

FILED _____ ENTERED _____
LODGED _____ RECEIVED _____
AUG 22 2006 DJ
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY _____ DEPUTY

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON, AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K., AND T.D.
Plaintiff/Petitioner

Cause #: 04-2338 RSM

vs.
THE CORPORATION OF THE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, ET AL.
Defendant/Respondent

Declaration of Service of:
SUBPOENA IN A CIVIL CASE: WITNESS FEE CHECK; LETTER DATED 08/11/06

Hearing Date: Oct 2 2006

Declaration:

The undersigned hereby declares: That s(he) is now and at all times herein mentioned, a citizen of the United States and a resident of the State of Washington, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the date and time of Aug 11 2006 2:30PM at the address of 3307 3RD AVE W SUITE 113 SEATTLE, within the County of KING, State of WASHINGTON, the declarant duly served the above described documents upon RUTH ADAMS, UNIVERSITY REGISTRAR, SEATTLE PACIFIC UNIVERSITY, STUDENT ACADEMIC SERVICES by then and there personally delivering 1 true and correct copy(ies) thereof, by then presenting to and leaving the same with KENDA GATLIN, ASSOCIATE REGISTRAR. W/P 42 5'4" 125#.

No information was provided that indicates that the subjects served are members of the U.S. military.

I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: August 18, 2006 at Seattle, WA

by 
T. Peterson

Service Fee Total: \$ 54.20



04-CV-02338-DECL

**ORIGINAL
COOF OF SERVICE**

Gordon, Murray & Tilden
1001 4th Ave, #4000
Seattle, WA 98154
206 467-6477

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August 11, 2006

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WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

Ruth L. Adams
University Registrar
Seattle Pacific University
Student Academic Services, Suite 113
3307 Third Avenue West
Seattle, Washington 98119-1940

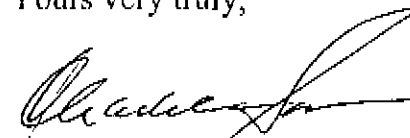
Re: *Robert V. Kelly v. The Corporation of the President of the Church
of Jesus Christ of Latter-Day Saints*
U.S.D.C. No. C04-2338 RSM

Dear Ms. Adams:

You either have been served or soon will be served with a documents subpoena in the above matter. A copy of the subpoena is enclosed with this letter for your ease of reference. At this time, trial in this matter is set to commence on October 2, 2006. It may be that we can waive any attendance of a university representative at this trial. We would appreciate having the records submitted as soon as practical to all counsel of record (the plaintiff's counsel's address is attached to the subpoena) in order that we can potentially negotiate and resolve any need for a representative to be at trial.

Thank you for your cooperation in this matter.

Yours very truly,



Charles C. Gordon

CCG:jki
Enclosure

AO 88 (Rev. 1/04) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
 AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K., and T.D.,
 Plaintiffs,

SUBPOENA IN A CIVIL CASE

v.

THE CORPORATION OF THE PRESIDENT OF THE
 CHURCH OF JESUS CHRIST OF LATTER-DAY
 SAINTS, et al.,
 Defendants.

CASE NUMBER: ¹ 04-2338 RSM

FILED _____ ENTERED _____
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AUG 22 2006 **DJ**

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 BY _____ DEPUTY

TO: Ruth Adams, University Registrar
 Seattle Pacific University
 Student Academic Services, Suite 113
 3307 Third Avenue West
 Seattle, Washington 98119-1940; (206) 281-2548

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 of the Hon. Ricardo S. Martinez United States District Court 700 Stewart Street Seattle, Washington 98101; (206) 370-8880	COURTROOM DATE AND TIME October 2, 2006, 9:00 a.m.
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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
---------------------	---------------


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): All student records relating to Robert Kelly (DOB: 6/26/62), who is believed to have attended the the Graduate School of Education from 2005 to present.

PLACE Courtroom of the Hon. Ricardo S. Martinez United States District Court 700 Stewart Street Seattle, Washington 98101	DATE AND TIME: October 2, 2006, 9:00 a.m.
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YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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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 SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Defendant Corporation of the President of the Church of Jesus Christ of Latter-Day Saints	DATE August 11, 2006
---	-------------------------

ISSUING OFFICER'S NAME ADDRESS AND PHONE NUMBER Charles C. Gordon, Gordon Murray Tilden LLP, 1001 Fourth Avenue Plaza, Suite 4000, Seattle, WA 98154-1007; (206) 467-6477

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

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

AO 88 (Rev. 1/94) subpoena in a Civil Case

PROOF OF SERVICE

SERVED: _____
 DATE PLACE

SERVED ON (PRINT NAME) MANNER OF SERVICE

SERVED BY (PRINT NAME) TITLE

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 _____
 DATE

 SIGNATURE OF SERVER

 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 fees.

(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 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) (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 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.

COUNSEL OF RECORD

DEFENDANTS:

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