

00-1379-CD
CLEARFIELD POWDERED METALS, INC. -vs- JOHN DOE

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CLEARFIELD POWDERED METALS,	:	
INC.,	:	No. 00-1379-CD
Plaintiff	:	
	:	
vs.	:	
	:	
JOHN DOE,	:	
Defendant	:	

ORDER

NOW THIS 8th day of November, 2000, upon consideration of the foregoing Petition for Issuance of Subpoena and the exhibits attached thereto, it is:

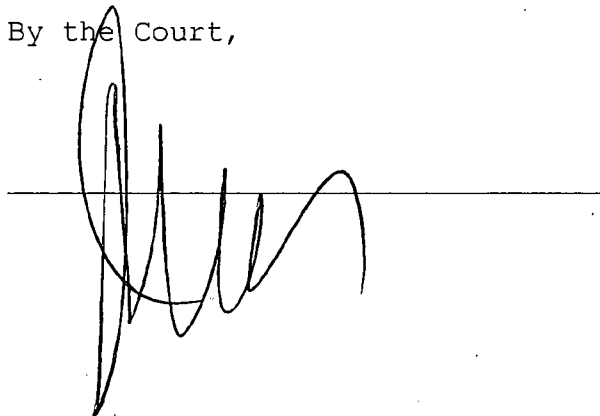
ORDERED, ADJUDGED AND DECREED that said Petition is hereby granted and the Clearfield County Prothonotary is directed to issue subpoena(s) to Keystone Internet Access, Inc. and USA-Choice Internet Services LLC as more particularly described in the Petition to be prepared and served by Plaintiff's local counsel, Peter F. Smith.

By the Court,

FILED

NOV 08 2000

William A. Shaw
Prothonotary

A handwritten signature in black ink, appearing to be 'William A. Shaw', is written over a horizontal line.

FILED

NOV 08 2000

Q25413cc atty. Smith

William A. Shaw
Prothonotary

~~Ex~~

Lap over margin

PETER F. SMITH
ATTORNEY
30 SOUTH SECOND STREET
P.O. BOX 130
CLEARFIELD, PA. 16830

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

FILED

NOV 08 2000
0/10:20/00
William A. Shaw
Prothonotary

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50-
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IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CLEARFIELD POWDERED METALS,
INC.,

Plaintiff

vs.

JOHN DOE,

Defendant

No. 00-1379-CD

TYPE OF CASE:
Civil

TYPE OF PLEADING:
Petition for Issuance
of Subpoena

FILED ON BEHALF OF:
Plaintiff

LOCAL COUNSEL FOR PLAINTIFF:
Peter F. Smith, Esquire
Supreme Court I.D. #34291
30 South Second Street
P.O. Box 130
Clearfield, PA 16830
(814) 765-5595

FILED

NOV 08 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CLEARFIELD POWDERED METALS,	:		
INC.,	:	No. 00-	-CD
Plaintiff	:		
	:		
vs.	:		
	:		
JOHN DOE,	:		
Defendant	:		

PETITION FOR ISSUANCE OF SUBPOENA

COMES NOW THE Petitioner, CLEARFIELD POWDERED METALS, INC., by its attorney, Peter F. Smith, who respectfully petitions this Court to issue a subpoena on the following grounds:

1. Petitioner, CLEARFIELD POWDERED METALS, INC., (hereinafter "CPM") is a Pennsylvania business corporation with office and manufacturing facility at P.O. Box 1072, Clearfield, Pennsylvania, 16830.
2. CPM is a wholly owned subsidiary of Hawk Corporation, the principal office of which is in Cleveland, Ohio.
3. The Defendant is a yet to be identified individual who in recent weeks posted libelous e-mail messages concerning CPM on the Internet. True and correct copies of one such message and its 3-mail headers are attached as Plaintiff's Exhibits 1 and 2.

Pennsylvania. Said subpoena is attached hereto and incorporated herein by reference as Plaintiff's Exhibit 5.

