



**NELSON • LEVINE • de LUCA & HORST**

A LIMITED LIABILITY COMPANY  
**ATTORNEYS AT LAW**

Claudia D. McCarron  
Direct: 215.358.5138  
cmccarron@nldhlaw.com

PHILADELPHIA    CHERRY HILL    COLUMBUS    NEWARK    NEW YORK    LONDON

www.nldhlaw.com  
518 Township Line Road  
Suite 300  
Blue Bell, PA 19422  
Phone: 215.358.5100  
Fax: 215.358.5101

VIA CERTIFIED MAIL RETURN  
RECEIPT REQUESTED  
AND FIRST CLASS MAIL

October 3, 2008

Smithsonian Institution Libraries  
Office of the Director  
P.O. Box 37012 MRC 154  
Washington, DC 20013-7012

**Re:     Dynamic Corporation v. The District of Columbia, et al**  
**Superior Court for the District of Columbia, No. 2008 CA 003264 B**

Dear Sir or Madam:

Nelson Levine de Luca & Horst, LLC represents Plaintiff in the above matter.

Enclosed is a "Subpoena in a Civil Case" ("Subpoena") directing you to produce all documents set forth on Schedule "A" to the Subpoena on or before November 1, 2008. Please be advised that you may mail the documents directly to me at the address listed above, rather than appearing in person at the law firm of Holland & Knight. We will, of course, reimburse you for the reasonable cost of photocopying and mailing the requested documents.

If you have any questions, please contact my paralegal, Holly Korpics, at (215) 358-5120. Thank you for your anticipated cooperation.

Very truly yours,

**NELSON LEVINE de LUCA & HORST, LLC**

**Claudia D. McCarron**

CM/hkk  
Enclosure

cc (w/encl.): Susan Giles, Esquire  
Frederick A. Douglas, Esquire  
Monica O'Connell, Esquire

---

Smithsonian Institution Libraries

October 3, 2008

Page 2

Jonathan P. Rolfe, Esquire  
Allan A. Noble, Esquire  
Tameka M. Collier, Esquire  
George W. Soule, Esquire  
John Wilson, Esquire  
James F. Jordan, Esquire

**SUBPOENA**

**Superior Court of the District of Columbia  
CIVIL DIVISION**

500 Indiana Avenue, N.W., Room JM-170  
Washington, D.C. 20001 Telephone (202) 879-1133

DYNAMIC CORPORATION

Plaintiff

**SUBPOENA IN A CIVIL CASE**

v.

THE DISTRICT OF COLUMBIA, et al.

Defendant

CASE NUMBER: 2008 CV 3264 B

To: Smithsonian Institution Libraries

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in the above case.

COURTROOM	DATE	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	DATE	TIME

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*):

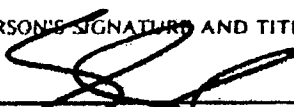
DOCUMENTS OR OBJECTS
See Schedule "A" attached hereto and incorporated herein by reference

PLACE OF PRODUCTION	DATE	TIME
Holland & Knight, 2099 Pennsylvania Ave NW, Ste. 100, Washington, DC 20006	November 1, 2008	10 a.m.

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

PREMISES	DATE	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. SCR-CIV 30(b)(6).

ISSUING PERSON'S SIGNATURE AND TITLE (indicate if attorney for plaintiff or defendant)  counsel for plaintiff	DATE
ISSUING PERSON'S NAME, ADDRESS AND PHONE NUMBER Claudia D. McCarron, Esquire, admitted pro hac vice / Michael R. Nelson, Esquire, DC 980675 Nelson Levine de Luca & Horst, LLC 518 Township Line Road, Suite 300, Blue Bell, PA 19422 (215) 358-5100	

(SEE RULE 45, SUPERIOR COURT RULES OF CIVIL PROCEDURE ON REVERSE)

WHITE—ORIGINAL    YELLOW—FOR RETURN SERVICE    PINK—OFFICE COPY

Authorization as required by D.C. Code §14-307 and Brown v U.S., 567 A. 2d 426 (D.C. 1989), is hereby given for issuance of a subpoena for medical records concerning a person who has not consented to disclosure of the records and has not waived the privilege relating to such records.

