

BARNETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

IN THE COURT OF COMMON PLEAS
SUBPOENA CIVIL RULE 45

2005 MAY 18 A 9 06

CV05561380

THE STATE OF OHIO

ss.

Cuyahoga County

GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY



AUTOMATED SOLUTIONS CORPORATION

Plaintiff

No. CV-05-561880

33881430

vs.

PARAGON DATA SYSTEMS, INC.

Defendant

Judge JOHN D. SUTULA

To PLAIN DEALER PUBLISHING CO.

1801 Superior Avenue

Cleveland, OH 44114-2198

YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the Court without leave. Fall not under penalty of the law. Your appearance is required on the _____ of _____ at _____ o'clock _____ .M. in Courtroom No. _____ of the:

Justice Center-Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

Cuyahoga County Courthouse
One Lakeside Avenue
Cleveland, Ohio 44113

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

PLACE OF DEPOSITION

DATE

TIME

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

See attached Exhibit A

Goodman Weiss Miller LLP, 100 Erieview Plaza, 27th Fl.

June 13, 2005

5:00 P.M.

PLACE Cleveland, OH 44114

DATE

TIME

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

PREMISES

DATE

TIME

To insure taxation of their fees, witnesses must report each attendance to the Clerk of Court of Common Pleas on the first floor of the Justice Center-Courts Tower.

Section 2335.06 of the Ohio Revised Code provides that witnesses are entitled to receive \$12.00 for each full day's attendance and \$6.00 for each half day's attendance, plus ten cents per mile traveled to and from his place of residence outside of the City of Cleveland proper. Such fees are taxed as costs and mailed to the witness upon payment of the costs.

David A. Kinselman (0078980)

Goodman Weiss Miller LLP, 100 Erieview Plaza, 27th Fl.

ATTORNEY NAME

ADDRESS Cleveland, OH 44114 Tele. 216-696-3366

Plaintiff

DATE

David A. Kinselman
SIGNATURE

REPRESENTING

5/17/05

by [Signature] GERALD E. FUERST, Clerk of Courts
Deputy Clerk

Exhibit "B"

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the 17th day of MAY, 2005

I served this Subpoena on the within named: Plain Dealer Publishing Co.

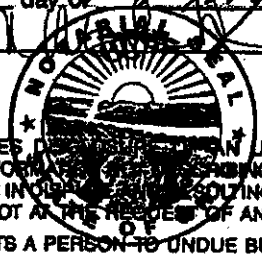
as follows: by serving to Mr. Pen Sketon, security, At 1:15 p.m.

SHERIFF'S FEES

Service on \$
Copy
Miles Travel
Return
\$
Witness entitled to miles

By [Signature]
Notary Public

Subscribed and sworn to before me on
This 17th day of MAY, 2005



MARY M. MOSBACK
NOTARY PUBLIC

RULE 45. 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.

(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 DIVISION (D)(2) OF THIS RULE, A PERSON COMMANDED TO PRODUCE AND PERMIT INSPECTION AND COPYING MAY, WITHIN FOURTEEN DAYS AFTER SERVICE OF THE SUBPOENA OR BEFORE THE TIME SPECIFIED FOR COMPLIANCE IF SUCH TIME IS LESS THAN FOURTEEN DAYS AFTER SERVICE, SERVE UPON THE PARTY OR ATTORNEY DESIGNATED IN THE SUBPOENA WRITTEN OBJECTIONS TO INSPECTION AND 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, UPON NOTICE TO THE PERSON COMMANDED TO PRODUCE, MAY MOVE AT ANY TIME FOR AN ORDER TO COMPEL THE PRODUCTION. 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) ON TIMELY MOTION, THE COURT FROM WHICH THE SUBPOENA WAS ISSUED SHALL QUASH OR MODIFY THE SUBPOENA, OR ORDER APPEARANCE OR PRODUCTION ONLY UNDER SPECIFIED CONDITIONS, IF THE SUBPOENA DOES ANY OF THE FOLLOWING:

- (a) FAILS TO ALLOW REASONABLE TIME TO COMPLY;
(b) REQUIRES DISCLOSURE OF PRIVILEGED OR OTHERWISE PROTECTED MATTER AND NO EXCEPTION OR WAIVER APPLIES;

(c) REQUIRES DISCLOSURE OF AN UNRESTRICTED EXPENSE OPINION OR INFORMATION CONCERNING SPECIFIC EVENTS OR OCCURRENCES IN DISPUTE RESULTING FROM THE EXPENSE OF STUDY MADE NOT AT THE REQUEST OF ANY PARTY;

(d) SUBJECTS A PERSON TO UNDUE BURDEN.

