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November 13, 2013

The Hon. Andrea Stroh Thompson, District Clerk  
Collin County Courthouse  
2100 Bloomdale Road, Suite 12132  
McKinney, Texas 75071

Ms. Thompson:

In the twelve years that I have been practicing law (seven of them in Texas), I have worked with a lot of district clerks and deputy clerks, and I have had good working relationships with all of them. I even represented a district clerk in federal court. That said, I have never encountered anything like what I experienced in your office over the last few days. On Friday, I had to postpone a trip out of state because of the problems in your office, and even now I am unable to leave because the problems are not fully resolved.

Moreover, despite my numerous requests since Friday morning, you have never returned my phone calls. As set forth below, I have appeared in your office multiple times every business day since Friday, but each time I asked to speak with you I was told you were in a meeting. I am a busy man myself, but I've never been so busy that I couldn't return a phone call within five days. Frankly, I must wonder whether you consider yourself too important to speak to a lowly peasant from the hinterlands of Lavon.

My problems with your office began around 2 p.m. on Thursday, November 7, 2013, when I paid \$88.00 for eleven subpoenas. I was told they could not be completed until the following afternoon, so I drove from Lavon back to your office the following day, arriving about 2 p.m. I was told the subpoenas still were not ready, and to come back in another hour. When I arrived after 3:30 p.m., I was told that your office could not issue subpoenas unless deposition notices had been filed. In other words, nobody had even looked at my subpoena applications until after I arrived on the second day. I was also told that your office could not issue a subpoena duces tecum unless it was in connection with a hearing or deposition. Finally, I was told that a subpoena duces tecum could only require production of documents at the time and place of a deposition.

None of this was correct. I tried to explain to your deputies that nothing in the Texas Rules of Civil Procedure requires the filing of a deposition notice prior to the issuance of a subpoena, and that those same rules permit the issuance of a stand-alone subpoena duces tecum, *i.e.*, a subpoena exclusively for the production of documents and without any connection to a deposition or hearing. Moreover, nothing in the rules

requires that a subpoena duces tecum compel production at the same time and place as a deposition. Time and again, I was told that your office had never done it the way that I wanted to do it, and that your forms and/or your computer system would not allow subpoenas to be issued that way. I asked if there were any attorneys in your office, and I was told that you are an attorney, so I asked to meet with you. I was told that you were in a meeting, so I finally gave up, postponed my travel plans and left your office in disgust.

On the morning of Monday, November 11, 2013, I called your office and left separate messages asking to speak with you. I did not receive a response. After lunch, I drove from Lavon back to your office with printed copies of Tex. R. Civ. P. 205.1 – 205.3, which plainly provides for the issuance of a stand-alone subpoena duces tecum, as well as an exemplar from a paralegal training seminar presented by Haynes & Boone, LLP in Dallas. See [http://www.haynesboone.com/files/Uploads/Documents/Attorney%20Publications/Subpoenas\\_in\\_Texas.pdf](http://www.haynesboone.com/files/Uploads/Documents/Attorney%20Publications/Subpoenas_in_Texas.pdf). I presented these to your deputies about 1:30 p.m. I did not quibble about whether notices of deposition were necessary. Instead, I just presented your deputies with notices for those witnesses whom I intended to depose. After presenting the rules and the exemplar, I convinced your deputies that a subpoena duces tecum could require the production of documents at a time and place other than that of a deposition or hearing.

Between 1:30 p.m. and 5:00 p.m., your deputies completed nine of the eleven subpoenas, but five had to be returned because of mistakes. In fact, every set of subpoenas that I have requested from your office has included mistakes, usually because the deputy clerk did not correctly transmit the information from the request form to the subpoena. And these are very simple one-page documents, thus I cannot imagine why it takes so long to complete them.

I returned to your office around 2:30 p.m. on Tuesday to pick up the remaining subpoenas, and five of the seven were awkwardly written, but nonetheless passable. The remaining two were not issued because you never responded to your own deputy's inquiry (dating back to Friday) about whether a subpoena duces tecum must be issued in conjunction with a deposition or hearing. The answer in Tex. R. Civ. P. 205.3 is very plain, but your deputy wants to hear it directly from you, and you are always in meetings.

Subpoenas are a routine function in any district clerk's office, yet your staff is completely untrained and unqualified to perform the task. That is not your deputies' fault, that is your fault. And when a deputy clerk or an attorney directs your attention to a conflict between the law and the way you've always done things, you have a duty to pay attention and correct the problem promptly.

In Bryan-College Station, Brazos County District Clerk Marc Hamlin routinely gives his cell phone number to non-lawyers and lawyers alike, always responding promptly to phone calls. I don't expect you to give out your cell phone number, but it seems any district clerk should be able to respond to an urgent matter within 24 hours.

On Friday, I told one of your deputies that it would be embarrassing if I had to ask a district judge to order you, the district clerk and a member of the bar, to comply with the Texas Rules of Civil Procedure in issuing subpoenas. And yet that is exactly where I find myself. Are you going to do your job, or do I need to ask a judge to order you to do your job?

Respectfully,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: District Judges, Collin County  
Commissioners Court, Collin County  
Directors, Collin County Bar Association  
Officers and Executive Committee, Collin County Republican Party