IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE

CITY OF LAKEWOOD, et al.,

Plaintiffs,

v.

THE DAVIDSON COUNTY ELECTION COMMISSION, et al.,

Defendants,

٧.

CITIZENS TO REFORM LAKEWOOD

Intervenor.

Case No. 10-1407-I

#### WITNESSES' MOTION FOR PROTECTIVE ORDER

Nonparty witnesses Herman Eugene Brown, Jr., Tyrone B. Graves, John D. Lokey, Jr., Donald L. Mathis, Sandra Ann Mathis, James E. McInturf, Jr., Melissa D. McInturf, Christina Papuchis, Steve A. Papuchis, Karen M. Smiley, and Robert Smiley ("Witnesses") – who have been subpoenaed to give deposition testimony in this case – hereby move for a Protective Order to preclude any inquiry that could foreseeably breach the sanctity of the secret ballot or otherwise lead to disclosure of the substance of Witnesses' votes in the election held in the City of Lakewood, Tennessee on August 5, 2010 (the "Election")

As grounds for this motion, Witnesses invoke the protection of Rules 26.03 and 45.07 of the Tennessee Rules of Civil Procedure, Tennessee Rule of Evidence 501, and their rights and privileges under the United States Constitution, the Tennessee

Constitution, and Tennessee common law, as set forth in their accompanying brief, and rely on the entire record in this case. Witnesses would show, in particular:

- 1. On August 27, 2010, Plaintiffs filed their Complaint contesting the results of the Election.
- 2. In their Complaint, Plaintiffs allege that thirteen people, including these Witnesses, voted improperly in the Election.
- 3. Witnesses are citizens of this State and of the United States and do not wish to disclose the substance of their votes in the Election.
- 4. In a hearing before the Court on September 13, 2010, Plaintiffs made multiple representations in open court that they intended to discover, through deposition testimony and possibly other discovery, and to discover at trial, the substance of Witnesses' votes. Plaintiffs also made representations that they intend to present circumstantial evidence and/or Witnesses' self-admissions in order to prove how each Witness voted on the Lakewood Charter Question in the Election. Witnesses have subsequently been served with subpoenas to give testimony in this case on Friday, September 24, 2010 or Monday, September 27, 2010, true and correct copies of which are attached as Collective Exhibit 1 hereto.
- 5. On September 16, 2010, Plaintiffs' counsel induced Nonparty witness

  David J. Carr to execute an affidavit disclosing the substance of his vote in the Election.

WHEREFORE, Witnesses Herman Eugene Brown, Jr., Tyrone B. Graves, John D. Lokey, Jr., Donald L. Mathis, Sandra Ann Mathis, James E. McInturf, Jr., Melissa D. McInturf, Christina Papuchis, Steve A. Papuchis, Karen M. Smiley, and Robert Smiley respectfully request that the Court issue a Protective Order preventing any party from

making inquiries of Witnesses that could foreseeably breach the sanctity of the secret ballot or otherwise lead to disclosure of the substance of Witnesses' votes in the election held in the City of Lakewood, Tennessee on August 5, 2010.

WITNESSES HEREBY SEEK TO BE HEARD ON THIS MOTION AT A SPECIAL SETTING OF THE COURT PRIOR TO FRIDAY, SEPTEMBER 24, 2010. UPON OBTAINING A DATE AND TIME FROM THE CLERK, WITNESSES WILL PROMPTLY NOTIFY COUNSEL FOR ALL PARTIES.

Respectfully submitted,

Paul W. Ambrosius (BPR #20421) (w/ perm)
Paul W. Ambrosius (BPR #20421)

TRAUGER & TUKE

The Southern Turf Building

222 Fourth Avenue North

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Nashville, TN 37238
Tel. (615) 244-2770
Counsel for Witnesses

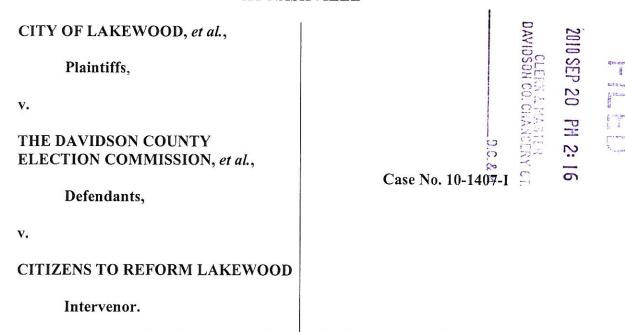
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on the following counsel by the manner indicated below this 20th day of September, 2010:

[ ] [X] [ ] [X]	Hand Delivery Regular Mail Certified Mail Overnight Courier Facsimile	Louis W. Oliver, III, Esq. 105 Hazel Path P.O. Box 1616 Hendersonville, TN 37077 Fax (615) 264-2628
[ ] [X] [ ] [ ] [X]	Hand Delivery Regular Mail Certified Mail Overnight Courier Facsimile	Dan R. Alexander, Esq. 2026 Eighth Avenue South Nashville, TN 37204 Fax (615) 297-9007
[ ] [X] [ ] [X]	Hand Delivery Regular Mail Certified Mail Overnight Courier Facsimile	Lora Barkenbus Fox, Esq. Jeff Campbell, Esq. Assistant Metropolitan Attorneys Metropolitan Courthouse, Suite 108 P.O. Box 196300 Nashville, TN 37219-6300 Fax (615) 862-6352

Paul W. Ambrosius (w/ perm)

# IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE



# WITNESSES' BRIEF SUPPORTING MOTION FOR PROTECTIVE ORDER

Nonparty witnesses Herman Eugene Brown, Jr., Tyrone B. Graves, John D. Lokey, Jr., Donald L. Mathis, Sandra Ann Mathis, James E. McInturf, Jr., Melissa D. McInturf, Christina Papuchis, Steve A. Papuchis, Karen M. Smiley, and Robert Smiley ("Witnesses") – who have been subpoenaed to give deposition testimony in this case – respectfully submit this brief in support of their Motion for a Protective Order.

Witnesses invoke the protection of Rules 26.03 and 45.07 of the Tennessee Rules of Civil Procedure, Tennessee Rule of Evidence 501, and their rights and privileges under the United States Constitution, the Tennessee Constitution, and Tennessee common law. They seek to preclude any inquiry that could foreseeably breach the sanctity of the secret ballot or otherwise lead to disclosure of the substance of Witnesses' votes in the election held in the City of Lakewood, Tennessee on August 5, 2010 (the "Election").

#### I. FACTS

- 1. On August 27, 2010, Plaintiffs filed their Complaint contesting the results of the Election.
- 2. In their Complaint, Plaintiffs allege that thirteen people, including these Witnesses, voted improperly in the Election.
- 3. Witnesses are citizens of this State and of the United States and do not wish to disclose the substance of their votes in the Election.
- 4. In a hearing before the Court on September 13, 2010, Plaintiffs made multiple representations in open court that they intended to discover, through deposition testimony and possibly other discovery, and to discover at trial, the substance of Witnesses' votes. Plaintiffs also made representations that they intend to present circumstantial evidence and/or Witnesses' self-admissions in order to prove how each Witness voted on the Lakewood Charter Question in the Election. Witnesses have subsequently been served with subpoenas to give testimony in this case on Friday, September 24, 2010 or Monday, September 27, 2010, true and correct copies of which are attached as Collective Exhibit 1 to their Motion for a Protective Order.
- 5. On September 16, 2010, Plaintiffs' counsel induced Nonparty witness

  David J. Carr to execute an affidavit disclosing the substance of his vote in the Election.

#### II. ARGUMENT

Secrecy of the ballot is "one of the fundamental civil liberties upon which a democracy must rely most heavily in order for it to survive." *Smith v. Dunn*, 381 F. Supp. 822, 825 (M.D. Tenn. 1974) (citing *United States v. Executive Comm.*, 254 F.

Supp. 543, 546 (N.D. Ala. 1966)). Forcing Witnesses to disclose how they voted, especially when there has been no judicial finding of intentional wrongdoing by any of them in the Election, would violate one of their most fundamental rights as citizens.

## A. The Tennessee Constitution Shields the Secret Ballot from Judicial Scrutiny

# 1. Individual Voters Have a Constitutional Right to Ballot Secrecy

For over 70 years, the Tennessee Supreme Court and other weighty authorities have held that the import of the mandate in Article IV, Section 4 of the Tennessee Constitution, that voting "shall be by ballot," is to insure secrecy to the voter in expressing his choice between candidates. *Mooney v. Phillips*, 118 S.W.2d. 224, 226 (Tenn. 1938). The word "ballot" is not used in a literal sense. Instead, it designates "a method of conducting elections that will guarantee the secrecy and integrity of the ballot." *Id.* While attempts to invade the secrecy of the ballot are thankfully rare, the right to a secret ballot under Tennessee's Constitution has been repeatedly applied. *See Smith*, 381 F.Supp. at 825; Tenn. Op. Atty. Gen. No. 96-027 (Feb. 28, 1996) (also citing *Burson v. Freeman*, 504 U.S. 191, 200-01 (1992) ("the failure of the law to secure secrecy open[s] the door to bribery and intimidation")).

