

Issued by the
UNITED STATES DISTRICT COURT

Northern

DISTRICT OF

Ohio

King Lincoln Bronzeville Neighborhood Assn., et al.

SUBPOENA IN A CIVIL CASE

V.

Ohio Secretary of State Jennifer Brunner, et al.

Case Number:¹ 2:08 cv 7411 (SD of OH)

TO: Michael Connell
GovTech/New Media Communications
3046 Brecksville Rd.
Richfield, OH 44286-9399

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	COURTRCOM
	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	Court Reporters of Akron, Canton & Cleveland (by videographic means) 221 Springside Dr., Akron, OH 44333	DATE AND TIME
		10/15/2008 9:00 am

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):

The architecture maps as designed, for the Ohio Secretary of State's computer system, including but not limited to its connection to the Smartech server, for use in the 2004 and 2006 general elections.

PLACE	Court Reporters of Akron, Canton & Cleveland 221 Springside Dr., Akron, OH 44333	DATE AND TIME
		10/15/2008 9:00 am
<input type="checkbox"/> YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.		DATE AND TIME
PREMISES		

King Lincoln Bronzeville Neighborhood Association et al v. J. Kenneth Blackwell et al

Doc. 72 At 2

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'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Clifford O. Arnebeck Jr.</i> Atty. for Plaintiff	10/8/2008

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Clifford O. Arnebeck, Jr., 1021 E. Broad St., Columbus, OH 43205 Tel: 614-224-8771

(See Rule 45, Federal Rules of Civil Procedure. Subdivisions (u), (v), and (e), on next page.)

¹ If action is pending in district other than district of issuance, state district under case number.

EXHIBIT

B

tabbed

PROOF OF SERVICE

SERVED	DATE Date: October 13, 2008 Time: 2:05 p.m.	PLACE New Media Communications 3046 Brecksville Rd. Richfield, Ohio 44286-9399
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
Michael Connell	Served Michael Connell personally	
SERVED BY (PRINT NAME)	TITLE	
Joe Kuznarsky	PRIVATE PROCESS SERVER STATE OF OHIO, ALL COUNTIES	

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 October 13, 2008
DATE

COURT REQUIRED
WITNESS/MILEAGE FEES
PREVIOUSLY TENDERED WITH PRIOR
SUBPOENA (#SD-2)


SIGNATURE OF SERVER Joe Kuznarsky
ATTORNEY SERVICES OF NORTHEAST OHIO
ADDRESS OF SERVER 221 Springside Drive
Akron Ohio 44333
330-666-9800

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or 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, the striking and a reasonable attorney's fee.

(2) (A) A person summoned to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or specimen 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 (E) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling 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 designee in the subpoena written objection to producing any or all of the designated materials or testifying in the premises, — or to producing electronically stored information in the form or forms requested. If no objection is made, the party serving the subpoena shall not be entitled to compel, interrogate, test, or sample the materials or inspect the premises except pursuant to an order of the court on which the subpoena was issued. If no objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, waive at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect my person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

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

(iii) requires disclosure of a 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 meetings 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 shows that it is persons to whom the subpoena is addressed will be reasonably compensated, the court may, for appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENAS.

(1) (A) 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.

(B) If a subpoena does not specify the form or form for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena 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 to quash, the person from whom discovery is sought must show that the information sought 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) (A) When information subject to a subpoena is relied 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.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation materials, the person making the claim may notify any party that received the information of the claim and its basis for it. After being notified, a party must promptly return, sequester, or destroy the privileged information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party discloses the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(E) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a witness to attend or produce at a place not within the limits provided by clause (iii) of subparagraph (c)(3)(A).