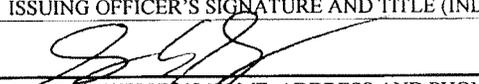


AO88 (Rev. 1/94) Subpoena in a Civil Case		
<b>Issued by the</b>		
<b>UNITED STATES DISTRICT COURT</b>		
SOUTHERN	DISTRICT OF	ILLINOIS
Pat Beesley et al.,		
		<b>SUBPOENA IN A CIVIL CASE</b>
V.		
International Paper Company, et al.,		
	Case Number: <sup>1</sup>	06-703-DRH
<b>TO:</b>	David J. Ross c/o: Richard W. Black, Morgan Lewis & Bockius LLP 1111 Pennsylvania Avenue, N.W., Washington, DC 20004	
<input type="checkbox"/>	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
<input type="checkbox"/>	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 AND TIME
<input checked="" type="checkbox"/>	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 EXHIBIT A.	
PLACE --- Schlichter, Bogard, & Denton, 100 S. 4th St., Ste 900, St. Louis, MO 63102		DATE AND TIME
		September 19, 2008 at 5:00 p.m.
<input type="checkbox"/>	YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.	
PREMISES		DATE AND TIME
<p>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).</p>		
ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)		DATE
 Attorney for Plaintiffs		8/29/08
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER		
Sean E. Soyars, Schlichter, Bogard, Denton, 100 S. 4 <sup>th</sup> Street, Suite 900, St. Louis, MO 63102, 314-621-6115		

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.  
AO88 (Rev. 1/94) Subpoena in a Civil Case

**PROOF OF SERVICE**

	DATE	PLACE
SERVED	8/29/08	Morgan, Lewis & Bockius
SERVED ON (PRINT NAME)		MANNER OF SERVICE
Richard W. Black		Electronic mail (by agreement)
SERVED BY (PRINT NAME)		TITLE
Sean E. Soyars		Attorney

**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	8/29/08				
	DATE				SIGNATURE OF SERVER
					100 S. 4th St., Ste 900, St. Louis, MO 63102
					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 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 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 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 comply 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 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 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 who 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.

## EXHIBIT A

### DEFINITIONS

1. References to “you,” or “your” are intended to refer to David J. Ross, any entity with whom he is employed, associated or affiliated, and any persons working with him or at his direction in connection with his work, or who directed his work, in the matter of *Pat Beesley, et al. v. International Paper Company, et al.*, Case No. 06-703-DRH, filed in the United States District Court for the Southern District of Illinois (hereinafter, this “Case”).

2. References to “experts” are intended to refer to each expert witness who will testify on behalf of Defendants, and any persons working with or at the direction of those testifying expert witnesses, in this Case.

3. The term “document” includes but is not limited to every form of computer or electronically generated material (including but not limited to data compilations, electronic media, disks, CDs, tapes and printouts), output files, handwritten or typewritten notes (including but not limited to notes of meetings/witness interviews and notes of conversations in person, over the telephone, or otherwise), reports, forms, studies, charts, tables, diagrams, plans, manuals, publications, tabulations, calendar or diary entries, pamphlets, proposals, minutes or other records of meetings or conferences, contracts, working papers, graphs, letters, telegrams, emails, instant messages, and memoranda in your possession, custody or control. Unless otherwise indicated by a particular request, the term “document” includes the final version of the document and all drafts, alterations, modifications, changes and amendments of any of the foregoing, including the originals and all copies, whether different from the originals by reason of any notations, highlights, or other markings made on such copies or otherwise.

4. "Communication" means every manner or means of disclosure or exchange of information, whether orally, in writing, and whether face-to-face, in a meeting, by telephone, mail, electronic mail, instant message, personal delivery or otherwise.

5. "Data Set" includes data files, databases, data extracts, data snapshots and data excerpts.

6. "Program" includes computer programs, instructions, formulas, algorithms, and/or codes.

7. "Report" means the expert report that you submitted on August 1, 2008 in connection with this Case.

### **INSTRUCTIONS**

1. Unless specifically indicated otherwise below, you should produce all electronically stored information responsive to these requests in the format in which it is ordinarily maintained and used by you.

2. In producing any form of documents pursuant to these requests, unless specifically indicated otherwise below, you should organize them in the manner and/or method in which they are maintained by you.

3. All electronic or hard copy Programs produced should be organized based on the data tapes/sources to which they correspond and should be labeled accordingly, so that it is clear which Program was used by you with respect to which data tape/source.

4. In responding to the requests below, produce all documents that are available to you, as "you" is defined above, not merely documents in your own personal possession. If you cannot produce a particular document after exercising due diligence to find or obtain the document, so state.

5. If any information or documents requested are withheld pursuant to a claim of privilege or that the information constitutes attorney work product or trial preparation material, expressly state the privilege or protection claimed for each item of information or document, and describe the nature of such information withheld in a manner that, without revealing the privileged or protected information, will enable Plaintiffs to assess the applicability of the privilege or protection.