# 2. Lee v. Tuttle Is Not to the Contrary

The parties have previously discussed with the Court *Lee v. Tuttle*, 965 S.W.2d 483 (Tenn. 1998). In *Lee*, the Tennessee Supreme Court held that in lawsuits to be declared the winner of an election, contesting candidates must show: "(1) that the number of illegal votes exceeded the margin of victory; and (2) that to a mathematical certainty they would have been victorious had the illegal votes not been counted." 965 S.W.2d at 484-85. *Lee* then found that contestants seeking to show mathematical

certainty would need to "(1) specifically identify each illegal voter; and (2) show for whom the illegal voters voted." 965 S.W.2d at 485.

Since Mr. Lee's election contest was dismissed, the *Lee* case left a number of questions unanswered, including:

- 1. How to define an "illegal voter" and how should one be identified by the parties and the court in an election contest?
- 2. If a voter asserts his constitutional right to ballot secrecy under *Mooney*, should the court intervene to **compel** disclosure of the substance of his vote, especially before any finding of intentional wrongdoing on the part of the voter has been made?

The answers to these questions in the context of this case and in light of subsequent authority are "narrowly" and "no." Subsequent to *Lee*, Tennessee appellate courts have endorsed a narrow reading of the terms "illegal vote" or "illegal voter." In *Stuart v. Anderson County Election Commission*, the Supreme Court found that voters who exceeded statutory time limits or who did not provide statutorily required identification did not cast "illegal votes" for purposes of an election contest. 300 S.W.3d 683, 689-91 (Tenn. 2009) (noting lack of evidence that voters acted "for an improper purpose"). In *King v. Sevier County Election Commission*, the Court of Appeals found that statutory violations in the use of non-standard voting machines did not convert votes into "illegal votes" absent deliberate or purposeful misconduct. 282 S.W.3d 37, 43-44 (Tenn. App. July 31, 2009), *perm. app. denied* (Feb. 17, 2009). Tennessee courts "appreciate the fact that honest mistakes will be made in the conduct of elections." *Id.* at 43; *see also Mahaffey v. Barnhill*, 855 P.2d 847 (Colo. 1993) (good faith voters may not

thereafter be required to disclose how they voted); *Belcher v. Mayor of the City of Ann Arbor*, 262 N.W.2d 1 (Mich. 1978) (same); *Taylor v. Pile*, 391 P.2d 670 (Colo. 1964) (in election about incorporation of a town, good faith voter who resided outside area to be incorporated was not an "illegal voter" and could not be compelled to disclose how he voted).

Witnesses in this case have not been found guilty of any purposeful misconduct. In any case, *Lee* simply does not authorize what *Mooney* prohibits: use of the subpoena process to compel Witnesses to disclose the substance of their votes in the Election. "Although a voter may be asked, and may voluntarily answer, as to how he or she voted at an election, where the constitution guarantees a secret ballot, the voter may not be compelled, under penalty of ... contempt for his or her refusal, to divulge the nature of his or her vote." 3 McQuillen Mun. Corp. § 12.25 (3d ed. 2010) (emphasis added).

# B. The United States Constitution Also Protects the Secret Ballot

"In this country a person's right to vote secretly is inviolate." *Buckley v. Valeo*, 519 F.2d 821, 867 n.117 (D.C. Cir.), *aff'd in part and rev'd in part on other grounds*, 424 U.S. 1 (1975). While the United States Constitution does not expressly provide for ballot secrecy, the United States Court of Appeals for the Sixth Circuit has recognized the fundamental nature of the right under the First and Fourteenth Amendments:

Although the US Constitution does not specifically guarantee that a person has a right to a secret ballot, such a right has been recognized as one of the fundamental civil liberties of our democracy. This principle takes on such significance because it safeguards the purity of our election process by eliminating the fear of scorn and ridicule, as well as lessening the evils of violence, intimidation, bribery and other corrupt practices which can be incumbent in non-secret elections.

