa.com

John E Lucian on behalf of Interested Party Watson Therapeutics, Inc.
lucian@blankrome.com

David B Marks on behalf of Creditor Oxford Finance LLP
brett.marks@akerman.com, charlene.cerda@akerman.com

David B Marks on behalf of Creditor Oxford Finance LLP
brett.marks@akerman.com, charlene.cerda@akerman.com

David B Marks on behalf of Creditor Oxford Finance, LLP
brett.marks@akerman.com, charlene.cerda@akerman.com

Aleida Martinez Molina on behalf of Interested Party City of Miramar
amartinez@wsh-law.com, jfuentes@wsh-law.com

Frank F McGinn, Esq on behalf of Creditor Iron Mountain Information Management, LLC
ffm@bostonbusinesslaw.com

Niall T McLachlan, Esq on behalf of Creditor Eagle Pharmaceuticals, Inc.

nmclachlan@carltonfields.com, cguzman@carltonfields.com

Andrea R Meenach-Decker on behalf of Interested Party Actavis LLC and its affiliates, including without limitation Watson Pharmaceuticals, Inc.

RDecker@BlankRome.com, tgoff@bakerdonelson.com

Mindy A. Mora, Esq. on behalf of Interested Party Sunbeam Development Corporation

mmora@bilzin.com,

laparicio@bilzin.com;eservice@bilzin.com;lflores@bilzin.com;gdonaire@bilzin.com

Mindy A. Mora, Esq. on behalf of Witness Sunbeam Development Corporation

mmora@bilzin.com,

laparicio@bilzin.com;eservice@bilzin.com;lflores@bilzin.com;gdonaire@bilzin.com

Rachel Nanes on behalf of Creditor Pfizer, Inc.

rachel.nanes@dlapiper.com, yohami.lamguerra@dlapiper.com;monica.tucker@dlapiper.com

Office of the US Trustee

USTPRegion21.MM.ECF@usdoj.gov

T Lawrence Palmer, Esq on behalf of Creditor T. Lawrence Palmer Office of Attorney General, Pennsylvania Department of Revenue

lpalmer@attorneygeneral.gov

Alan J. Perlman, Esq. on behalf of Attorney InVentiv Health

aperlman@ralaw.com, mhannau@ralaw.com

Alan J. Perlman, Esq. on behalf of Attorney InVentiv Health Clinic USA, LLC.

aperlman@ralaw.com, mhannau@ralaw.com

Jennifer H Pinder on behalf of Creditor Kythera Biopharmaceuticals, Inc.

jpinder@foley.com, crowell@foley.com

Craig V. Rasile, Esq. on behalf of Creditor Pfizer, Inc.

craig.rasile@dlapiper.com,

monica.tucker@dlapiper.com,jacqueline.figueroa@dlapiper.com,rachel.nanes@dlapiper.com,yohami.lamguerra@dlapiper.com

Craig V. Rasile, Esq. on behalf of Interested Party BIAL - Portela & Ca., S.A.

craig.rasile@dlapiper.com,

monica.tucker@dlapiper.com,jacqueline.figueroa@dlapiper.com,rachel.nanes@dlapiper.com,yohami.lamguerra@dlapiper.com

Harley E. Riedel on behalf of Creditor Eli Lilly and Company

hriedel.ecf@srbp.com

Harley E. Riedel on behalf of Creditor Janssen Research & Development, LLC

hriedel.ecf@srbp.com

David R Rothenstein on behalf of Debtor Comprehensive Clinical Development, Inc.

dr@ecclegal.com,

nsocorro@ecclegal.com;ecala@ecclegal.com;bankruptcy@ecclegal.com;jbetancourt@ecclegal.com;parb
oleda@ecclegal.com

David R Rothenstein on behalf of Interested Party Comprehensive Clinical Development NW, Inc.
drr@ecclegal.com,
nsocorro@ecclegal.com;ecala@ecclegal.com;bankruptcy@ecclegal.com;jbetancourt@ecclegal.com;parb
oleda@ecclegal.com

