

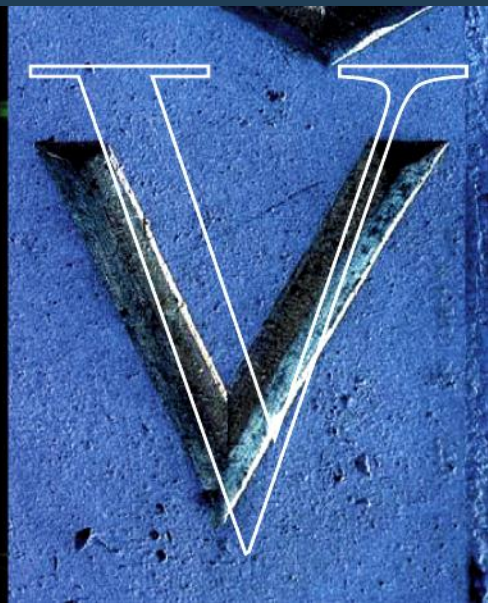
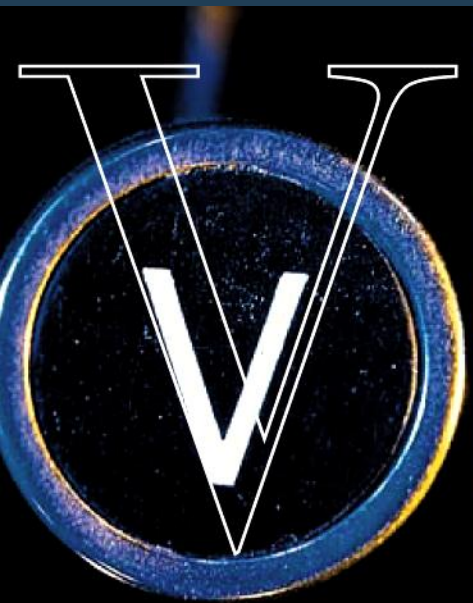
Litigation Basics for Nonprofits: What to Do When a Complaint or Subpoena Is Served and Other Tips and Strategies

Thursday, September 13, 2012
12:30 p.m. – 2:00 p.m. EDT

Venable LLP
Nonprofit Organizations Practice
Washington, DC

Moderator:
Jeffrey S. Tenenbaum, Esq.

Panelists:
Caroline Petro Gately, Esq.
David L. Feinberg, Esq.



Upcoming Venable Nonprofit Legal Events

October 16, 2012 - [You're Not Covered for Everything: Making Sure that Your Nonprofit's Directors & Officers Insurance Coverage Matches Your Expectations](#)

November 13, 2012 – Top Ten Real Estate Leasing Issues for Nonprofits - Details Coming Soon



Agenda

- Goals
- The Actors and the Forum
- Defending against Actions
 - Third-Party Subpoena
 - Summons and Complaint in a Civil Case
 - Writs
 - Request for Information from the Government
 - Government Subpoena
 - Agent Contact/Search Warrant/Criminal Subpoena
 - Indictment or Information
- Being Prepared
 - Document Retention Policy
 - Insurance Policy Review
 - Who-to-Call Refresher
- Closing/Final Q&A



Goals

- Become familiar with common types of legal actions, the actors and forum, and associated vocabulary
- Assess levels of threat and urgency
- Appreciate issues triggered by different types of legal actions
- Learn how to react
- Acquire tips to be prepared for legal action



The Actors

■ Government

- Federal – Department of Justice, Agencies, FBI, Congress
- State – Attorney General, Agencies, Inspector General, State Legislature

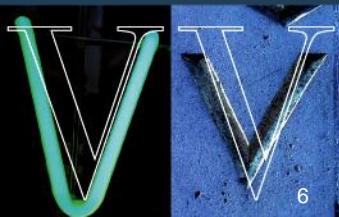
■ Private

- Internal – Employees, members
- External – Vendors, other litigants



The Forum

- Judicial – Proceedings in federal and state courts
- Executive – Federal and state administrative actions
- Legislative – Committees of Congress or state legislatures



Third-Party Subpoena



- A command to appear and give testimony at a deposition or trial, issued at the request of a litigant
- If commanded to produce documents, it is a subpoena *duces tecum*
- Enforceable by contempt of court proceedings
- Concerns: time to object, time to appear or produce, scope, burden of search, electronically stored information, affiliate/subsidiary, confidentiality or other sensitivities
- What to Do: Note the date and means of service, identify contact in business unit, alert counsel



UNITED STATES DISTRICT COURT

for the

District of Columbia

ABC Corporation

Plaintiff

v.

