

STATE OF NEW MEXICO
COUNTY OF SANDOVAL
THIRTEENTH JUDICIAL DISTRICT

No. D-1329-CV-2020-01885

For the Issuance of an Arizona
Subpoena under Ariz. R. Civ. P. 45.1

EVERADO GONZALEZ-CHAVEZ

Plaintiff,

vs.

TOMAS ARCHULETA, RECOVERY
MANAGEMENT SOLUTIONS LLC
D/B/A RMS RECOVERY LLC,
RECOVERY MANAGEMENT SOLUTIONS
NEW MEXICO LLC and AMTRUST NORTH
AMERICA, INC.

Defendants.

SUBPOENA FOR PRODUCTION OR INSPECTION

SUBPOENA FOR:

DOCUMENTS OR OBJECTS

INSPECTION OF PREMISES

TO: CLEARPLAN
1620 S. Stapley Dr., Suite 232
Mesa, AZ 85204

YOU ARE HEREBY COMMANDED ON:

DATE: March 6, 2023

TIME: 10:00 a.m. MST

permit inspection or production of the following described books, papers, documents or tangible things: See Exhibit "A" attached hereto. At:

Black Law Group PLLC
2000 West Loop South, Suite 2200
Houston, TX 77027
Telephone: 713-481-1280
iblack@blackfirm.com

ABSENT A COURT ORDER, DO NOT RESPOND TO THIS SUBPOENA UNTIL THE EXPIRATION OF FOURTEEN (14) DAYS AFTER THE DATE OF SERVICE OF THE SUBPOENA. DO NOT RESPOND TO THIS SUBPOENA FOR PRODUCTION OR INSPECTION IF YOU ARE SERVED WITH WRITTEN OBJECTIONS OR A MOTION TO QUASH UNTIL YOU RECEIVE A COURT ORDER REQUIRING A RESPONSE.

You may comply with this subpoena for production or inspection by providing legible copies of the items requested to be produced by mail or delivery to the attorney whose name appears on this subpoena. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of inspection and copying. You have the right to object to the production of documents or objects pursuant to this subpoena as provided by below.

READ THE SECTION “DUTIES IN RESPONDING TO SUBPOENA.”

IF YOU DO NOT COMPLY WITH THIS SUBPOENA, you may be held in contempt of court and punished by fine or imprisonment.

/s/ John M. Black

John M. Black
BLACK LAW GROUP PLLC
2000 West Loop South, Suite 2200
Houston, Texas 77027
(713) 481-1280 (Telephone)
jblack@blackfirm.com

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the ___ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena and a fee of \$ _____ (insert the amount of fee tendered or, if no fee is tendered, "none").

Deputy Sheriff _____

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE

I, being duly sworn, on the oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the ___ day of _____, _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena and a fee of \$ _____ (insert the amount of fee tendered or, if no fee is tendered, "none").

Person making service _____

SUBSCRIBED AND SWORN to before me this ___ day _____, _____ (date).

Judge, notary, or other officer _____
authorized to administer oaths

THIS SUBPOENA issued by or at request of:

John M. Black
Black Law Group PLLC
2000 West Loop South, Suite 2200
Houston, TX 77027
Telephone: 713-481-1280
jblack@blackfirm.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY ATTORNEY

I certify that I caused a copy of this subpoena to be served on all counsel of record in this matter by **ELECTRONIC SERVICE** on this 15th day of February 2023.

/s/ John M. Black

John M. Black

TO BE PRINTED ON EACH SUBPOENA

1. This subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by party, an affidavit of service must be used instead of a certificate of service.
2. 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.
3. If a person's attendance is commanded one full day's per diem must be tendered with the subpoena, unless the subpoena is issued on behalf of the state or an officer or agency thereof. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act. See Section 38-6-4 NMSA 1978 for per diem and mileage for witnesses. See Paragraph A of Section 10-8-4 NMSA 1978 for per diem and mileage rates for non-salaried public officers. Payments of per diem and mileage for subpoena issued by the state is made pursuant to regulations of the Administrative Office of the Courts. See Section 34-9-11 NMSA 1978 for payments from the jury and witness fee fund.

PROTECTION OF PERSONS SUBJECT TO SUBPOENA

A party or attorney responsible for the issuance and services 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 earning and a reasonable attorney's fee.

A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not to appear in person at the place of production or inspection unless commanded to appear for deposition, hearing and trial.

Subject to Subparagraph (2) of Paragraph D below, a person commanded to produce and permit inspections and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, services upon the party or attorney designated in the subpoena written objection to inspect or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may file a motion to quash the subpoena and serve the motion on all parties, 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 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.