Christopher H Saia on behalf of Creditor Goal Advertising, Marketing and Promotions, Inc
christopher@saia-law.com, tony@saia-law.com;david@saia-law.com

Luis Salazar, Esq. on behalf of Interested Party Amneal Pharmaceuticals, LLC
salazar@salazarjackson.com,
jackson@salazarjackson.com;dagley@salazarjackson.com;aguilar@salazarjackson.com;Lee-
Sin@SalazarJackson.com;pacetti@salazarjackson.com;cloyd@salazarjackson.com

Zana Michelle Scarlett on behalf of U.S. Trustee Office of the US Trustee
Zana.M.Scarlett@usdoj.gov

Matthew H Scott on behalf of Creditor 80-164 Realty, LLC
mhs@trippscott.com, bankruptcy@trippscott.com

Esperanza Segarra on behalf of Creditor MH Adams & Associates, Inc.
esegarra@hinshawlaw.com, clucas@hinshawlaw.com

Bradley S Shraiberg on behalf of Creditor Charles River Laboratories Inc
bshraiberg@sfl-pa.com, dwoodall@sfl-pa.com;vchapkin@sfl-pa.com;lrosetto@sfl-pa.com;scusack@sfl-
pa.com;blee@sfl-pa.com

Bradley S Shraiberg on behalf of Creditor Georgetown Center Investment Group, Inc.
bshraiberg@sfl-pa.com, dwoodall@sfl-pa.com;vchapkin@sfl-pa.com;lrosetto@sfl-pa.com;scusack@sfl-
pa.com;blee@sfl-pa.com

Bradley S Shraiberg on behalf of Creditor Millennium Pharmaceuticals, Inc
bshraiberg@sfl-pa.com, dwoodall@sfl-pa.com;vchapkin@sfl-pa.com;lrosetto@sfl-pa.com;scusack@sfl-
pa.com;blee@sfl-pa.com

Eric J Silver on behalf of Creditor Wells Fargo Bank, N.A.
esilver@stearnsweaver.com,
bank@stearnsweaver.com;ross@stearnsweaver.com;larrazola@stearnsweaver.com;cgraver@stearnswea
ver.com

Paul Steven Singerman, Esq on behalf of Interested Party CNS Research Science, Inc.
singerman@bergersingerman.com,
mdiaz@bergersingerman.com;efile@bergersingerman.com;efile@ecf.inforuptcy.com

Paul Steven Singerman, Esq on behalf of Interested Party Clinical Research Advantage, Inc.
singerman@bergersingerman.com,
mdiaz@bergersingerman.com;efile@bergersingerman.com;efile@ecf.inforuptcy.com

Jeffrey I. Snyder, Esq. on behalf of Interested Party Sunbeam Development Corporation

jsnyder@bilzin.com, eservice@bilzin.com;lflores@bilzin.com

Jeffrey I. Snyder, Esq. on behalf of Witness Sunbeam Development Corporation
jsnyder@bilzin.com, eservice@bilzin.com;lflores@bilzin.com

Steven J. Solomon, Esq. on behalf of Creditor Oncothyreon, Inc.
steven.solomon@gray-robinson.com, Inegron@gray-robinson.com;lauren.rome@gray-robinson.com;Amador.Ruiz-Baliu@gray-robinson.com

Joel L Tabas, Esq on behalf of Creditor Committee Creditor Committee
jtabas@tabasfreedman.com, jdieguez@tabasfreedman.com;kborrego@tabasfreedman.com

Gordon J Toering on behalf of Interested Party Perrigo Israel Pharmaceuticals, LTD.
gtoering@wnj.com

Gordon J Toering on behalf of Interested Party Perrigo Research and Development Company
gtoering@wnj.com

Scott A. Underwood, Esq. on behalf of Interested Party Perrigo Israel Pharmaceuticals, LTD.
scott.underwood@bipc.com, denise.strand@bipc.com

