

9.25

C20181223

STATE OF NORTH CAROLINA File No. 18 CVD 345

HAYWOOD County In The General Court Of Justice

District Superior Court Division

MCLEAN LAW FIRM, P.A. Additional File Numbers

VERSUS

LISA A. KOSIR **SUBPOENA**

G.S. 1A-1, Rule 45

Party Requesting Subpoena
 State/Plaintiff Defendant **NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.**

TO Name And Address Of Person Subpoenaed: **JOEL MASHBURN, INTERIM COUNTY MANAGER**
 215 N. MAIN STREET
 WAYNESVILLE, NC 27675 Alternate Address

Telephone No. (828) 452-6625 Telephone No.

YOU ARE COMMANDED TO: (check all that apply):

appear and testify, in the above entitled action, before the court at the place, date and time indicated below.

appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.

produce and permit inspection and copying of the following items, at the place, date and time indicated below.

See attached list. (List here if space sufficient)

Any and all video recordings from the county maintenance building adjacent to the Haywood County Animal Shelter, located near the intersections of Hemlock and Virgoro Streets from March 19, 2018 to March 26, 2018.

RECEIVED
 APR 24 2018

BY: _____

Name And Location Of Court/Place Of Deposition/Place To Produce: **MCLEAN LAW FIRM, P.A.**
 1878 CAMP BRANCH ROAD
 WAYNESVILLE, NC 28786 Date To Appear/Produce: 04/30/18

Time To Appear/Produce: 9:00 AM PM

Name And Address Of Applicant Or Applicant's Attorney: **Russell L. McLean, III**
 P. O. Box 4
 Waynesville, NC 28786 Date: 4/23/18

Telephone No. 828-452-2896 Signature: [Signature]

Deputy CSC Assistant CSC Clerk Of Superior Court Superior Court Judge
 Magistrate Attorney/DA District Court Judge

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

By personal delivery.

registered or certified mail, receipt requested and attached.

telephone communication (For use only by the sheriff's office for witness subpoenaed to appear and testify.)

I was unable to serve this subpoena. Reason unable to serve: _____

Service Fee \$ Paid Due Date Served: 4/24/18

Signature Of Authorized Server: **[Signature]** Title: Deputy Sheriff

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD

FILED

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

2018 APR 17 PM 1:25

FILE NO: 18 CVD 345

MCLEAN LAW FIRM, P.A.

HAYWOOD COUNTY, C.S.C.

Plaintiff,

BY _____)

) KC

v.

ANSWER TO COUNTERCLAIM

LISA A. KOSIR

Defendant

NOW COMES the Plaintiff answering the Defendant's counterclaim as follows:

1. Admitted.
2. Admitted.
3. Admitted in part and denied in part. Admitted that the Defendant and the PLLC operated out of the Plaintiff's lawfirm until March 16, 2016; thereafter, the same is denied.
4. Admitted.
5. Admitted.
6. Admitted.

WHEREFORE, the Plaintiff prays judgment as follows:

1. That Defendant have and receive only her related files.
2. That Plaintiff's action not be dismissed.
3. That the property belonging to the Defendant, after inspection, be turned over to Defendant.
4. That the costs of this action should be taxed to Plaintiff.
5. For such other and further relief as the Court may deem just and proper.

This the 17th day of April, 2018.

MCLEAN LAW FIRM



Russell L. McLean, III
McLean Law Firm, P.A.
P. O. Box 4
Waynesville, NC 28786
Tel: (828) 452-2896
Fax: (828) 356-6517

FILED

CERTIFICATE OF SERVICE

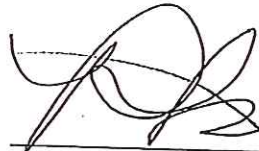
2018 APR 17 PM 4:25

I hereby certify that I have this day served a copy of the foregoing Answer to Counterclaim by placing a copy of same in the U.S. mail, properly addressed and postage prepaid upon the following:

BY _____

Bill J. Jones, Attorney at Law, P.A.
89 Walnut Street
Waynesville, NC 28786

This the 17 day of April, 2018.



Russell L. McLean, III
P.O. Box 4
Waynesville, NC 28786
Phone: (828) 452-2896
Fax: (828) 356-6517

20181088

STATE OF NORTH CAROLINA

File No.

18 CVD 345

HAYWOOD County

In The General Court Of Justice
[X] District [] Superior Court Division

MCLEAN LAW FIRM, P.A.

Additional File Numbers

VERSUS

LISA A. KOSIR

SUBPOENA

G.S. 1A-1, Rule 45

Party Requesting Subpoena

[X] State/Plaintiff [] Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

Name And Address Of Person Subpoenaed
TO BETH REECE, OWNER MAGGIE VALLEY INN
70 SOCO ROAD
MAGGIE VALLEY, NC 28751

Alternate Address

Telephone No. (828) 926-0201

Telephone No.

YOU ARE COMMANDED TO: (check all that apply):

- [] appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
[] appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
[X] produce and permit inspection and copying of the following items, at the place, date and time indicated below.
[] See attached list. (List here if space sufficient)

Any and all video recordings from security cameras of your parking lot and those cameras in the hallways on the first, second and third floors from the following dates and times:

- 4:30 pm on March 16, 2018 to 9:30 pm on March 26, 2018;
4:30 am to 12:01 pm on April 4, 2018;
9:30 am to 2:30 pm on April 9, 2018

RECEIVED
APR 10 2018

BY: _____

Name And Location Of Court/Place Of Deposition/Place To Produce
MCLEAN LAW FIRM, P.A.
1878 CAMP BRANCH ROAD
WAYNESVILLE, NC 28786

Date To Appear/Produce 04/13/18
Time To Appear/Produce 9:00 [X] AM [] PM

Name And Address Of Applicant Or Applicant's Attorney
Russell L. McLean, III
P. O. Box 4
Waynesville, NC 28786

Date 4/10/18
Signature [Signature]

Telephone No. 828-452-2896
[] Deputy CSC [] Assistant CSC [] Clerk Of Superior Court [] Superior Court Judge
[] Magistrate [X] Attorney/DA [] District Court Judge

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- By [X] personal delivery.
[] registered or certified mail, receipt requested and attached.
[] telephone communication (For use only by the sheriff's office for witness subpoenaed to appear and testify.)
[] I was unable to serve this subpoena. Reason unable to serve:

Service Fee \$ [] Paid [] Due Date Served 4/10/18 Signature Of Authorized Server [Signature] Title Deputy Sheriff

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

(Please See Reverse Side)

File No.

18 CW0345

LEAD DOCUMENT FOR
SCANNING

AUDIT TRAIL

Date Filmed

Description

Film No.

4/30/18

Consent Order

18-11

STATE OF NORTH CAROLINA
HAYWOOD COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO: 18CVD 345

MCLEAN LAW FIRM, P.A.

Plaintiff

Vs.

CONSENT ORDER

LISA A. KOSIR,

Defendant


FILED
2018 APR 17 AM 10:19
HAYWOOD COUNTY, C.S.C.
BY _____

THIS MATTER coming on to be heard before the undersigned District Court Judge before the temporary hearing in this matter scheduled for April 17, 2018 at 9:00 a.m., and after consultation with the parties and their attorneys, the parties have agreed to the following ORDER be entered:

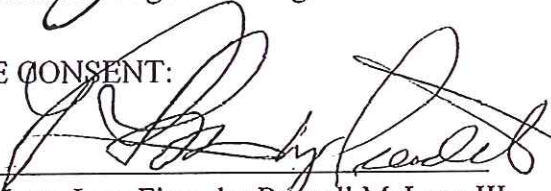
1. That the Sheriff of Haywood County has in his possession under Ex Parte order of seizure issued by the Honorable Judge Donna Forga, one Samsung Model 700a computer.
2. That the parties have agreed to have the Sheriff of Haywood County take the Samsung Model 700A computer from their evidence room and deliver the same to New Meridian Technologies in the most direct route and shall place it in New Meridian Technologies possession.
3. That New Meridian Technologies shall mirror image the hard drive of that computer into a separate hard drive to include all contents thereof.
4. That the Plaintiff or it's representative and the Defendant and/or her representative, after the download of the mirror image is placed in the separate hard drive, shall open and review each and all of the contents contained therein and a determination made by the parties as to whether the contents contained in each of these files is either proprietary information belonging to the Plaintiff, or are files belonging to the Defendant, or her former firm Lisa A. Kosir, PLLC, or are personal files separate and apart from firm activities.
5. If a dispute arises between the parties this Court shall resolve the dispute and make a determination as to what information is the Plaintiff's and to what belongs to the Defendant, or her former firm, Lisa A. Kosir, PLLC.

6. The parties shall, upon the download completion by New Meridian Technologies, set a time when both parties or their representatives may attend and review the files and content of the computer. The must be done in an expeditious manner. If the parties cannot agree, the Court will set a time certain when the parties shall meet and review the contents of the computer.
7. All programming of trust account ledgers and any other programs owned by the Plaintiff or the Defendant or Lisa A. Kosir, PLLC, shall be delivered to the respective party/person and the compute purged of proprietary information of the Plaintiff or the Defendant/Lisa A. Kosir, PLLC.
8. That at the conclusion of this process the information contained on the Samsung computer shall be purged.


This is the 15th day of April, 2018.



Honorable Judge Presiding

WE CONSENT:


McLean Law Firm, by Russell McLean III



Lisa A. Kosir, Defendant



Bill Jones, Attorney for Defendant

STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO: 18 CVD 345

MCLEAN LAW FIRM, P.A.)
Plaintiff)
)
Vs.)
)
LISA A. KOSIR)
Defendant)
_____)

**MOTION TO DISMISS/
ANSWER AND
COUNTERCLAIM**

Haywood Co. Court
MAR 17 10 19
2019

MOTION TO DISMISS:

NOW COMES the Defendant moving to dismiss the allegations of the Plaintiff's complaint pursuant to N.C.G.S. 1A-1, Rule 12, and in support of this motion the Defendant alleges and says that the Plaintiff has failed to state a claim under which relief may be granted.

ANSWER:

NOW COMES the Defendant answering the allegations of the Plaintiff's Complaint as follows:

1. That the allegations contained in paragraph 1 of the Plaintiff's complaint are hereby admitted in part and denied in part. It is admitted that McLean Law Firm, P.A. is a professional association formed under the law of the State of North Carolina, and was authorized to do business in North Carolina, and has utilized 1878 Camp Branch Rd., Waynesville, NC as an office.
2. That the allegations contained in paragraph 2 of the Plaintiff's complaint are hereby admitted.
3. That the allegations contained in paragraph 3 of the Plaintiff's complaint are hereby admitted in part and denied in part. It is admitted that Plaintiff has used and occupied the building located at 1878 Camp Branch Rd., Waynesville, NC; however, it the building is owned by Russell McLean III and the Defendant, in their individual capacities as evidenced by a deed located at Book 806, Page 1541 of the Haywood County Registry, and has been used by the Defendant, her law firm, Lisa A. Kosir, PLLC, as well as attorney Brad Ferguson.

4. That the allegations contained in paragraph 4 of the Plaintiff's complaint are hereby admitted, to the extent that Brad Ferguson operates a business of the building.
5. That the allegations contained in paragraph 5 of the Plaintiff's complaint are hereby admitted
6. That the allegations contained in paragraph 6 of the Plaintiff's complaint are hereby admitted to the extent that at some time around March 30, 2018, that after the parties argued the Defendant did personally leave building.
7. That the allegations contained in paragraph 7 of the Plaintiff's complaint are admitted to the extent that locks on the building were changed; however, the Defendant is without sufficient information to admit or deny the remaining allegations.
8. That the Defendant is without sufficient information to admit or deny the allegations contained in the complaint.
9. That the Defendant is without sufficient information to admit or deny the allegations contained in paragraph 9.
10. That the allegations contained in paragraph 10 of the plaintiff's complaint are hereby admitted.
11. That the allegations contained in paragraph 11 of the plaintiff's complaint are hereby denied.
12. That the allegations contained in paragraph 12 of the plaintiff's complaint are hereby denied in part and admitted in part. It is admitted that a Samsung computer was located on the premises of 1878 Camp Branch Rd., Waynesville, NC and that that computer contained files of McLean Law Firm, and that the QuickBooks software was purchased by Plaintiff or Russell McLean III; however, the remaining allegations are denied in that the computer was in the office of the Defendant/Lisa A. Kosir, PLLC., and contained files of the Defendant and Lisa A.. Kosir, PLLC, and the machine was password protected with a password known only to the Defendant.
13. That the allegations contained in paragraph 13 of the plaintiff's complaint are hereby denied.
14. That the Defendant is without sufficient information to admit or deny the allegations contained in paragraph 14 of the Plaintiff's complaint.
15. That the allegations contained in paragraph 15 of the plaintiff's complaint are hereby denied.

16. That the allegations contained in paragraph 8 of the plaintiff's complaint are hereby denied.
17. That the allegations contained in paragraph 8 of the plaintiff's complaint are hereby admitted in part and denied in part. It is admitted that the Defendant is staying at a hotel in Maggie Valley NC owned by Beth Reece, and does lease a storage unit located at 1106 Soco Rd.; however, the remaining allegations are denied.
18. That the allegations contained in paragraph 8 of the plaintiff's complaint do not require a responsive pleading.

COUNTERCLAIM


In the alternative, and should the Court grant the Plaintiff any relief requested under his complaint, the Defendant Lisa A. Kosir, would request the following relief, and in support of these Counterclaims does hereby allege and say as follows:

1. That the Defendant is a citizen and resident of Haywood County, North Carolina.
2. That the Plaintiff is a professional association legally authorized to conduct business in the State of North Carolina.
3. That the Plaintiff and Defendant Lisa A. Kosir, (Lisa A. Kosir, PLLC) operated out of 1878 Camp Branch Rd., Waynesville, NC, as did attorney Brad Ferguson.
4. That a Samsung computer, which was utilized by the Defendant, and kept in her office at 1878 Camp Branch Rd., does contain files of McLean Law Firm, P.A., the Defendant, and files from Defendant's operation of Lisa A. Kosir, PLLC.
5. That the Samsung computer in question has been placed, pursuant to an ex parte order in this matter, in the custody of the Haywood County Sheriff's Department.
6. That the Defendant is in need of the files on the computer belonging to her personally, and Lisa A. Kosir, PLLC.

WHEREFORE, the Defendant prays judgment as follows:

1. That the foregoing verified answer be allowed and taken as an affidavit upon which to base all orders of this Court
2. That the Plaintiff have and take nothing from his complaint.
3. That all other claims and actions by the Plaintiff be dismissed.
4. That, in the alternative, if the Plaintiff is granted any relief the Court order the property of the Defendant, Lisa A. Kosir, and or used pursuant to operation of Lisa A. Kosir, PLLC, be turned over to the Defendant.
5. For such other and further relief as the Court may deem just and proper.

This the 17th day of April, 2018.



Bill J. Jones, Attorney for the Defendant
89 Walnut Street
Waynesville, North Carolina 28786
(828) 456-2886
Bar No. 25594

VERIFICATION

Lisa A. Kosir, being first duly sworn, deposes and says that she is the Defendant in the foregoing action and that the allegations set forth in the Pleadings are true to the best of her knowledge and belief, except for those allegations set forth upon information and belief, and as to those allegations, she believes them to be true.

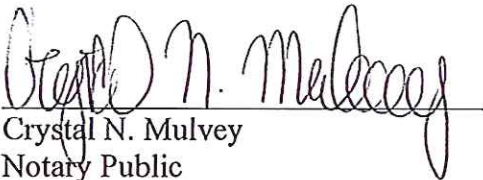
This the 17th day of April, 2018.



Lisa A. Kosir, Defendant

State of North Carolina
County of Haywood

Sworn and subscribed before me this the 17th day of April, 2018:



Crystal N. Mulvey
Notary Public

April 18, 2021

My Commission Expires:

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing document, upon each party to this cause, or the attorney(s) of record for said party, in accordance with Rule 5 of the NC Rules of Civil Procedure by:

Personal delivery by myself or an employee or agent of my office

Depositing a copy of the same in a receptacle of the United States Postal Service, with adequate postage affixed thereon

Facsimile

Email

Russell L. McLean, III, Attorney at Law
1878 Camp Branch Road
Waynesville, NC 28786

This the 17th day of April, 2018.



Bill J. Jones, Attorney at Law, P.A.
89 Walnut Street
Waynesville, NC 28786
Phone: (828) 456-2886
Fax: (828) 456-2887
Bar No: 25594

STATE OF NORTH CAROLINA

File No.

18CVD345

HAYWOOD County

FILED

In The General Court Of Justice
[X] District [] Superior Court Division

McLEAN LAW FIRM, P.A.

2018 APR 16 P 4: 53

Additional File Numbers

VERSUS

HAYWOOD COUNTY, C.S.C.

SUBPOENA

LISA A. KOSIR

BY

G.S. 1A-1, Rule 45

Party Requesting Subpoena

[X] State/Plaintiff [] Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

Name And Address Of Person Subpoenaed

TO John Feichter c/o NEW MERIDIAN TECH
34 MAIN STREET
WAYNESVILLE, NC 28786

Alternate Address

FAX: 8287-452-9737

Telephone No.

Telephone No.

YOU ARE COMMANDED TO: (check all that apply):

- [X] appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
[] appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
[] produce and permit inspection and copying of the following items, at the place, date and time indicated below.
[] See attached list. (List here if space sufficient)

Name And Location Of Court/Place Of Deposition/Place To Produce

HAYWOOD COUNTY COURTHOUSE
285 N. MAIN STREET
WAYNESVILLE, NC

Date To Appear/Produce

04/17/18

Time To Appear/Produce

9:00

[X] AM [] PM

Name And Address Of Applicant Or Applicant's Attorney

Russell L. McLean, III
P. O. Box 4
Waynesville, NC 28786

Date

Signature

Telephone No.

828-452-2896

[] Deputy CSC
[] Magistrate

[] Assistant CSC
[X] Attorney/DA

[] Clerk Of Superior Court
[] District Court Judge

[] Superior Court Judge

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

- By [] personal delivery.
[] registered or certified mail, receipt requested and attached.
[] telephone communication (For use only by the sheriff's office for witness subpoenaed to appear and testify.)
[] I was unable to serve this subpoena. Reason unable to serve:

Service Fee

[] Paid
[] Due

Date Served

Signature Of Authorized Server

Title

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

(Please See Reverse Side)

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Parts (c) and (d).

(c) Protection Of Persons Subject To Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which

an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

(6) Order to compel; expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, or tangible things specified in the subpoena.

(7) Trade secrets, confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash; expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties In Responding To Subpoena

(1) Form of response. - 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 the documents to correspond with the categories in the request.

(2) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on the other side of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

WITNESS FEE

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify to your attendance as a witness so that you will be paid any amount due you.

C20181071

STATE OF NORTH CAROLINA

File No.

18 CVD 345

HAYWOOD

County

FILED

In The General Court Of Justice

District Superior Court Division

Name And Address Of Plaintiff 1
McLEAN LAW FIRM, P.A.
1878 CAMP BRANCH ROAD
WAYNESVILLE, NC 28786

2018 APR -9 AM 10:48

GENERAL

HAYWOOD COUNTY, C.S.C.

CIVIL ACTION COVER SHEET

INITIAL FILING SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Plaintiff 2

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

RUSSELL L. McLEAN III
1878 CAMP BRANCH ROAD
WAYNESVILLE, NC 28786

VERSUS

Name Of Defendant 1
LISA ANN KOSIR
C/O MAGGIE VALLEY INN
70 SOCO ROAD
MAGGIE VALLEY, NC 28751

Telephone No. (828) 452-2896 Cellular Telephone No. (828) 734-8652

NC Attorney Bar No. 7220 Attorney E-Mail Address rlmclean3@aol.com

Summons Submitted Yes No

Initial Appearance in Case Change of Address

Name Of Defendant 2

Name Of Firm
McLEAN LAW FIRM, P.A.
FAX No. (828) 356-6512

Summons Submitted Yes No

Counsel for All Plaintiffs All Defendants Only (first party (ies) represented)

Jury Demanded In Pleading
 Complex Litigation

Amount in controversy does not exceed \$15,000
 Stipulate to arbitration

RECEIVED
APR 9 2018
BY: _____

TYPE OF PLEADING

- (check all that apply)
- Amend (AMND)
 - Amended Answer/Reply (AMND-Response)
 - Amended Complaint (AMND)
 - Assess Costs (COST)
 - Answer/Reply (ANSW-Response) (see Note)
 - Change Venue (CHVN)
 - Complaint (COMP)
 - Confession Of Judgment (CNJF)
 - Consent Order (CONS)
 - Consolidate (CNSL)
 - Contempt (CNTP)
 - Continue (CNTN)
 - Compel (CMPL)
 - Counterclaim (CTGL) Assess Court Costs
 - Crossclaim (list on back) (CRSS) Assess Court Costs
 - Dismiss (DISM) Assess Court Costs
 - Exempt/Waive Mediation (EXMD)
 - Extend Statute Of Limitations, Rule 9 (ESOL)
 - Extend Time For Complaint (EXCO)
 - Failure To Join Necessary Party (FJNP)

- (check all that apply)
- Failure To State A Claim (FASC)
 - Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
 - Improper Venue/Division (IMVN)
 - Including Attorney's Fees (ATTY)
 - Intervene (INTR)
 - Interplead (OTHR)
 - Lack Of Jurisdiction (Person) (LJPN)
 - Lack Of Jurisdiction (Subject Matter) (LJSM)
 - Modification Of Child Support In IV-D Actions (MSUP)
 - Notice Of Dismissal With Or Without Prejudice (VOID)
 - Petition To Sue As Indigent (OTHR)
 - Rule 12 Motion In Lieu Of Answer (MDLA)
 - Sanctions (SANC)
 - Set Aside (OTHR)
 - Show Cause (SHOW)
 - Transfer (TRFR)
 - Third Party Complaint (list Third Party Defendants on back) (IPLC)
 - Vacate/Modify Judgment (VCMD)
 - Withdraw As Counsel (WDCN)
 - Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

STATE OF NORTH CAROLINA

File No.

18 CWD 345

HAYWOOD

County

FILED

2018 APR -9 AM 10:48

In The General Court Of Justice

District Superior Court Division

Name Of Plaintiff

MCLEAN LAW FIRM P.A.

HAYWOOD COUNTY, C.S.C.

Address

1878 CAMP BRANCH ROAD

City, State, Zip

WAYNESVILLE,

BY

NC

28786

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

VERSUS

Name Of Defendant(s)

LISA A KOSIR
C/O MAGGIE VALLEY INN
70 SOCO ROAD
MAGGIE VALLEY, NC 28751

Date Original Summons Issued

04-09-2018

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

RUSSELL L. McLEAN III

1878 CAMP BRANCH ROAD

WAYNESVILLE, NC 28786

(828) 452-2896

Date Issued

4/9/18

Time

10:48

Signature

[Handwritten Signature]

Deputy CSC

Assistant CSC

Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

"This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

Signature

Deputy CSC

Assistant CSC

Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served <i>4/09/18</i>	Time Served <i>2:50</i>	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Name Of Defendant <i>Lise Rosen</i>
-------------------------------	----------------------------	--	--

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served	<input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	-------------	---	-------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

Defendant WAS NOT served for the following reason.

FILED
 APR 11 2018
 AM 4:49
 CLERK OF COURT
 COUNTY OF LOS ANGELES

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return <i>[Signature]</i>
Date Received <i>04/09/18</i>	Name Of Sheriff (Type Or Print) <i>6 D Christley</i>
Date Of Return <i>04/09/18</i>	County Of Sheriff <i>Haywood</i>

STATE OF NORTH CAROLINA
HAYWOOD COUNTY

~~FILED~~

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

2018 APR -9

FILE NO: 18 CVD 345

McLEAN LAW FIRM, P.A.

JACKSON CO., C.S.C.

Plaintiff,

BY _____

v.

LISA A. KOSIR,

Defendant,

)
)
)
)
)
)
)

EX PARTE ORDER

BY _____

2018 APR -9 PM 12:26
HAYWOOD COUNTY, C.S.C.

FILED

THIS MATTER, coming on before the undersigned Judge upon the review of a Complaint filed in this matter and after conference with the moving party and review of the contents of the Complaint this Court enters the following Ex-Parte Order:

1. That Plaintiff is seeking to recover proprietary data including trust account spread sheets and client information.
2. That such data containing the Plaintiff's trust ledger and other client information appears to be on the software program of the Samsung Model 700A computer (hereinafter "the Computer").
3. That the Computer was removed from the Plaintiff's law practice without its knowledge or consent.
4. The Defendant appears to have removed the Computer.
5. That the Plaintiff has no adequate remedy to safeguard said software and proprietary information.
6. That the need to protect the material is great and could be erased or deleted before a temporary hearing could be set.
7. This Court is aware of the importance of client confidential information.

BASED UPON THE FOREGOING, the Court enters an Ex-Parte Order:

1. Directing the Sheriff of Haywood County to appear at the Smoky Mountain Inn in Maggie Valley and to locate the Defendant's room and search and seize a Model 700 A Samsung Computer and to take control and possession of the computer until it shall be delivered to a third-party computer expert to review and download and thereafter erase

the contents so as to preserve the proprietary material and information including software which belongs to the Plaintiff's clients.

2. If the computer cannot be located at the Smoky Mountain Inn then the Sheriff is authorized to access the Defendant's storage building at 1108 Soco Road in Maggie Valley, to search and seize the computer.
3. That a temporary hearing shall be scheduled on April 17, 2018, before the Haywood County District Court to determine whether any further relief that may be granted.
4. That the Defendant shall not attempt to delete or destroy any contents of the computer subject of this Order.
5. If the Sheriff is unable to locate the computer the Defendant is ordered to appear before the undersigned Judge at 4/17/18 @ 4 a.m. / p.m. to show cause why she should not be held in contempt.

This the 9 day of April, 2018.


DISTRICT COURT JUDGE
THE HONORABLE JUDGE FORGA

RETURN OF SERVICE

I certify that a copy of the Complaint and Ex Parte Order were received and served as follows:

Date Served: 4/09/18

Time Served: 2:00 AM PM

Name of Defendant: Lisa Kasir

By delivering to the defendant named above a copy of the complaint and ex parte order

By leaving a copy of the complaint and ex parte order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion residing therein

Other manner of service (specify)

Defendant WAS NOT served for the following reason:

Service Fee Paid: _____

Date received: 4/09/18

Date of return: 4/09/18

Signature of Deputy Making Return: Sgt. DeLeon

Name of Sheriff: GD Christy

County of Sheriff: Haywood

FILED
2018 APR 10 AM 11:52
BY
HAYWOOD CO. CLERK

STATE OF NORTH CAROLINA
HAYWOOD COUNTY

~~FILED~~

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

2018 APR -9

FILE NO: 18 CVD 345

McLEAN LAW FIRM, P.A.

JACKSON CO., C.S.C.

Plaintiff,

BY _____)

v.)

LISA A. KOSIR,)

Defendant,)

EX PARTE ORDER

FILED
2018 APR -9 PM 12:26
HAYWOOD COUNTY, C.S.C.

THIS MATTER, coming on before the undersigned Judge upon the review of a Complaint filed in this matter and after conference with the moving party and review of the contents of the Complaint this Court enters the following Ex-Parte Order:

1. That Plaintiff is seeking to recover proprietary data including trust account spread sheets and client information.
2. That such data containing the Plaintiff's trust ledger and other client information appears to be on the software program of the Samsung Model 700A computer (hereinafter "the Computer").
3. That the Computer was removed from the Plaintiff's law practice without its knowledge or consent.
4. The Defendant appears to have removed the Computer.
5. That the Plaintiff has no adequate remedy to safeguard said software and proprietary information.
6. That the need to protect the material is great and could be erased or deleted before a temporary hearing could be set.
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1. Directing the Sheriff of Haywood County to appear at the Smoky Mountain Inn in Maggie Valley and to locate the Defendant's room and search and seize a Model 700 A Samsung Computer and to take control and possession of the computer until it shall be delivered to a third-party computer expert to review and download and thereafter erase

the contents so as to preserve the proprietary material and information including software which belongs to the Plaintiff's clients.

2. If the computer cannot be located at the Smoky Mountain Inn then the Sheriff is authorized to access the Defendant's storage building at 1108 Soco Road in Maggie Valley, to search and seize the computer.
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This the 9 day of April, 2018.


DISTRICT COURT JUDGE
THE HONORABLE JUDGE FORGA

RETURN OF SERVICE

I certify that a copy of the Complaint and Ex Parte Order were received and served as follows:

Date Served: _____

Time Served: _____ AM _____ PM

Name of Defendant: _____

_____ By delivering to the defendant named above a copy of the complaint and ex parte order

_____ By leaving a copy of the complaint and ex parte order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion residing therein

_____ Other manner of service (specify)

_____ Defendant WAS NOT served for the following reason:

Service Fee Paid: _____

Date received: _____

Date of return: _____

Signature of Deputy Making Return: _____

Name of Sheriff: _____

County of Sheriff: _____

STATE OF NORTH CAROLINA

HAYWOOD County

FILED

File No.

18 CUD 345

In The General Court Of Justice
[X] District [] Superior Court Division

Name And Address Of Plaintiff 1
McLEAN LAW FIRM, P.A.
1878 CAMP BRANCH ROAD
WAYNESVILLE, NC 28786

2018 APR - 9 AM 10: 48

GENERAL

HAYWOOD COUNTY, C.S.C. CIVIL ACTION COVER SHEET

[X] INITIAL FILING [] SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Plaintiff 2
BY

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

RUSSELL L. McLEAN III
1878 CAMP BRANCH ROAD
WAYNESVILLE, NC 28786

VERSUS

Name Of Defendant 1
LISA ANN KOSIR
C/O MAGGIE VALLEY INN
70 SOCO ROAD
MAGGIE VALLEY, NC 28751

Telephone No. (828) 452-2896 Cellular Telephone No. (828) 734-8652

NC Attorney Bar No. 7220 Attorney E-Mail Address rlmclean3@aol.com

Summons Submitted [X] Yes [] No

[] Initial Appearance in Case [] Change of Address

Name Of Defendant 2

Name Of Firm
McLEAN LAW FIRM, P.A.

FAX No. (828) 356-6517

Summons Submitted [] Yes [] No

Counsel for
[X] All Plaintiffs [] All Defendants [] Only (list party(ies) represented)

[] Jury Demanded In Pleading
[] Complex Litigation

[] Amount in controversy does not exceed \$15,000
[] Stipulate to arbitration

TYPE OF PLEADING

- (check all that apply)
[] Amend (AMND)
[] Amended Answer/Reply (AMND-Response)
[] Amended Complaint (AMND)
[] Assess Costs (COST)
[] Answer/Reply (ANSW-Response) (see Note)
[] Change Venue (CHVN)
[X] Complaint (COMP)
[] Confession Of Judgment (CNJF)
[] Consent Order (CONS)
[] Consolidate (CNSL)
[] Contempt (CNTP)
[] Continue (CNTN)
[] Compel (CMPL)
[] Counterclaim (CTCL) Assess Court Costs
[] Crossclaim (list on back) (CRSS) Assess Court Costs
[] Dismiss (DISM) Assess Court Costs
[] Exempt/Waive Mediation (EXMD)
[] Extend Statute Of Limitations, Rule 9 (ESOL)
[] Extend Time For Complaint (EXCO)
[] Failure To Join Necessary Party (FJNP)

- (check all that apply)
[] Failure To State A Claim (FASC)
[] Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
[] Improper Venue/Division (IMVN)
[] Including Attorney's Fees (ATTY)
[] Intervene (INTR)
[] Interplead (OTHR)
[] Lack Of Jurisdiction (Person) (LJPN)
[] Lack Of Jurisdiction (Subject Matter) (LJSM)
[] Modification Of Child Support In IV-D Actions (MSUP)
[] Notice Of Dismissal With Or Without Prejudice (VOID)
[] Petition To Sue As Indigent (OTHR)
[] Rule 12 Motion In Lieu Of Answer (MDLA)
[] Sanctions (SANC)
[] Set Aside (OTHR)
[] Show Cause (SHOW)
[] Transfer (TRFR)
[] Third Party Complaint (list Third Party Defendants on back) (TPCI)
[] Vacate/Modify Judgment (VCMD)
[] Withdraw As Counsel (WDCN)
[] Other (specify and list each separately)

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9. On April 3, 2018 all doors were checked and locked including the front door deadbolt and the new keyed door knob, however the dead bolt was operated by the old key which the Defendant had in her possession.
10. The Defendant worked the night shift on April 3, 2018.
11. Sometime between 4:30 a.m. and 7:40 a.m. on April 4, 2018, the Defendant entered the tenement belonging to the Plaintiff.
12. A Samsung Computer model 700A was located in the back office of the Plaintiff's tenement which contained all the Plaintiff's trust accounts, client information, payroll accounts, client files, and software purchased by the Plaintiff.
13. Upon information and belief the Defendant broke into the locked premises with the use of force and without the permission or consent of the Plaintiff and removed the Samsung Model 700A Grey Computer containing proprietary files, trust accounts, client information, payroll files and other property information belonging the Plaintiff which was confidential information of the Plaintiff's clients.
14. Upon discovery of the break in, the Plaintiff contacted the North Carolina State Bar which advised of the seriousness of the breach of attorney-client privilege and directed the Plaintiff to bring an action to seize and secure the computer and to secure the relevant information removed from the Plaintiff's business premises.
15. The Plaintiff has no adequate remedy at Law to protect confidential and privileged client information and attorney work product but to seek an ex parte order to obtain such confidential materials because of the great risk of potential destruction, deletion or disclosure of privileged client information, particularly because the Plaintiff had no back-up system to protect this proprietary information.
16. The Plaintiff is in need of an emergency order of the Court to direct the Sheriff of Haywood County to search, locate and seize the Samsung Model 700 A computer and to secure the aforementioned goods and information and to deliver the computer to New Meridian Technologies, a neutral third party computer expert, to download and save all the Plaintiff's proprietary material and thereafter to remove/erase all proprietary information belonging to Plaintiff.
17. Upon information and belief the Defendant is staying at the Smoky Mountain Inn in Maggie Valley, North Carolina owned by Beth Reece. The room number is unknown to the Plaintiff and she has a storage building at 1106 Soco Road, Maggie Valley, North Carolina where the Plaintiff's goods and proprietary information may be stored.
18. The Plaintiff asks that the verified Complaint be accepted as an affidavit in support for an Ex-Parte Order to seize the Samsung Computer Model 700A in the Defendant's possession.

WHEREFORE, having fully pled the Plaintiff seeks of the Court the following:

1. An Ex-Parte Order directing the Sheriff of Haywood County, North Carolina to search, locate and seize the Samsung Model 700A grey computer in the Defendant's possession and deliver same to New Meridian Technologies located at 34 S. Main Street, Waynesville, North Carolina and to order a mirror image of the hard drive of the computer to protect the Plaintiff's client information and thereafter to remove/erase all of Plaintiff's proprietary information from the computer.
2. The Sheriff is allowed to enter and search the Defendant's motel room at the Smoky Valley Inn or her storage building at Climate Control Storage in Maggie Valley at 1106 Soco Road, Maggie Valley, North Carolina
3. A temporary hearing be scheduled to determine the compliance with the return of the Plaintiff's proprietary property.
4. A permanent injunction be entered prohibiting the Defendant from disseminating any information of the Plaintiff's clients or proprietary information and to enjoin the Defendant from deleting or destroying any of the information contained therein.
5. That the Plaintiff have and recover all contents including all software located in the computer.
6. Costs of this action taxed to the Defendant.
7. For such other and further relief that the Court may deem just and proper.

This the 9th day of April, 2018.


McLEAN LAW FIRM, P.A.
P.O. Box 4
Waynesville, NC 28786
Phone: (828) 452-2896
Fax: (828) 356-6517

VERIFICATION

FILED

STATE OF NORTH CAROLINA
HAYWOOD COUNTY

2018 APR -9 AM 10:48
HAYWOOD COUNTY, C.S.C.

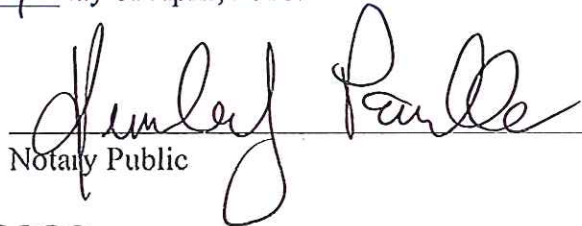
Comes now RUSSELL L. MCLEAN as sole stockholder of Mclean Lawfirm P.A., ,
being first duly sworn, deposes and verifies the complaint to his own knowledge of those facts
known to him and believes truthfully upon information and belief of the contents of those
matters.

This the 7 day of April, 2018.



RUSSELL L. MCLEAN

Sworn to and subscribed before me this the 7 day of April, 2018.



Notary Public

My Commission Expires:

KIMBERLY PARILLA
Notary Public, North Carolina
Haywood County
My Commission Expires
July 18, 2020

HAYWOOD COUNTY CLERK OF COURT

M105137 05/09/18 13:50:48

PAYOR: MCLEAN LAW FIRM
PAYEE: MONROE MILLER
CASE#: 18CV000345 VCAP:N
CITAN:

21410 COPY FEES	9.25
TOTAL PAID	9.25
CA TENDERED	10.00
CHANGE	.75

5765 ID C43KJH