XYZ Corporation

Defendant

)
)
)
)
)
)

Civil Action No. 12-1234-WJZ

(If the action is pending in another district, state where:

)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Jane Jones, President, National Trade Association, 1 M Street, N.W., Washington, DC 20000

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. 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: Smith & Associates LLP 1 Main Street Norfolk, VA 23501	Date and Time: 09/18/2012 9:00 am
---	--------------------------------------

The deposition will be recorded by this method: Video, audio, and stenography

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

All documents relating to the subject matter of the complaint in this lawsuit.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 09/13/2012

CLERK OF COURT

OR

John Smith

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

, who issues or requests this subpoena, are:



UNITED STATES DISTRICT COURT

for the

District of Columbia

ABC Corporation)
 _____)
Plaintiff)
 v.) Civil Action No. 12-1234-WJZ
 XYZ Corporation)
 _____) (If the action is pending in another district, state where:
Defendant))

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
 OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Jane Jones, President, National Trade Association, 1 M Street, N.W., Washington, DC 20000

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

All documents related to the subject matter of this lawsuit.

Place: Smith & Associates LLP 1 Main Street Norfolk, VA 23501	Date and Time: 09/18/2012 9:00 am
---	--

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 09/13/2012

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

John Smith

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* ABC Corporation, who issues or requests this subpoena, are:

John Smith
 Smith & Associates LLP
 1 Main Street, Norfolk, VA 23501 (757) 123-4567



Summons and Complaint in a Civil Case



- A command to respond to a complaint in which the plaintiff seeks money damages, equitable relief (such as an injunction), or both against the defendant
- Civil liability, not criminal, at issue
- Typically served in person by a sheriff or private process server, although some may be served by mail
- Concerns: Short response time (21 to 30 days), public relations, notice to insurer, litigation hold
- What to Do: Note the date and means of service, promptly alert management and counsel



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ABC Corporation

(b) County of Residence of First Listed Plaintiff Montgomery County, MD
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

John Smith, Smith & Associates LLP, 1 Main Street, Rockville, MD 20854

DEFENDANTS

XYZ Association

County of Residence of First Listed Defendant District of Columbia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (if Known)

Caroline Gately and David Feinberg, Venable LLP, 575 7th Street, NW, Washington, DC 20004

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question *(U.S. Government Not a Party)*
- 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff) and One Box for Defendant)

- (For Diversity Cases Only)*
- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions			

V. ORIGIN

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district *(specify)*
- 6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing. *(Do not cite jurisdictional statutes unless diversity):*

VI. CAUSE OF ACTION

Brief description of cause:
Breach of contract

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 200,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

09/13/2012

SIGNATURE OF ATTORNEY OF RECORD

/s/ John Smith

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Writs



- Usually used to execute on court orders or judgments
- Examples: writ of garnishment, writ of replevin
- Served by a deputy marshal or sheriff
- Concerns: avoid double exposure to property owner, comply without interrupting business
- What to Do: Note date, time, and means of service; obtain contact information from serving official; alert counsel



GARNISHMENT SUMMONS

Commonwealth of Virginia

Case No. CL-2012-1234

Fairfax County

Circuit Court

4110 Chain Bridge Road, Fairfax, Virginia 22030

COURT ADDRESS

JUDGMENT CREDITOR:

ABC Corporation

1 Pennsylvania Avenue, N.W.

Washington, DC 20000

Telephone No. (202) 123-4567

JUDGMENT CREDITOR'S ATTORNEY:

John Smith

Smith & Associates LLP

123 Queen Street, Fairfax, VA 22030

Telephone No. (703) 123-4567

JUDGMENT DEBTOR:

Jane Q. Employee

123 Prince Street

Fairfax, VA 22030

Soc. Sec. No. 123-45-678

Garnishee: XYZ Association

123 Main Street

Fairfax, VA 22030

September 14, 2012 10:00 am
HEARING DATE AND TIME

- This is a garnishment against (check only one)
 the judgment debtor's wages, salary or other compensation.
 some other debt due or property of the judgment debtor, specifically,

MAXIMUM PORTION OF DISPOSABLE EARNINGS

SUBJECT TO GARNISHMENT

- Support
 50% 55% 60% 65%
 (if not specified, then 50%)
 state taxes, 100%

STATEMENT:

Judgment Principal:	\$	987.25
Credits		
Interest		35.41
Judgment Costs		126.00
Attorney's Fee		
Garnishment Costs		83.50

TOTAL BALANCE DUE \$ 1,232.16
 The garnishee shall rely on this amount.

May 25, 2012

DATE OF JUDGMENT

If none of the above are checked, then § 34-29(a) (on reverse) applies.