Only timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance,
- (2) requires a person who is not a party or an officer of a party to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, 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
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies,
Or
- (4) subjects a person to undue burden.

If a subpoena:

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in despite and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel, 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.

DUTIES IN RESPONDING TO SUBPOENA

- (1) A person responding to a subpoena to produce documents shall produce them as they kept in the usual course of business or shall organize and label them correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that 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.
- (3) A person commanded to produce documents or material or to permit the inspection of premises shall not produce the documents or materials or permit the inspection of the premises if a written

objection is served or a motion to quash has been filled with the court until a court order requires their production or inspection.

[Adopted, effective January 1, 1998; as amended, effective November 1, 2002; January 20, 2005; as amended by Supreme Court Order No. 08-8300-02, effective March 15, 2008; by Supreme Court Order No. 09-8300-030, effective October 12, 2009.

EXHIBIT "A"

INSTRUCTIONS

- A. **Time**: Unless otherwise specified, the time period covered by these requests is from **September 24, 2019 to December 15, 2019**. Should you maintain that any of the discovery requests contained herein are ambiguous regarding the time frame in which you are to respond, you are instructed to provide a response correct as to the date of your compliance with the Plaintiffs' requests for discovery.
- B. **Ambiguities**: If you allege that any request for discovery contained herein is ambiguous in any way, you are instructed to describe in detail the reasons for your allegation that the request is ambiguous, including each interpretation to which you allege the specific request for discovery is subject. Further, you are instructed to respond, to the best of your ability, to the Plaintiffs' discovery request(s) as to each interpretation you allege may be given to the discovery request in question.
- C. **Privilege**: If you allege that any document, statement, or communication is subject to any privilege, pursuant to Local Rule 1-303(D), you are required to make such a claim expressly and describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable Plaintiffs to assess the applicability of the privilege or protection.
- D. **Lost or Destroyed Documents**: If a document was but is no longer in your possession, custody, or control, or in existence, state:
1. How it came to be no longer in your possession, custody, or control, or in existence;
 2. Who, if anyone, currently has possession, custody, or control of the document or a copy of the document; and
 3. Who, if anyone, excepting you, would possibly know the content of the document or its current location or the location of a copy of the document.
- E. **Native format**: All documents should be produced in paper form as well as electronically and in their native format, or in any manner consistent with the format in which they were originally created (i.e., .doc, .pdf, .jpg, .tif, .xls, .mdb, .pst, etc.) and should include all data, including but not limited to, metadata, formulae, links, attachments, etc. If in the event the production of a particular document warrants production in a different format, the document should be produced in such format but you must identify the document and the reason that it is being produced in a different format from the native format.

SUBPOENA REQUESTING PRODUCTION

Please produce originals or true and correct copies of:

REQUEST FOR PRODUCTION NO. 1: All records, reports, documents, materials, or other tangible things relating to CLEARPLAN's scope of services agreement with RECOVERY MANAGEMENT SOLUTIONS LLC D/B/A RMS RECOVERY LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: All records, reports, documents, materials, or other tangible things relating to CLEARPLAN's scope of services agreement with ERIN HOUSEY.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: All records, reports, documents, materials, or other tangible things relating to CLEARPLAN's scope of services agreement with AARON LOOK.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: All records, reports, documents, materials, or other tangible things relating to CLEARPLAN's scope of services agreement with LOOK ENTERPRISES LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform to RECOVERY MANAGEMENT SOLUTIONS LLC D/B/A RMS RECOVERY LLC or its employees.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from RECOVERY MANAGEMENT SOLUTIONS LLC D/B/A RMS RECOVERY LLC or its employees.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: All data, records, reports, documents, materials, or

other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform between any employees of RECOVERY MANAGEMENT SOLUTIONS LLC D/B/A RMS RECOVERY LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from RECOVERY MANAGEMENT SOLUTIONS LLC D/B/A RMS RECOVERY LLC to TOMAS ARCHULETA.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from TOMAS ARCHULETA to RECOVERY MANAGEMENT SOLUTIONS LLC D/B/A RMS RECOVERY LLC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from BRANDIN ANDRUKITIS to TOMAS ARCHULETA.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from TOMAS ARCHULETA to BRANDIN ANDRUKITIS.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from AARON LOOK to TOMAS ARCHULETA.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications

transmitted through CLEARPLAN's electronic repossession logistics platform from TOMAS ARCHULETA to AARON LOOK.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from ERIN HOUSEY to TOMAS ARCHULETA.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: All data, records, reports, documents, materials, or other tangible things in your possession, custody, or control reflecting electronic communications transmitted through CLEARPLAN's electronic repossession logistics platform from TOMAS ARCHULETA to ERIN HOUSEY.

RESPONSE: