

**FILED**

July 20, 2021  
ST-2020-CV-00014

TAMARA CHARLES  
CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

GOVERNMENT OF THE UNITED STATES  
VIRGIN ISLANDS

Plaintiff,

v.

DARREN K. INDYKE, in his capacity as the EXECUTOR  
FOR THE ESTATE OF JEFFREY E. EPSTEIN and  
ADMINISTRATOR OF THE 1953 TRUST; RICHARD D.  
KAHN, in his capacity as THE EXECUTOR FOR THE  
ESTATE OF JEFFREY E. EPSTEIN, and  
ADMINISTRATOR OF THE 1953 TRUST; ESTATE OF  
JEFFREY E. EPSTEIN; THE 1953 TRUST; PLAN D. LLC;  
GREAT ST. JIM, LLC; NAUTILUS, INC.; HYPERION  
AIR, LLC; POPLAR, INC.; SOUTHERN TRUST  
COMPANY, INC.; JOHN AND JANE DOES

Defendants.

**CASE NO. ST-20-CV-014**

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

**TO: DAVID MITCHELL**  
**320 East 82<sup>nd</sup> Street, PH**  
**New York, New York 10028**

[ X ] *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attached

Place: Carol Thomas-Jacobs, Esq. Virgin Islands Department of Justice 3438 Kronprindsens Gade GERS Complex, 2 <sup>nd</sup> floor St. Thomas, VI 00802	DATE AND TIME: Within 30 days of receipt of this Subpoena
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[ ] *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	DATE AND TIME:
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The following provisions of V.I. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: July 20, 2021

TAMARA CHARLES  
CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiff who issues or requests this subpoena, is: Carol Thomas-Jacobs, Esq., Virgin Islands Department of Justice, 3438 Kronprindsens Gade, GERS Complex, 2<sup>nd</sup> floor, St. Thomas, VI 00802

**Notice to Other Parties before Service**

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then at least 5 days before it is served on the person to whom it is directed -- a notice and a copy of the subpoena must be served on each party. V.I. R. Civ. P. 45(a)(4).

[ ] I received this subpoena for (name of individual and title, if any) \_\_\_\_\_  
on (date) \_\_\_\_\_.

[ ] I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
On (date) \_\_\_\_\_; or

[ ] I returned the subpoena executed 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 the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Server's Address

Additional information regarding attempted service, etc.

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**Rule 45 of the Virgin Islands Rules of Civil Procedure affords you the following protections:**

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(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 court for the division where the action is pending 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 court for the division where the action is pending 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 court for the division where the action is pending must quash or modify a subpoena that: (i) fails to allow a reasonable time to comply; (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c); (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 court where the action is pending may, on motion, quash or modify the subpoena if it requires: (i) disclosing a trade secret or other confidential research, development, or commercial information; or (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.
- (C) ***Specifying Conditions as an Alternative.*** In the circumstances described in Rule 45(d)(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.

**(e) 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 under seal to the court for the division where the action is pending for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(f) Contempt.** The court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.