(4) BEFORE FILING A MOTION PURSUANT TO DIVISION (C)(3)(d) OF THIS RULE, A PERSON RESISTING DISCOVERY UNDER THIS RULE SHALL ATTEMPT TO RESOLVE ANY CLAIM OF UNDUE BURDEN THROUGH DISCUSSIONS WITH THE ISSUING ATTORNEY. A MOTION FILED PURSUANT TO DIVISION (C)(3)(d) OF THIS RULE SHALL BE SUPPORTED BY AN AFFIDAVIT OF THE SUBPOENAED PERSON OR A CERTIFICATE OF THAT PERSON'S ATTORNEY OF THE EFFORTS MADE TO RESOLVE ANY CLAIM OF UNDUE BURDEN.

(5) IN CASES UNDER DIVISION (C)(3)(c) OR (C)(3)(d) OF THIS RULE, THE COURT SHALL QUASH OR MODIFY THE SUBPOENA UNLESS 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.

(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. A PERSON PRODUCING DOCUMENTS PURSUANT TO A SUBPOENA FOR THEM SHALL PERMIT THEIR INSPECTION AND COPYING BY ALL PARTIES PRESENT AT THE TIME AND PLACE SET IN THE SUBPOENA FOR INSPECTION AND COPYING.

(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
(Documents Requested)

INSTRUCTIONS

1. This Subpoena *Duces Tecum* calls for production of documents in the possession, custody, or control of the Plain Dealer Publishing Co., The Plain Dealer, the Cleveland Plain Dealer, and/or any of its/their subsidiaries, shareholders, affiliates, representatives, predecessors, attorneys, insurers, agents, officers, directors, employees, and/or divisions thereof (collectively, "the Plain Dealer").

2. The Plain Dealer shall produce a copy of each document requested, as well as any drafts, revisions, or copies of the same which bear any mark or notation not present on the original or which otherwise differ from the original.

3. This Subpoena *Duces Tecum* calls for the production of each requested document in its entirety, including all attachments.

4. As to any documents requested which are withheld on grounds of attorney/client privilege or attorney work product, The Plain Dealer shall identify in writing: the paragraph or subparagraph to which the document is responsive; the specific objection being asserted as a ground for non-production; the author(s); addressee(s), recipient(s), date, and subject matter.

DEFINITIONS

1. "Defendant" means Paragon Data Systems, Inc., and/or any of its subsidiaries, affiliates, representatives, predecessors, attorneys, agents, officers, directors, employees, divisions thereof, and any other person or entity claiming any rights derivative of them.

2. "ASC" means Automated Solutions Corporation and/or any of its subsidiaries, affiliates, representatives, predecessors, attorneys, agents, officers, directors, employees, divisions thereof, and any other person or entity claiming any rights derivative of them.

3. "You" and "The Plain Dealer" mean the Plain Dealer Publishing Co., The Plain Dealer, the Cleveland Plain Dealer, and/or any of its subsidiaries, affiliates, representatives, predecessors, attorneys, agents, officers, directors, employees, divisions thereof, and any other person or entity claiming any rights derivative of them.

4. The term "document" is used herein in its broadest sense, and without limitation, means any original writing or other data compilation, regardless of origin, location or form, including, but not limited to, any agenda, agreement, announcement, book, brochure, bulletin, cable, calendar or calendar entry, chart, check, communication, contract, correspondence, data processing card, floppy or compact disc or printout, diagram, diary or diary entry, facsimile, file or program maintained on a computer hard drive, PDA device, tablet PC, handheld computer, Blackberry, Tréo or other smart phone device, e-mail, instant message, film, governmental or departmental order or regulation, graph, handwritten or stenographic note (including, but not limited to, any marginal notation), index, instruction, invoice, letter, mailgram, manual, map, memorandum, microfiche, microfilm, minutes, notice, order, outline, pamphlet, periodical, photograph or any negative thereof, picture, record, report, schedule, screen-shot, statement, study, summary, table, tape recordings, telegram, telephone log or record, telecopy, teletype, telex, videotape, or working paper, or any draft or revision of any such original writing or data compilation, or any copy or reproduction of any of the foregoing which differs in any respect from the original, draft or revision, and any other document as defined in Rule 34 of the Ohio

Rules of Civil Procedure. In all instances, where an original, draft, revision, or non-identical copy or reproduction is not available, "document" also means any identical copy of the original, draft, revision, or non-identical copy of the original, draft, revision, or non-identical copy or reproduction.

