

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

Michael T. Hayes,

Plaintiff,

v.

Corrections Corporation of America
(CCA), et al.,

Defendant.

Case No. 1:09-cv-00122-BLW

**ORDER RE PAYMENT OF
SUBPOENA COSTS**

On March 19, 2013, this Court ordered plaintiff to repay the Court \$668.85 in costs associated with serving trial subpoenas upon various individuals, including Todd Butters.¹ *See* Dkt. 215. This Order mistakenly indicated that the Court incurred \$170.80 in fees to serve Mr. Butters. *See id.* at 1. In fact, the Court incurred \$199.50 to serve this witness. This amount is reflected on the attached Process Receipt and Return for Mr. Butters. *See* Docket 216. As is shown on this receipt, \$170.80 was the remaining amount owed on this subpoena after the Court had prepaid anticipated costs of service.

¹ The Court appreciates plaintiff's payment of \$668.85, which has been received.

The Court mistakenly relied on this \$170.80 figure in calculating the subpoena costs for Mr. Butters, rather than the \$199.50 figure.

In any event, plaintiff owes the Court an additional \$28.70 ($\$199.50 - \$170.80 = \28.70). Plaintiff is ordered to pay this amount by no later than May 31, 2013. Plaintiff should tender payment to the Clerk of the Court at 550 West Fort Street, Boise, Idaho 83724.



DATED: April 11, 2013

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill
Chief Judge
United States District Court

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See "Instructions for Service of Process by U.S. Marshal"

*Jus
one
copy*

PLAINTIFF Michael T. Hayes	RECEIVED U.S. MARSHAL'S SERVICE	COURT CASE NUMBER 1:09-cv-122-BLW
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DEFENDANT Brian Doser, et al	2013 MAR -7 AM 11:15	TYPE OF PROCESS Subpoenas & Checks
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SERVE AT NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN

Todd Butters
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)
18160 Calico Dr, Nampa, ID 83687

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW	Number of process to be served with this Form 285	1
Michael T. Hayes, #20633 IMSI, Unit A-15 PO Box 51 Boise, ID 83707	Number of parties to be served in this case	1
	Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold Fold

Signature of Attorney other Originator requesting service on behalf of: <i>Carrie Mermahan</i>	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER 208-334-9397	DATE 3/6/13
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
		No. _____	No. _____		

I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode
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Address (complete only different than shown above) 219 N. 12th Ave Canyon County Jail Caldwell, ID 83605	Date 03/08/2013	Time 13:30	<input type="checkbox"/> am <input checked="" type="checkbox"/> pm
Signature of U.S. Marshal or Deputy <i>Sarah Nebeker, District</i>			

Service Fee \$165.00	Total Mileage Charges including endeavors \$33.90	Forwarding Fee NA	Total Charges 199.50	Advance Deposits (Amount of Refund*) \$28.68	\$0.00 \$170.80
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REMARKS: Copies 3pp x 2 copies = 6 copies x 10¢ ea = 60¢

PRINT 5 COPIES:

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

Charges are due upon Receipt

Form USM-285 Rev. 12/80

AO 88 (Rev. 07/10) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

UNITED STATES DISTRICT COURT

for the District of Idaho

Michael T. Hayes

Plaintiff

v.

Brian Doser, et al

Defendant

Civil Action No. 1:09-cv-00122-BLW

RECEIVED U.S. FEDERAL MARSHALS SERVICE BOISE, IDAHO MAR 12 2013 9:44 AM

SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL IN A CIVIL ACTION

To: Todd Butters 18160 Calico Drive, Nampa, Idaho 83687

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Table with 2 columns: Place (United States Federal Building, 550 West Fort Street, Boise, Idaho 83724) and Courtroom No. (3 (3/12 & 13/2013), Date and Time (03/12/2013 9:30 am))

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):

You have been subpoenaed to testify at a jury trial by the prisoner plaintiff in this case. Any questions may be directed to the prisoner plaintiff via mail, the defendant's attorneys (Naylor & Hales) at 383-9511, and/or the courtroom deputy, Jamie Gearhart, at 334-9027. If you are subpoenaed for more than one day of trial, please come on the first day and time required, and then ask the court after you testify whether you can be released from your subpoena at that time.

