

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al.,)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE
vs.)	
)	NO. 1:17-cv-2989-AT
BRAD RAFFENSPERGER, et al.,)	
)	
Defendant.)	
_____)	

NOTICE OF SUBPOENA FOR COMMON CAUSE, INC.

Please take notice that, pursuant to Federal Rule of Civil Procedure 45(a)(4), State Defendants, by and through undersigned counsel, intend to serve the attached subpoena (Exhibit A) upon Common Cause, Inc. on this day, or as soon thereafter as service may be effected.

This 27th day of June, 2019.

ROBBINS ROSS ALLOY BELINFANTE
LITTLEFIELD LLC

/s/ Brian E. Lake

Vincent R. Russo
GA Bar No. 242628
Josh Belinfante
GA Bar No. 047399
Carey A. Miller
GA Bar No. 976240
Kimberly Anderson
GA Bar No. 602807
Alexander Denton

GA Bar No. 660632
Brian E. Lake
GA Bar No. 575966
500 14th Street NW
Atlanta, GA 30318
Telephone: (678) 701-9381
Facsimile: (404) 856-3250
vrusso@robbinsfirm.com
jbelinfante@robbinsfirm.com
cmiller@robbinsfirm.com
kanderson@robbinsfirm.com
adenton@robbinsfirm.com
blake@robbinsfirm.com

TAYLOR ENGLISH DUMA LLP
Bryan P. Tyson
GA Bar No. 515411
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339
Telephone: (678)336-7249
btyson@taylorenghish.com

Attorneys for State Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al.,)
)
 Plaintiff,)
)
vs.)
)
BRAD RAFFENSPERGER, et al.,)
)
 Defendant.)

)

CIVIL ACTION FILE

NO. 1:17-cv-2989-AT

CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of the **NOTICE OF SUBPOENA ON COMMON CAUSE, INC.** was served upon the following counsel of record via electronic mail:

Cary Ichter
Ichter Davis LLC
Suite 1530
3340 Peachtree Road N.E.
Atlanta, Georgia 30326
cichter@ichterdavis.com

Bruce P. Brown
BRUCE P. BROWN LAW LLC
1123 Zonolite Road, Suite 6
Atlanta, Georgia 30306
bbrown@brucepbrownlaw.com

David D. Cross
John P. Carlin
Jane P. Bentrott
Catherine L. Chapple
Robert W. Manoso
Morrison & Foerster, LLP
2000 Pennsylvania Avenue, NW
Washington, DC 20006
dcross@mofocom
cchapple@mofocom

John Michael Powers
David Brody
Lawyers' Committee for Civil Rights
Under Law
Suite 900
1500 K Street, N.W.
Washington, DC 20005
jpowers@lawyerscommittee.org
jbrody@lawyerscommittee.org

jbentrott@mofocom
rmanoso@mofocom
jconway@mofocom
amiriyala@mofocom

Kaye Burwell
David Lowman
Cheryl Ringer
Office of The Fulton County Attorney
141 Pryor Street, Suite 4038
Atlanta, Georgia 30303
kaye.burwell@fultoncountyga.gov
david.lowman@fultoncountyga.gov
cheryl.ringer@fultoncountyga.gov

Halsey G. Knapp, Jr.
Adam Martin Sparks
Krevolin & Horst, LLC
One Atlantic Center, Suite 3250
1201 West Peachtree Street, NW
Atlanta, GA 30309
hknapp@khlawfirm.com
sparks@khlawfirm.com

Robert Alexander McGuire
Robert McGuire Law Firm
113 Cherry Street #86685
Seattle, WA 98104-2206
ram@lawram.com

This 27th day of June, 2019.

/s/ Brian E. Lake
Brian E. Lake

EXHIBIT A

UNITED STATES DISTRICT COURT
for the
Northern District of Georgia

DONNA CURLING, et al.
Plaintiff
v.
BRAD RAFFENSPERGER, et al.
Defendant
Civil Action No. 1:17-CV-2989-AT

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

To: Common Cause, Inc.
c/o Corporate Creations Network, Inc., 2985 Gordy Parkway, 1st Fl, Marietta, GA 30066
(Name of person to whom this subpoena is directed)

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 EXHIBIT A

Place: Robbins Ross Alloy Belinfante Littlefield LLC
500 14th Street, NW
Atlanta, Georgia 30318
Date and Time: 07/11/2019 5:00 PM

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:

The following provisions of Fed. 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: 6/27/2019

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Defendants, who issues or requests this subpoena, are:
Brian E. Lake, 500 14th Street, NW, Atlanta, Georgia/(678) 701-9381/blake@robbinsfirm.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:17-CV-2989-AT

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

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 unexecuted 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 \$ _____ 0.00 _____ .

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.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(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 district where compliance is required 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 district where compliance is required 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 district where compliance is required 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 for the district where compliance is required 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 district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing 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.

