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OF COUNSEL

* MISSOURI AND ILLINOIS
** MISSOURI AND KANSAS
† ILLINOIS

November 11, 1993

PLEASE REPLY TO ST. LOUIS

Boone & Associates
310 North Grand Avenue
Lansing, Michigan 48933

VIA FEDERAL EXPRESS

Re: William Gaffey v. Peter Montague, et al.

Ladies & Gentlemen:

This will confirm our conversation of November 11, 1993.

Enclosed please find a subpoena and attachments to be served upon Judith Zack, 3795 Chippendale Circle, Okemos, Michigan 48864. Could you kindly let me know when Ms. Zack has been served.

Thank you for your attention in this matter. Please call if you have any questions.

Very truly yours,

Kathi Chestnut

Kathi L. Chestnut

KLC:rs

bcc: Mr. Peter Montague
Mr. Gerson Smoger
Mr. Paul Merrell
Mr. Mark Bronson

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November 11, 1993

PLEASE REPLY TO ST. LOUIS

Metropolitan Reporting
600 South Capitol
Lansing, Michigan 48933

Re: William Gaffey v. Peter Montague, et al.

Ladies & Gentlemen:

This will confirm our conversation of November 10, 1993.

You will provide court reporting services and a conference room for a deposition to be taken on December 2, 1993 at 10:00 a.m. of witness Judith Zack.

The case is set for trial on January 3, 1994, and you indicated that there would not be a problem with getting the deposition transcript to us by that date.

Thank you for your attention in this matter. Please call if you have any questions.

Very truly yours,

Kathi Chestnut

Kathi L. Chestnut

KLC:rs

bcc: Mr. Peter Montague
Mr. Gerson Smoger
Mr. Paul Merrell
Mr. Mark Bronson

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WILLIAM R. GAFFEY,)
)
Plaintiff,)
)
vs.) Cause No. 91-1938-C-7
)
PETER MONTAGUE, et al.,)
)
Defendants.)

AMENDMENT BY INTERLINEATION TO NOTICE OF DEPOSITION

Come now defendants, and amend the Notice of Deposition
filed on November 4, 1993 by interlineation as follows:

December 2, 1993 10:00 a.m. Judith Zack

"To be taken at the offices of Metropolitan Reporting, 600
South Capitol, Lansing, Michigan 48933."

Also attached is a copy of the subpoena issuing to Judith
Zack.

EVANS & DIXON

BY:

Kathi Chestnut
John A. Michener #22509
Kathi L. Chestnut #33358
Co-Counsel for Defendants
1200 Saint Louis Place
200 North Broadway
St. Louis, MO 63102
621-7755

CERTIFICATE OF SERVICE

Copy of the foregoing mailed this 11 day of November,
1993 to Richard A. Wunderlich, Daniel D. Zegura, Attorneys for
Plaintiff, 8182 Maryland Avenue, Suite 400, Clayton, MO 63105;
and Gerald R. Ortballs, Attorney for Defendants, 1800 Equitable
Building, 10 South Broadway, St. Louis, MO 63102.

Kathi Chestnut

United States District Court

EASTERN

DISTRICT OF

MISSOURI

WILLIAM GAFFEY

V.

PETER MONTAGUE, et al.

SUBPOENA IN A CIVIL CASE

CASE NUMBER: 91-1938-C-7 JCH

TO: Judith A. Zack
3795 Chippendale Circle
Okemos, Michigan 48864

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Metropolitan Reporting, 600 South Capitol,
Lansing, Michigan 48933

DATE AND TIME

December 2, 1993 at
10:00 a.m.

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

SEE ATTACHMENT A

PLACE
Metropolitan Reporting, 600 South Capitol,
Lansing, Michigan 48933

DATE AND TIME

December 2, 1993 at
10:00 a.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b) (6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

John A. Michener, Kathi L. Chestnut, Attorneys for Defendants, 200 North
Broadway, Suite 1200, St. Louis, MO 63102 (314) 621-7755,

- PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

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.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in per-

son, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.