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to (1) file a written answer with this court, or (2) deliver payment to this court, or (3) appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations: (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons. (2) You shall not be liable to the judgment creditor for any property not specified in this garnishment summons. (3) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having one thousand or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commission or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

_____, Clerk

DATE OF ISSUANCE OF SUMMONS

DATE OF DELIVERY OF WRIT OF FIERI FACIAS TO SHERIFF
 IF DIFFERENT FROM DATE OF ISSUANCE OF THIS SUMMONS

by _____
 DEPUTY CLERK

WRIT OF FIERI FACIAS TO ANY AUTHORIZED OFFICER: You are commanded to execute this writ and to make from the intangible personal estate of the judgment debtor(s) the principal, interest, costs and attorney's fees, less credits, as shown in the Garnishment Summons. You are further commanded to make your return to the clerk's office according to law.

Homestead Exemption Waived? Yes No Cannot be demanded

_____, Clerk

by _____
 DEPUTY CLERK



Request for Information from the Government



- A broad term describing an official government request to aid in the exercise of the government's duties
- Examples: EEOC request for information; IRS request for information; request for information to individual members of regulated industries
- Concerns: can indicate government scrutiny; confidentiality or other sensitivities; legal consequences for failure to provide information; the logistics of producing information
- What to Do: treat as a subpoena; note the date and means of service, identify contact in business unit, and alert counsel; think about "why"





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SEP 28 2017

Dear

Enclosed is an Information Request ("Request") issued this date by the U.S. Environmental Protection Agency ("EPA") Region III, pursuant to Section 308 of the Clean Water Act ("Act"), as amended, 33 U.S.C. § 1318. Your responses to this Request must be accompanied by a certificate that is signed and dated by you or the person who is authorized by you to respond to the Request within fifteen (15) days unless otherwise stated. The certification must state that the response is complete and contains all information and documentation available to you pursuant to the Request. Section IV, Paragraph 31 provides a Statement of Certification for this purpose.

You should carefully read the contents of the Request, and communicate to each responsible official, agent or employee the actions which each such person must take to ensure compliance with its terms. Failure to comply with the Request may result in further enforcement actions being taken, including a civil suit for penalties and injunctive relief, or a criminal prosecution as appropriate.

If you require any information or assistance regarding this matter, please contact

Sincerely,

Enclosure (1)

cc:



Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.



Government Subpoena



- A command to compel production of documents, testimony, or both, issued by a government agency, a committee of Congress, or a state legislature (as opposed to a court)
- Concerns: likely indicates government scrutiny; can implicate serious consequences, including criminal prosecution; confidentiality; consequences if failure to respond
- What to Do: note the date and means of service; alert management and counsel; think about “why”



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SUBPOENA AND INFORMATION REQUEST

I. STATUTORY AUTHORITY

This Subpoena and Information Request is issued pursuant to the authority vested in the EPA Administrator under Section 11(c) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2610(c), Section 308 of the Clean Water Act ("CWA"), 33 U.S.C. § 1318, and Section 3007 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927.

II. CERTIFICATION

The information provided shall be verified by, and submitted under an authorized signature by a responsible corporate officer,¹ with the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

III. CONFIDENTIAL INFORMATION

The information requested herein must be provided notwithstanding the possibility that the information requested may be characterized as confidential information or trade secrets. Request for confidential treatment must be made when information or access to records is provided and in accordance with the instructions provided in Section V.O below.

IV. SUBMISSION OF YOUR RESPONSE TO THE INFORMATION REQUESTED

All submissions required by this request shall be provided by December 1, 2010, and addressed to:

¹ The term "responsible corporate officer," as used herein, means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.



Agent Contact/Search Warrant/ Criminal Subpoena



- Criminal, not civil or administrative in nature
- Indicates a criminal investigation is underway
- Alert management; retain experienced counsel
- Examples
 - Employee reports that an agent requested an interview
 - Employee reports he or she has been interviewed
 - Search warrant
 - Criminal subpoena requesting documents



Agent Contact



- A call or visit from a government agent, which very likely indicates government investigation of the contacted organization, a person within the organization, or another person or organization
- Concerns: risk of prosecution; risk of “*add-on*” *allegations*; details and logistics of producing information – e.g., document productions
- What to Do:
 - For employee already interviewed, request debrief
 - For employee with pending request, inform employee of his or her rights
 - Consider alerting current and/or former employees of possible agent contact and requesting that they keep organization informed



Search Warrant



- Issued by a court at the request of the government upon proof of probable cause that a crime has occurred; authorizes search of specific locations and seizure of specific objects
- Concerns: limit search/seizure to the scope of the warrant
- What to Do:
 - Ask for agent's credentials and copy of warrant; review warrant for scope
 - Escort agents; choose the route; log the documents or property seized
 - Consider securing facility and dismissing non-essential employees



Criminal Subpoena



- A subpoena issued by a court, at the request of the government, commanding the recipient to appear before the court and give testimony, produce documents, or do both in aid of a government investigation, e.g., before a grand jury.
- Concerns: possibility of being examined by a prosecutor while sworn under oath; Fifth Amendment; risk of prosecution; risk of “add-on” allegations; need to negotiate scope of any document subpoena; details of production – *document productions are critical to your credibility with the prosecutor*
- What to Do: work with counsel to prepare for (or try to avoid) testimony; establish procedures for preserving documents, especially electronic documents; possibly retain individual counsel for employees; possibly conduct internal investigation



AO 110 (Rev. 12/89) Subpoena to Testify Before Grand Jury

United States District Court

CENTRAL

ILLINOIS

DISTRICT OF

TO:

2006R00086/MJC
GJ-06/033

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

PERSON DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE U.S. District Court 100 N.E. Monroe Street Peoria Illinois	COURTROOM
	DATE AND TIME March 16, 2006 9:00 a.m.