Judge To Whom Case Is Assigned

### PROOF OF SERVICE

SERVED	DATE	TIME	PLACE
--------	------	------	-------

SERVED ON (PRINT NAME) MANNER OF SERVICE  
(attach return receipt if service was made by registered or certified mail)

SERVED BY (PRINT NAME)	TITLE
------------------------	-------

### DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the District of Columbia that I am at least 18 years of age and not a party to the above entitled cause and 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, SUPERIOR COURT RULES OF CIVIL PROCEDURE, Sections 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 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 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. 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 or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the Court 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 25 miles from the place where that person resides, is employed or regularly transacts business in person 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 to the place of trial, 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 25 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.

## SCHEDULE "A"

### DEFINITIONS

1. The term "DOCUMENT" as used herein, means the original and all copies of all written, electronic, printed, typed or other graphic matter of any kind or nature and any other tangible thing in your possession, custody or control or known by you to exist, including but not limited to:
  - (i) all contracts, agreements, letter agreements, representations, warranties, certifications and opinions;
  - (ii) all letters or other forms of correspondence or communications, including envelopes and notes, electronic communications, telegrams, cables, telex messages, email and messages, including reports, notes, notations and memoranda of or relating to telephone conversations or conferences;
  - (iii) all memoranda, reports, test results, financial statements or reports, notes, scripts, transcripts, tabulations, studies, analysis, evaluations, projections, work papers, corporate records or copies thereof, expressions or statements or policy, lists, comparisons, questionnaires, surveys, charts, graphs, summaries, extracts, statistical statements or records, compilations and opinions or reports or consultants;
  - (iv) all desk calendars, appointment books and diaries;
  - (v) all minutes, records or transcripts of meetings and conferences, and lists of persons attending meetings or conferences;
  - (vi) all reports and summaries of interviews and negotiations;
  - (vii) all books, articles, press releases, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, instructions and manuals;
  - (viii) all motion pictures and photographs (whether developed or undeveloped), tape records, microfilms, phonographs or other records, punchcards, magnetic tapes, disks, data cells, drums, printouts and other data compilations from which information can be obtained; and
  - (ix) drafts of any document revisions or drafts of any documents and original or preliminary notes.
  
2. The term "FIRE" shall refer to the fire that occurred at the Georgetown Public Library on April 30, 2007.

---

**DOCUMENTS TO BE PRODUCED**

All documents related to the storage, restoration, salvage, destruction and/or repair of items (including books, artwork, artifacts, and/or antiques) damaged and/or destroyed as a result of the fire at the Georgetown Library, including but not limited to estimates, invoices, inventories, notes, correspondence, and/or photographs.

**CERTIFICATE OF SERVICE**

I hereby certify that, on October 17, 2008, service of the foregoing Notice of Removal of Subpoena was made via First Class mail, with postage prepaid, to the following:

Claudia D. McCarron  
Nelson Levine de Luca & Horst, LLC  
518 Township Line Road, Ste. 300  
Blue Bell, Pa. 19422

Attorney for Dynamic Corporation

Susan L. Giles  
Assistant Attorney General  
441 - 4<sup>th</sup> Street, NW  
Sixth Floor South  
Washington, D.C. 20001-2714

Attorney for Defendants, District of Columbia and Robert Noel

Allan Noble  
Budow and Noble, P.C.  
7315 Wisconsin Avenue #500W  
Bethesda, MD 20814

Attorney for Defendant Stephen Ortado

Tameka Collier  
Troutman Sanders LLP  
401 9<sup>th</sup> Street, NW  
Washington, D.C. 20004

Attorney for Defendant Wagner Spray Tech Corporation

Frederick Douglas  
Douglas & Boykin, PLLC  
1850 M. Street, N.W.  
Washington, D.C. 20036

Attorney for Defendant District of Columbia Water & Sewer Authority


Jonathan Rolfe  
Lee & McShane, PC

1211 Connecticut Avenue, NW  
Washington, D.C. 20036

Attorney for Defendant Grotheer & Co., P.C. and Rippeteau Architects, P.C.

James Jordan  
Jordan, Coyne & Savits, LLP  
Suite 600  
Washington, D.C. 20036

Attorney for Defendant Two Brothers Contracting, Inc.

  
\_\_\_\_\_  
JEREMY S. SIMON  
Assistant United States Attorney