Scott A. Underwood, Esq. on behalf of Interested Party Perrigo Research and Development Company
scott.underwood@bipc.com, denise.strand@bipc.com

Richard B Warren on behalf of Creditor Liberty Property Limited Partnership
rick@warrengrant.com, jennifer@warrengrant.com;michael@warrengrant.com

Aaron A Wernick on behalf of Trustee Marc P Barmat
awernick@furrcohen.com, cworker@furrcohen.com;atty_furrcohen@bluestylus.com

Via Email and U.S. Mail

Robert Zeller, Esq.
Zeller Law LLC
2 Forest Avenue
Oradell, NJ 07649
rzeller@zellerlaw.com

Gregory S. Weiss, Esq.
Mrachek, Fitzgerald, Rose
Konopka, Thomas & Weiss, P.A.
505 South Flagler Drive
Suite 600
West Palm Beach, FL 33401
GWeiss@mrachek-law.com

Ryan O'Quinn , Esq.
1 SE Third Ave.
Ste 1820
Miami, FL 33131
rdo@oquinnstumphauzer.com

Neil P. Linden, Esq.
Ivan Reich, Esq.
GrayRobinson
1221 Brickell Ave.
Suite 1600
Miami, FL 33131
neil.linden@gray-robinson.com
ivan.Reich@gray-robinson.com

Via U.S. Mail

Jonathan E Aberman on behalf of
Creditor Oxford Finance LLP
222 N LaSalle #2600
Chicago, IL 60601

Joseph Corrigan on behalf of Creditor
Iron Mountain Records Management
745 Atlantic Ave, 10 Floor
Boston, MA 02111

Micheal D. Disota
Court Plaza North
25 Main St
Hackensack, NJ 07601

Kathleen Embry
Community Clinical Research, Inc.
8334 Cross Park Drive
Austin, TX 78754

IBM Corporation
ATTN- National Bankruptcy Coordinator
275 Viger East #400
Montreal, QC H2X 3R7

Brian A Jennings
1201 3 Ave #4800
Seattle, WA 98101

William A Johnsen
600 Madison Ave
New York, NY 10022

Sharon Makosy

668 Highland Ave
POB 335
Revloc, PA 15948

David S. Meyer
on behalf of Creditor CNS Research Science Inc
and Clinical Research Advantage, Inc
601 Lexington Ave
New York, NY 10022-4611

Mark P. Naughton
9 Parkway North #300
Deerfield, IL 60015

Office of Unemployment Compensation Tax Services,
Dept of Labor and Industry, Commonwealth of Pennsylvania
c/o Timothy Bortz
625 Cherry St #203
Reading, PA 19602

Ricoh USA Inc
3920 Arkwright Rd #400
Macon, GA 31210

Jon L Ruckle MD
1402 S Brookside Terr
Tacoma, WA 98465

Alan D. Smith on behalf of Creditor Charles River Laboratories Inc
1201 Third Ave #4900
Seattle, WA 98101

Brent Williams
55 East 52 St 31 Fl
New York, NY 10055

Sean Woo
For Tissue Inc.
9605 Medical Center Dr #200
Rockville, MD 20850

Felice R. Yudkin
Court Plaza North
25 Main St
Hackensack, NJ 07601

GE Capital Information Technology
c/o Christine R Etheridge
1738 Bass Rd
POB 13708
Macon, GA 31208

United States Bankruptcy Court
District of New Jersey
www.njb.uscourts.gov

In re

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

Debtors.

CASE NOS. 13-17273-BKC-JKO &
13-17282-BKC-JKO

CHAPTER 7
(Jointly Administered under
Case No. 13-17273-BKC-JKO)

(Case Currently Pending Before the U.S.
Bankruptcy Court, Southern District of
Florida, Fort Lauderdale Division)

To: Noah Franzblau
90 Hanover Road
Mountain Lakes, NJ 07046

**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: November 6, 2014 10:00 a.m. EST *Via telephone – dial in information to be provided prior to the examination
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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:

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 7, 2014

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

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.