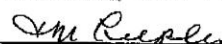
YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

SEE ATTACHED


You are not to disclose the existence of this request as any such disclosure could impede and obstruct an ongoing federal criminal investigation. In lieu of appearing at the date, time and place indicated above, you may comply with this subpoena by mailing the records to Assistant United States Attorney Matthew J. Cannon, U.S. Attorney's Office, 1830 2nd Avenue, Rock Island, Illinois, 61201, provided you attach to the records a completed and signed declaration for custodians of records (or other persons with knowledge). A form for such a declaration is attached. Please note that the contents of the declaration must be attested to under penalty of perjury.

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK  JOHN M. WATERS, CLERK	DATE February 14, 2006
(BY) DEPUTY CLERK 	

This subpoena is issued on application of the United States of America

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Matthew J. Cannon, Assistant United States Attorney
1830 2nd Avenue, Rock Island IL 61201
(309) 793-5884
FAX: (309) 793-5895

*If not applicable, enter "none"



Indictment or Information



- Indictment – grand jury has found probable cause to accuse of/charge with a crime, usually a felony
- Information – government has found probable cause to accuse of/charge with a crime, sometimes a felony
- Concerns: indicates government’s intent to prosecute; stigma and public relations challenges; collateral consequences, among them loss of business relationships and employee attrition; risk of “add-on” allegations
- What to Do: really it is what to continue doing (indictment or information is not often a surprise) and how to best resolve the matter



*SMD
Dec 8, 2009*

JKMcD:USAO2009R00704

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND** 2009 DEC -8 P 4:43

CLERK'S OFFICE
AT BALTIMORE

UNITED STATES OF AMERICA :

v. :

CRIMINAL NO. *JFM-09-0639*
Conspiracy to Commit Wire Fraud
(18 U.S.C. 1349);
Wire Fraud (18 U.S.C. 1343)

Defendants.

...0000000...

INDICTMENT

The Grand Jury for the District of Maryland charges:

COUNT ONE

1. At times material to this Indictment,

2. At times material to this Indictment,

3. From in and around April 2006 until in and around February 2009, in the State and District of Maryland, the Defendants

did unlawfully, knowingly and willfully conspire and agree with each other and with others known and unknown to the Grand Jury, to commit offenses against the United States, that is: to devise a scheme and artifice to defraud individuals and lenders of money and property through materially false and fraudulent statements and misrepresentations, to be executed through the use of interstate wire transfers, in violation of 18 U.S.C. 1343.



Being Prepared – Document Retention Policy

- Inadvertent destruction of documents can carry grave consequences
- Litigation hold can be disruptive of company business
- Inefficient document hunting can be expensive
- Know where and how documents (especially electronically stored information) are maintained in your organization
- Know when and how documents and information are destroyed in your organization
- Review your document management and retention policy, or consider working with legal counsel to develop one
- Quality document policies help make for quality document productions



Being Prepared – Insurance Policy Review

- Some insurance policies provide liability insurance
- Know what types of litigation and disputes your insurance policies cover – are you comfortable?
- More broadly, do your policies cover the *risks* that you intend your policies to cover?
- Consider professional legal review of your policies and your risk management system – this itself is a form of risk management



Be Prepared – Who to Call Refresher

- Do you have and maintain an Emergency “Who to Call” List?
- Is there someone to handle litigation-based concerns on that list?
- For example, if you received a civil summons and complaint, who would you call?
- If you received word that an employee has been asked to meet with an agent about his employer, who would you call?



Closing Thoughts/Final Questions & Answers



Questions and Discussion

Venable LLP
575 7th Street, NW
Washington, DC 20004
t 202.344.4000

Jeffrey S. Tenenbaum, Esq.
jstenenbaum@Venable.com
t 202.344.8138

Caroline Petro Gately, Esq.
cpgately@Venable.com
t 202.344.4744

David L. Feinberg, Esq.
dlfeinberg@Venable.com
t 202.344.8278

To view Venable's index of articles, PowerPoint presentations, recordings, and upcoming seminars on nonprofit legal topics, see
www.Venable.com/nonprofits/publications,
www.Venable.com/nonprofits/recordings, www.Venable.com/nonprofits/events.