5. The terms "pertain," "refer," and "relate" mean, in addition to the usual or customary meaning, discuss or discussing, refer or referring, reflect or reflecting, assess or assessing.

6. "Documents showing" means, in addition to its usual and customary meaning, documents tending to show, relating to, or evidencing the matter being discussed.

7. The term "Software" means software allegedly developed or owned, in part or whole, by Defendant as a newspaper delivery route management solution and/or data collection software product(s) including, but not limited to, software that Defendant has marketed, advertised, promoted, or licensed to You under any one or more of the following names: "SCDS," "Single Copy Distribution System," "Single Copy Delivery System," "DRACI," and/or "Delivery, Return, and Collection Information."

DOCUMENTS TO BE PRODUCED

1. A hard and electronic copy of the Software source code, object code, and any component(s) thereof.

2. A handheld unit running the Software for inspection.

3. Any and all correspondence, facsimiles, e-mails and other forms of written and electronic communication to and from Defendant, or on which Defendant was copied by You, during the period January 1, 2000 to the present.

4. Any and all users' guides and other technical manuals that pertain, refer, or relate to the Software and any and all component(s) thereof.

5. Any and all agreements, contracts, letters of intent, and proposals entered into, directly or indirectly, by and between Defendant and The Plain Dealer.

6. Any and all documents that pertain, refer, or relate to hardware used in connection with the Software.

7. Any and all statement(s) of work and requirements provided, directly or indirectly, by The Plain Dealer to Defendant that pertain, refer, or relate to the Software and any and all component(s) thereof.

8. Any and all statement(s) of work and requirements provided, directly or indirectly, by The Plain Dealer to Defendant that pertain, refer, or relate to the hardware used in connection with the Software and any and all component(s) thereof.

9. Any and all installation and training guides and manuals that pertain, refer, or relate to the Software and any and all component(s) thereof.

10. Any and all support agreements and contracts that pertain, refer, or relate to the Software and any and all component(s) thereof.

11. Any and all support agreements that pertain, refer, or relate to hardware used in connection with the Software and any and all component(s) thereof.
12. Any and all test scripts for the Software and any and all component(s) thereof.
13. Any and all test documentation for the hardware provided or supplied by Defendant to You, directly or indirectly, that pertains, refers, or relates to the Software and any and all components thereof.
14. Any and all documents that pertain, refer, or relate to environments used in connection with the development, testing, maintenance, and improvement of the Software and any and all component(s) thereof.
15. Any and all user acceptance documents and/or documents approving deliverables provided by Paragon to the Plain Dealer that pertain, refer, or relate to the Software and any and all component(s) thereof.
16. Any and all user acceptance documents and/or documents approving deliverables provided by Paragon to the Plain Dealer that pertain, refer, or relate to the hardware used in connection with the Software and any and all component(s) thereof.
17. Any and all checklists that pertain, refer, or relate to open items with respect to the Software and any and all component(s) thereof.
18. Any and all marketing, advertisement, and promotional material that pertains, refers, or relates to the Software and any and all component(s) thereof.

19. Any and all marketing, advertisement, and promotional material that pertains, refers, or relates to the hardware used in connection with the Software and any and all component(s) thereof.

20. Any and all screen-shots of the Software and any and all component(s) thereof.

21. Any and all documents that show payments, directly or indirectly, from The Plain Dealer to Defendant that pertain, refer, or relate to the Software and any and all component(s) thereof.

22. Any and all documents showing payments made, directly or indirectly, by Defendant to the Plain Dealer that pertain, refer, or relate to the Software or hardware used in connection with the Software and any and all component(s) thereof.

23. Any and all documents showing payments made, directly or indirectly, by the Plain Dealer to Defendant that pertain, refer, or relate to the Software or hardware used in connection with the Software and any and all component(s) thereof.

24. Any and all documents that pertain, refer, or relate to the Plain Dealer's roll-out of Software on or about May 19, 2005.