#### **REQUESTS FOR PRODUCTION**

1. Produce copies of all documents, data and charts that you relied upon, reviewed, or otherwise considered in connection with your work in this Case, including any articles or publications, whether received from Defendants, Defendants' counsel, or *any* other source, including but not limited to those used in:

- (a) preparing the Report;
- (b) reaching the opinions expressed in the Report or other opinions formed by you in connection with this Case, even if not expressed in the Report;
- (c) conducting the analyses or research described in the Report, or conducted in connection with this Case but not described in the Report; and/or
- (d) preparing tables and charts that are contained in or accompanying the Report or not contained in or accompanying the Report.

To the extent that any such materials are unmodified copies of documents that have already been produced in discovery by Plaintiffs or Defendants, you may simply identify those documents by their corresponding Bates numbers.

2. Produce copies of all documents, data, and charts, including any articles or publications, whether received from Defendants, Defendants' counsel, or *any* other source in connection with your work in this Case, that you did not rely upon or otherwise consider in:

- (a) preparing the Report;
- (b) reaching the opinions expressed in the Report or other opinions formed by you in connection with this Case, even if not expressed in the Report;
- (c) conducting analyses or research described in the Report or conducted in connection with this Case but not described in the Report; and/or
- (d) preparing tables and charts that are contained in or accompanying the Report or not contained in or accompanying the Report.

To the extent that any such materials are unmodified copies of documents that have already been produced in discovery by Plaintiffs or Defendants, you may simply identify those documents by their corresponding Bates numbers.

3. Produce copies of all correspondence and other communications, along with any notes or other documents memorializing such communications, whether written, electronic, or otherwise recorded, between you and Defendants, Defendants' witnesses, any fact witnesses or third parties, or the author of any article, publication or report that you relied upon or cited to in connection with your work in this Case. Pursuant to the March 5, 2008 letter agreement of counsel, this request does not seek the production any communications between you and "any party's attorney(s) or consulting experts engaged by the attorney(s)".

4. Produce copies of all correspondence and other communications, along with notes or other documents memorializing such communications, whether written, electronic, or otherwise recorded, between you and any other testifying experts in connection with your work in this Case, including but not limited to any testifying experts retained by Defendants or Defendants' counsel in connection with this Case. Pursuant to the March 5, 2008 letter agreement of counsel, this request does not seek the production any communications between you and "any party's attorney(s) or consulting experts engaged by the attorney(s)".

5. Produce all documents that were created, written, prepared, produced, or generated by you in connection with your work on this Case. Pursuant to the March 5, 2008 letter agreement of counsel, this request does not seek the production any "drafts of any testifying expert(s) report."

6. Produce electronic copies of all Programs used to read the original raw data produced by Defendants or any other data sources reviewed by or relied upon by you in connection with this Case or used to clean, correct or modify the data to produce analytical files.

7. Produce electronic copies of all Programs and/or Data Sets used by you to conduct the analyses and calculations, or to arrive at the results, discussed in the Report and/or to prepare the tables and charts included in and accompanying the Report. Programs and/or Data Sets identified and produced in response to this paragraph should be organized based on analyses, calculations, tables, and/or charts to which they correspond and should be labeled accordingly, so that it is clear which Program and/or Data Set was used by you with respect to a particular analysis.

8. Produce electronic copies of all Programs and/or Data Sets used by you, in connection with your work on this Case, to conduct analyses and calculations, or to arrive at results, that are not discussed in the Report. Programs and/or Data Sets identified and produced in response to this paragraph should be organized based on analyses, calculations, tables, and/or charts to which they correspond and should be labeled accordingly, so that it is clear which Program and/or Data Set was used by you with respect to a particular analysis.

9. Produce an electronic copy of any original raw data reviewed by or relied upon by you in connection with this Case that was not produced by Defendants, and identify the source of the data.

10. Produce all documents reflecting or containing the results or output of the analyses or calculations referred to in any of the paragraphs above.

11. To the extent not covered by the paragraphs above, produce an electronic copy of all Data Sets referenced in the Report and provide all Programs used to create such Data Sets.

12. To the extent you used a methodology, process or labeling system to identify or organize data or documents produced by Plaintiffs or Defendants in this Case, please produce all documents concerning the methodology, process and/or labeling system.

13. Produce copies of all written or otherwise recorded directions given by you to others in connection with your work in this Case.

14. Produce copies of all reports (a) authored by you in other cases, or (b) authored by other experts either in this Case or in other cases, that you reviewed in connection with your work in this Case.

15. All unpublished articles, speeches, presentations, books, and/or other publications authored in whole or in part by you.

16. All transcripts of depositions in which you testified as an expert witness.

17. Produce a copy of your most current curriculum vitae.

18. Produce a copy of any exhibits to be used as a summary of or as support for the opinions expressed in the Report, to the extent it will not be produced with the Report.

19. Documents reflecting whether you are or were engaged in private business, and if so, all marketing literature and documents reflecting your business philosophy, including but not limited to, statements, brochures, leaflets, requests for proposals to clients, reports, etc. This request includes, but is not limited to, documents relating to fees and expenses of investment products of 401(k) plans.

20. Produce all documents relating to the time spent by you and/or the compensation to be paid to you relating to your work in this Case, including but not limited to time sheets, calendars and planners (whether electronic or in paper form), notes, and invoices.

21. Any retainer agreements regarding work you were asked to perform in this Case.