EXHIBIT A

DEFINITIONS

As used herein, the terms listed below are defined as follows:

1. As used herein, the term “**document**” is used in the broadest sense possible under the Federal Rules of Civil Procedure and shall mean, without limitation, anything on which information is stored or from which information can be retrieved including, but not limited to, communications and correspondence, transmission or receipt of information, whether such exchange, transmission or receipt is oral, written, or otherwise; and includes, but is not limited to, letters, facsimiles, electronic mail, text messages, instant messages, and other electronic and data transmissions; any kind of written, typewritten, printed, recorded, computer produced, computer generated, or graphic material, however produced, reproduced, or generated, brochures, drawings, graphs, photographs, notes, memoranda, newspaper advertisements or articles, summaries and/or records of telephone conversations, summaries and/or records of personal conversations, diaries, notebooks, minutes, summaries and/or records of negotiations or investigations, analyses, projects, ledger sheets, accounts, journals, publications, contracts, records, tapes or transcripts of records and recordings, policies, guidelines, and business records relating to the subject matter to which the respective request refers, and

including, without limitation, originals, copies, drafts, and/or any other writings, whether signed or unsigned, regardless of whether approved, sent, received, redrafted, executed, erased or otherwise defaced or mutilated, from wherever obtained, now in your possession, custody, or control, your predecessors or successors, as well as any attorney or other agent acting on your behalf, within the scope of the Federal Rules of Civil Procedure.

2. The term “**communication**” refers to any manner or means of disclosure, statement, utterance, notation, disclaimer, transmittal, transfer, or exchange of information, whether orally or by document, and whether face-to-face, in person, by telephone, fax, delivery service, personal delivery, electronic mail, text messages, or otherwise, and includes documents, letters, resumes, payments, statements, invoices, bills, timesheets, correspondence, memoranda, reports and records of telephone calls, reports of meetings, and all accounts or summaries of oral conversations, messages, facts, figures, sketches, ideas, inquiries, or otherwise.

3. The term “**including**” shall be deemed a word of guidance but not of limitation and is not used to limit the general category which precedes it.

4. The terms “**evidence**,” “**refer**,” “**reflect**” and/or “**relate**” mean the document identified in the Request as well as all other documents and communications that constitute, concern, discuss, mention, evaluate, analyze, or

otherwise have any logical connection with, in whole or in part, directly or indirectly to the requested document.

6. As used herein, the singular shall include the plural, and the plural shall include the singular. The conjunctive “**and**” shall include the disjunctive “**or**”, and the disjunctive “**or**” shall include the conjunctive “**and**.”

7. The term “**Lawsuit**” means that certain case titled *Donna Curling, et al. vs. Brad Raffensperger, et al.*, Civil Action File No. 1:17-cv-2989-AT, which is filed in the Northern District of Georgia.

8. The terms “**Common Cause**” “**You,**” “**you,**” and “**your,**” refer to Common Cause, Inc, as well as any employees, interns, predecessors, successors, or any other agent acting on his behalf.

INSTRUCTIONS

1. In complying with this request for production of documents, you are required to produce the documents requested as they are kept in the usual course of business or to identify them to correspond with the category set forth in this request.

2. With regard to any document withheld because of a claim of privilege or work product, state:

- a. The reason for withholding the document(s);
- b. The name, address and title of the author(s) of the document(s);

- c. The name, address and title of each person;
- d. To whom the document indicates an original or copy was sent;
- e. Who has knowledge of the contents of the document;
- f. The date on the document or, if undated, the date prepared;
- g. The general subject matter and contents of the documents; and
- h. The name, address, location and title of the person or persons having possession, custody or control of the document at the present time.

3. If any information or data requested appears in any document, the entire page containing such information or data, and all of the pages of any multiple-page document, shall be produced including all exhibits, attachments and amendments.

4. If any document or copy of a document in your possession contains notes or notations, you are requested to produce a copy of such document containing the notes or notations.

5. If any document requested was formerly in your possession, custody or control and has been lost or destroyed, you are requested to submit, in lieu of each document, a written statement which:

- a. Describes in detail the nature of the document and its contents;
- b. Identifies the person(s) who prepared or altered the documents and, if applicable, the person to whom the document was sent;

- c. Specifies, if possible, the date the document was lost or destroyed, and the conditions of or reasons for destruction and the person requesting and performing such destruction.
6. This document request is continuing in nature and shall apply to all documents coming into your possession subsequent to the service of this request through and including the final hearing in this matter.

DOCUMENTS REQUESTED

1. All communications between you and any plaintiff in the Lawsuit from January 1, 2017 to present.
2. All contracts, agreements, or understandings, including but not limited to any joint prosecution agreement, potential joint prosecution agreement, or other document evidencing legal collaboration, between You and any plaintiff in the Lawsuit.
3. All communications (a) between you and any counsel for any plaintiff in the Lawsuit that (b) addresses, concerns, relates to, or otherwise discusses the State of Georgia, the 2018 elections in Georgia, then Secretary of State Brian Kemp, Secretary Raffensperger, or any individual associated with the office of Georgia Secretary of State from January 1, 2017 to the present.
4. All communications that evidence, refer, reflect or relate to any contracts, agreements, or understandings, including but not limited to any joint

prosecution agreement, potential joint prosecution agreement or other document evidencing legal collaboration, between You and any plaintiff in the Lawsuit.

5. All communications that evidence, refer, reflect or relate to any defendant in the Lawsuit, or any other individual serving as Georgia Secretary of State since January 1, 2014, between you and any individual or entity for which an agreement of the type identified in Request No. 2 above exists. This Request does not seek production of any privileged documents.

6. All communications that evidence, refer, reflect or relate to any Georgia election from January 1, 2014 to present, between you and any individual or entity for which an agreement of the type identified in Request No. 2 above exists. This Request does not seek production of any privileged documents.

7. All documents that evidence, refer, reflect or relate to any provision or exchange of resources, including but not limited to money, equipment, personnel, donor lists, or any other form of assistance or collaboration between You and any plaintiff in the Lawsuit since January 1, 2017 to present. This Request does not seek production of any privileged documents.