Anderson v. Mills, 664 F.2d 600, 608 (6th Cir. 1981) (internal citations omitted). The

federal constitutional right to a secret ballot is so settled that violating it has been held to be actionable under 42 U.S.C. § 1983. *See Charfauros v. Board of Elections*, 249 F.3d 941 (9th Cir. 2001).

#### III. CONCLUSION

WHEREFORE, Witnesses Herman Eugene Brown, Jr., Tyrone B. Graves, John D. Lokey, Jr., Donald L. Mathis, Sandra Ann Mathis, James E. McInturf, Jr., Melissa D. McInturf, Christina Papuchis, Steve A. Papuchis, Karen M. Smiley, and Robert Smiley respectfully request that the Court issue a Protective Order preventing any party from making inquiries of Witnesses that could foreseeably breach the sanctity of the secret ballot or otherwise lead to disclosure of the substance of Witnesses' votes in the election held in the City of Lakewood, Tennessee on August 5, 2010.

Respectfully submitted,

Paul W. Ambrosius (BPR #20421) by JKH

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Tel. (615) 244-2770 Counsel for Witnesses

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on the following counsel by the manner indicated below this 20th day of September, 2010:

[ ] [X] [ ] [X]	Hand Delivery Regular Mail Certified Mail Overnight Courier Facsimile	Louis W. Oliver, III, Esq. 105 Hazel Path P.O. Box 1616 Hendersonville, TN 37077 Fax (615) 264-2628
[ ] [X] [ ] [ ] [X]	Hand Delivery Regular Mail Certified Mail Overnight Courier Facsimile	Dan R. Alexander, Esq. 2026 Eighth Avenue South Nashville, TN 37204 Fax (615) 297-9007
[ ] [X] [ ] [X]	Hand Delivery Regular Mail Certified Mail Overnight Courier Facsimile	Lora Barkenbus Fox, Esq. Jeff Campbell, Esq. Assistant Metropolitan Attorneys Metropolitan Courthouse, Suite 108 P.O. Box 196300 Nashville, TN 37219-6300 Fax (615) 862-6352

Paul W. Ambrosius (w/ peim. by fkid)

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XPlaintiff _ Defendant		DATE ISSUED	s w
Dan R Alexander 615	5.297.0097	Cristi Scott, Clerk and Master	
Louis Oliver 615	.824.9131 b131	Σ <sub>Bγ</sub>	
SIGNATURE 2016 8th Aver Nashville Tn	ue South 37204		į
Buddy F Mitche	11		
AGENT'S SIGNATURE		Deputy	Clerk and Master
	HIPAA NO	TICE	
A some at all a section and a		5000 <del>- 1-</del> 0	
		the patient of the patient by mail of L	desimile on the day
of Su as to	anow mui net seven (7)	days to	
(A) serve the recipient of the sub- facsimile to the party that served the su-	ooena by facsimile with booena, and	a written objection to the subpoent, w	th a copy of the none oby
(B) simultaneously file and serve and Local Rule 8 22 10 $^{\circ}$	a motion for a protective	e order consistent with the requiremen	us of TRCP 2613 2607
It no objection is made within se by the date and time specified in the sul notice was provided to the patient	ven (7) days of the above opoena. The signature of	e date, you shall process this subpoend (counsel or party on the subpoend is c	a and produce the documents certification that the above
ď	ADA Coordinato	r, Cristi Scott (862-5710)	