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

Date: 03/04/2013

CLERK OF COURT

Signature of Carrie McMahon

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

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

, who issues or requests this subpoena, are:

Michael T. Hayes, 20633 IMSI, Unit A-15 PO Box 51, Boise, Idaho 83707

AO 88 (Rev.07/10) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. 1:09-cv-00122-BLW

PROOF OF SERVICE

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

This subpoena for (name of individual and title, if any) Todd Butters was received by me on (date) 03/08/2013

I served the subpoena by delivering a copy to the named person as follows: Served at Canyon County Jail 219 N. 12th Ave Caldwell, ID 83605 on (date) 03/08/2013; 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 fees for one day's attendance, and the mileage allowed by law, in the amount of \$ 0

My fees are \$ 165.60 for travel and \$ 33.90 for services, for a total of \$ 199.50

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

Date: 03/08/2013 Jared Nebeker Server's signature
Jared Nebeker, DUSR Printed name and title

SSO W. Fort St. #777 Boise, ID 83724 Server's address

Additional information regarding attempted service, etc:



United States District Court-District of Idaho
Non-Appropriated Fund
550 W. Fort Street, Suite #400
Boise, ID 83724
208-334-1333

U.S. BANK NATIONAL ASSOCIATION
U.S. Bank
Boise, ID 83702
92-372/1231

5572

PAY TO THE ORDER OF Todd Butters

Sixty-Eight and 25/100*****

Todd Butters
18160 Calico Dr.
Nampa, ID 83687

3/4/2013

\$ **68.25

DOLLARS

MEMO Witness (\$40) & Mileage (\$28.25) Fee

Received
would not accept check for inmate court's.
Check returned to court's.
[Signature]

2009 INTUIT INC. # 672 1-800-433-8810

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(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 issuing court 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 issuing court 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 issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(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 issuing court may, on motion, quash or modify the subpoena if it requires:

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

(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; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(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.

(d) 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 to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Butlers

**UNITED STATES MARSHALS SERVICE
DISTRICT OF IDAHO
PROCESS SERVICE COST SHEET**

CASE NUMBER: 19-cv-122-BLW NUMBER OF ITEMS: 1
 DEPUTY: Nebeker DATE: 3/8/2013
 ENDEAVOR 1st 2nd 3rd
 (check one) FINAL REPORT
 START TIME: 3/8/2013 1100 HOURS
 END TIME: 3/8/2013 1400 HOURS

PROCESS SERVICE FEES:

3 HOURS @ \$55.00 (or portion thereof*) = \$165.00
 *Any portion of an hour is still charged the full \$55.00 for that hour

ADDITIONAL DEPUTIES:

0 HOURS @ \$55.00 (or portion thereof*) = \$0.00
 *Any portion of an hour is still charged the full \$55.00 for that hour

MISCELLANEOUS EXPENSES:

PHOTO COPIES: 6 @ \$0.10 /COPY = \$0.60
 OUT-OF-POCKET: \$ = \$0.00

DOCUMENT PREPARATION 0 ITEMS @ \$20.00 /ITEM PREPARED = \$0.00

TOTAL PROCESS FEE CHARGES = \$165.60

MILEAGE CHARGE

R/T MILEAGE: 60 @ \$0.565 /MILE TOTAL MILEAGE = \$33.90

FORWARDING FEES

FORWARDING FEES (District to District or Sub-Office) 0 ITEMS @ \$8.00 /ITEM FORWARDED = \$0.00

SERVICE BY MAIL: 0 ITEMS @ \$8.00 /ITEM = \$0.00

TOTAL FORWARDING CHARGES = \$0.00

TOTAL FEES AND EXPENSE = \$199.50