STATE OF TENNESSEE		SUBPUENA	CASE FILE NUMBER
DAVIDSON COUNTY CHANCERY COURT	(ORD	DER TO APPEAR)	
PLAINTIFF	Medical Records (Se	e HIPAA Requirement Below)	No. 10-1407-I
· ·	wood, A Tenne	DEFENDANT	
Municipal Corporat TO (Manua Addiess & Telephone Number	ion Comminaia	Metropolitan Nashville an	County Election Government of d Davidson Cty, et
Christin	na R Papuchis	metirou	of Service
209 Roll	ling Mill Roa	David	tson Co. Sheati mat Server
Hermita	ge Tn		d Count, Stoch
You are hereby commanded to appear at are to bring the items listed. Failure to a	the time, date and place ppear may result in punis	specified for the purpose of giving testi shinent by fine and/or imprisonment as p	mony. In addition, it indicated, you provided by law.
	Friday	TEMS TO BRING	
<u> </u>	9/24/2010	List of Property	Attached in
PLACE Chancery Court, Part 1 Public Square		Addendum	
Fourth Floor Nashville, Tennessee 37201 (OR)			
City of Lakewood			
City Hall 3401 Hadley Avenue			
011 77	138	Additional List Attached	
This subpoens is being issued on behalf  XPlaintiff Defendant	_	DATE ISSUED	
Altorney Dung Art trong & Tomorous Ha	34No 7065	Cristi Scott Clock and Master	-
Dan R Alexander 615 Louis Oliver 615	.297.0097 .824.9131*131	_	
ATTORNEY'S SIGNATURE 2016 8th Aven Nashville Tn	ue South		
AGENT Buddy F Mitche	The state of the s		1
	el t.	Deputy	Clerk and Master
*-	÷		, , , , , , , , , , , , , , , , ,
	HIPAANO		
		the panera or the pattern by mail or fa	resimile on the day
(d so as to ;	allow him her seven (*)	dayen	
(A) serve the recipient of the subplicesimile to the party that served the sub-	ooena by facsimile with poena, and	a written objection to the subpoena, w	nh a copy of the notice by
(B) simultaneously file and serve and Local Rule 8/22/10	a motion for a protective	e order consistent with the requiremen	18 OF TREP 2603 2607
If no objection is made within several to the date and time specified in the sub- natice was provided to the patient.	en (7) days of the above poena. The signature of	e date (voreshall process this subpoend ecounsel or party on the subpoend is c	and produce the documents of the above
8	ADA Coordinator	r, Cristi Scott (862-5710)	

STATE OF TENNESSEE		SUBPOENA	CASE FILE NUMBER
DAVIDSON COUNTY CHANCERY COURT	(ORD	ER TO APPEAR)	1000000000
	Medical Records (Se	ee HIPAA Requirement Below)	No. 10-1407-I
PLAINTIFF		DEFENDANT	
Municipal Corporat	wood, A Tenne ion Commissio colwaness)	n Metropolitan Nashville an	County Election Government of Davidson Cty, et a.
Donald L 2301 Cres Hermitage	t Valley Plac	.e ⊬Persi	dson Co. Sherifl onal Secure of County Sherifl
You are hereby commanded to appear a are to bring the items listed. Failure to	t the time, date and place appear may result in punis	specified for the purpose of giving testi thment by fine and/or imprisonment as j	imony. In addition, if indicated, you provided by law.
TIME DATE		ITEMS TO BRING	
	iday		
PLACE Chancery Court, Part  1 Public Square Fourth Floor Nashville, Tennessee 37201 (OR)	24/2010	List of Property Addendum	y Attached in
City of Lakewood City Hall 3401 Hadley Avenu Old Hickory Tn 3	e 7138	Additional List Attached	
This subpoens is being issued on behalf		36 77	
XPlaintiff Defendant	Bal Do	DATE ISSUED	
* TY D D M C M .	5.824.9131 <b>, 13</b> 15	Cristi Scott, Clerk and Master By	
SIGNATURE 2016 8th Aver Nashville Tn	nue South -37204		
AGENT'S Buddy F Mitchel SIGNATURE Buddy & Madd	1 F	Deputy	y Clerk and Master
	HIPAA NO	TICE	
A copy of this subpoena has bee	provided to counsel for	the patient or the patient by mail or f	acsimile on the day
of20 so as to		*	
(A) serve the recipient of the sub- facsimile to the party that served the st	poena by facsimile with bpoena, and	a written objection to the subpoena, w	with a copy of the notice by
(B) simultaneously file and serve and Local Rule 3/22/01	a motion for a protectiv	e order consistent with the requiremen	nts of T.R.C.P. 36-03, 36-07
It no objection is made within so by the date and time specified in the su notice was provided to the patient	even (?) days of the above oppoens. The signature o	e date, you shall process this subpoen I counsel or pairy on the subpoena is a	a and produce the documents certification that the above
5	S ADA Coordinato	r, Cristi Scott (862-5710)	

STATE OF TENNESSEE			
DAVIDSON COUNTY		SUBPOENA	CASE FILE NUMBER
CHANCERY COURT	(ORI	DER TO APPEAR)	DASE FILE NUMBER
	Modical Bassade to		No. 10-1407-I
PLAINTIFF	[ Medical Records (S	ee HIPAA Requirement Below)	1
City of Lake	wood, A Tenne	DEFENDANT	
		ne Davidso	n County Election
TO (Name Address & Telephone Number	e of Witness)	Nashville a	n Government of nd Davidson Cty, et
Sandra Ann M	lathic	Metho	of Service
2301 Crest V			
Hermitage Tr	1170	יותי לייני	idsou Co. Sherin
		* O.#	of County Street
You are hereby commanded to appear	. 11		
You are hereby commanded to appear a are to bring the items listed. Failure to a	t the time, date and place opear may result in punis	specified for the purpose of giving less	timony in addition il indicated you
TIME DATE		TEMS TO BRING	provided by law
/ · 00   P ·	*	TIEMS TO BRING	
0.10	day		
chancery count, Part	4/2010	List of Pro	perty Attached in
1 Public Square Fourth Floor		Addendum	
Nashville, Tennessce 37201			
(OR) City of Lakewood			į
City Hall			1
3401 Hadley Avenue	·		į
	138	Additional List Attached	1
his subpoens is being issued on behalf			i
XPlaintiff Defendant		DATE ISSUED	
storney de des Chelego	Bay No 7065	20 400	1
Dan K Alexander 615	.297.0097	Cristi Scott Clerk and Master	
Louis Oliver 615	.824.91317	Ву	1
TORNEYS 2016 8th Aven Nashville-Tn	ue South		-
GENT Buddy F Mitch			
GENT'S GNATURE: BUSSEL WITH	MI.	Deputy	Clerk and Master
7			
	HIPAA NO		
A copy of this subpoend has been	provided to counsel for	the patient of the patient by mail of f	acsumb on the
			assume on the day
(A) serve the recipient of the sub- estimate to the party that served the sub-	oena by facsimile with a poena, and	i written objection to the subpoena, w	ith a copy of the notice by
(B) simultaneously file and serve a d Local Rule § 22 fit	i motion for a protective	order consistent with the requirement	ts of T R C P 26.03 26.07
It no objection is made within sevilie date and time specified in the subject was provided to the patient	on (7) days of the above normal. The signature of	thate you shall process this subpoend counsel or party on the subpoend is e	and produce the documents ettilication that the above
8	ADA Coordinator	. Cristi Scott (862-5710)	



STATE OF TENNESSEE CASE FILE NUMBER DAVIDSON COUNTY (ORDER TO APPEAR) CHANCERY COURT Medical Records (Ser HIPAA Requirement Below) No 10-1407 -1 PLAINTIFF City of Lakewood, A Tennessee DEFENDANT The Davidson County Election Municipal Corporation, et al Commission Government of Nashville TO (Hame Address & Lelephone Number of Witness) Davidson County, et al-Method of Service Robert Smilev Davidson Co. Sheriff 609 Valley Grove Court Personal Service Out of Crant, Should Hermitage Tn 37076 You are hereby commanded to appear at the time, date and place specified for the purpose of giving testimony. In addition, if indicated, you are to bring the items listed. Failure to appear may result in punishment by line and/or imprisonment as provided by law DATE ITEMS TO BRING 2:00 p.m. Monday, 9/20/2010 Addendum to Subpoena PLACE Chancery Court, Part 1 Public Square Fourth Floor Nashville, Tennessee 37201 (OR) City of Lakewood City Hall 3401 Hadley Avenue \_ Additional List Attached Tins subpoens is being issuel of benal of Tn - 37138 Plaintiff Defendant DATE ISSUED SEP 1 4 2010 Allorne Chilling Strings & July Born Lington Cristi Scott, Clerk and Master Dan R Alexander 615.297.0097 Louis Oliver ATTORNEY 2016 8th Avenue South Nashville Tn- 37204 13 renda Fra SIGNATURE AGENT AGENT'S Deputy Clerk and Master SIGNATURE. HIPAA NOTICE A copy of this subpoena has been provided to counsel for the patient or the patient by mail or facsimile on the \_\_\_\_\_\_ day 20 so as to allow him her seven (7) days to (A) serve the recipient of the subpoena by facsimile with a written objection to the subpoena, with a copy of the notice by facsimile to the party that served the subpoena, and (B) simultaneously file and serve a motion for a protective order consistent with the requirements of TRCP. 26.03, 26.07 and Local Rule § 22.10. If no objection is made within seven (7) days of the above date, you shall process this subpoena and produce the documents by the date and time specified in the subpoena. The signature of counsel or party on the subpoena is certification that the above notice was provided to the patient.

6 ADA Coordinator, Cristi Scott (862-5710)