WHEREFORE, Petitioner prays this Honorable Court to issue a subpoena directed to Keystone Internet Access, Inc. as identified in the Petition and exhibits filed in the Commission of the Court of Common Pleas of Cuyahoga County, Ohio.

Respectfully submitted,

Dated: *Nov. 8, 2000*



Attorney for Petitioner

~~CONFIDENTIAL~~

Collins, Lisa

From: bob alkabach (delphibalk@yahoo.com)
Sent: 19 October 2000 13:03
To: Lisa Collins
Subject: SAFETY

fax to
Byron Krantz

My freinds here at Clearfield are spring me about these brake parts we make,

I have three members of my family that drive truck.

With all the spring and broken parts we have on this rack part I,m scared that they wont be able to stop if one of those things cracks.

I see them things break all the time here and had to sort barrels of them but some people just throw them in anyway but I know the cracks are there.

The quality guy gave me your company name to tell you im going to quit hear soon any way but dont want anyone geting hurt. These guys just want to ship parts, thats all.

Do You Yahoo!?

Yahoo! Messenger - Talk while you surf! It's FREE.

<http://im.yahoo.com/>

THE OHIO LEGAL BLANK CO., INC.

EXHIBIT

1

CLEVELAND, OHIO 44102-1799

Header Info:

Return-Path: <delphibalk@yahoo.com>

Received: from ns1.hawkcorp.net (IDENT:root@ns1.hawkcorp.net
[209.57.110.29])

by raq2.hawkcorp.net (8.9.3/8.9.3) with ESMTP id XAA26920
for <dwilson@clearfield.net>; Thu, 5 Oct 2000 23:08:05 -04

00

Received: (from root@localhost)

by ns1.hawkcorp.net (8.9.3/8.9.3) id XAA04361

for dwilson@clearfield.net; Thu, 5 Oct 2000 23:21:21 -0400

Received: from web10105.mail.yahoo.com (web10105.mail.yahoo.com
[216.136.130.55])

by ns1.hawkcorp.net (8.9.3/8.9.3) with SMTP id XAA04321
for <dwilson@clearfield.net>; Thu, 5 Oct 2000 23:21:19 -04

00

Message-ID: <20001006030732.62061.qmail@web10105.mail.yahoo.com>

Received: from [206.31.244.85] by web10105.mail.yahoo.com; Thu, 05
Oct 2000

20:07:32 PDT

Date: Thu, 5 Oct 2000 20:07:32 -0700 (PDT).

From: bob alkebich <delphibalk@yahoo.com>

Subject: Bob Aleksivch contact

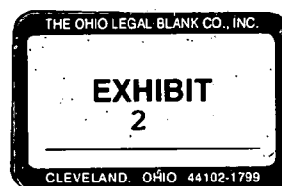
To: dwilson@clearfield.net

MIME-Version: 1.0

Content-Type: text/plain; charset=us-ascii

X-scanner: scanned by Inflex 0.1.5 - (<http://www.inflex.co.za/>)

X-UIDL: 04520f450e393e5de0b49acff0ec84c9



think it can be positive for both of us.

Do You Yahoo!?

Yahoo! Photos - 35mm Quality Prints, Now Get 15 Free!

<http://photos.yahoo.com/>

E-mail Trace Info:

Received: from [206.31.244.85] by web10105.mail.yahoo.com; Thu, 05
Oct 2000

20:07:32 PDT

Cable & Wireless USA (NETBLK-CW-05BLK) CW-05BLK 206.24.0.0 -
206.31.255.255

KEYSTONE INTERNET ACCESS (NETBLK-CW-206-31-244) CW-206-31-244
206.31.244.0 -

206.31.245.255

KEYSTONE INTERNET ACCESS (NETBLK-CW-206-31-244)

RT 255 & SHAFFER RD

DUBOIS, PA 15801

US

Netname: CW-206-31-244

Netblock: 206.31.244.0 - 206.31.245.255

Coordinator:

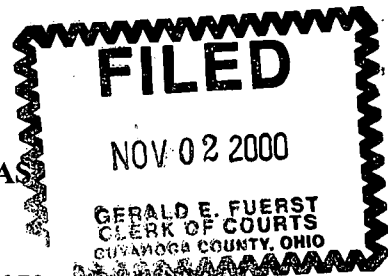
Armburger, Scott (SA252-ARIN) scotta@USACHOICE.NET

814-678-8899

Record last updated on 23-Aug-1999.

Database last updated on 26-Oct-2000 07:27:47 EDT.

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO



CLEARFIELD POWDERED
METALS, INC.

Plaintiff,

vs.

JOHN DOE

Defendant.

CASE NO. 422073

JUDGE KENNETH CALLAHAN

COMMISSION

TO: A PERSON AUTHORIZED TO ADMINISTER OATHS IN THE STATE OF PENNSYLVANIA.

1. You have been appointed and by these presents have been given full power and authority in accordance with the terms of the attached Order of Commission, dated November 2, 2000, made by the Court of Common Pleas in the State of Ohio in and for Cuyahoga County in the above-captioned action, to do all things necessary and required to be done by said attached Order for Commission, including applying to the Clerk of the Common Pleas Court of Clearfield County, State of Pennsylvania for the issuance of subpoenas *ad testificandum* and *duces tectum* referred to in said attached Order for Commission, to examine the records of USA-Choice Internet services LLC by it's Custodian of Records, commencing at 9:30 a.m. on November 14, 2000, at the offices of Peter F. Smith, 30 South 2nd Street, Clearfield, Pennsylvania, 16830.

2. The deponent is directed to bring to the deposition all of the documents set forth in the Notice of Deposition attached hereto as Exhibit (A), and any and all documents requested pursuant to the Subpoena Duces Tecum to be issued by the Clerk of the Common Pleas Court of Clearfield County for the State of Pennsylvania.

3. Such examination shall be conducted orally, and shall be subject to cross-examination and re-examination by counsel who have appeared in the above action. The testimony shall be reduced to writing and signed by the deponent, and the transcripts shall be sent forthwith via registered mail to the Clerk of the Court of Common Pleas, Cuyahoga County, upon your seal, together with this Commission.

IN WITNESS WHEREOF, the seal of said Court is hereto affixed.


Clerk of the Court

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

CLEARFIELD POWDERED
METALS, INC.

Plaintiff,

vs.

JOHN DOE

Defendant.

CASE NO. 422073

JUDGE KENNETH CALLAHAN

ORDER OF COMMISSION

Plaintiff Clearfield Powdered Metals, Inc., having moved for an order directing the issuance of a commission to take the deposition upon oral examination of the Custodian or Records of USA-Choice Internet Services LLC, a material and necessary non-party witnesses residing outside the State of Ohio.

IT IS HEREBY ORDERED that the Clerk of this Court shall issue a commission directed to any notary public or other officer authorized to administer oaths, to take the testimony upon oral examination of the Custodian of Records of USA-Choice Internet Services LLC at the offices of Peter F. Smith, 30 South 2nd Street, Clearfield, Pennsylvania, 16830, commencing at 9:30 a.m. on November 14, 2000.

IT IS FURTHER ORDERED that said commission shall authorize and empower said notary public or other officer to secure from the clerk of the Common Pleas Court of Clearfield County, the issuance of subpoenas *ad testificandum and duces tecum* to compel the attendance of the aforesaid deponent at said oral deposition and to compel the production of documents for said deposition.

IT IS SO ORDERED.

ASSISTANT
NICHOLAS
ADMINISTRATIVE
[Signature]
for Kenneth Callahan

RECEIVED AND ENTERED
NOV 02 2000
[Signature]
GERALD E. FUERST, CLERK
BY _____ DEP.

F:\clients\6068\014\527.kjs

THE STATE OF OHIO Cuyahoga County	} SS. I. GERALD E. FUERST, CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL <u>Civil</u>	
<u>Filed Nov. 2, 2000</u>	
NOW ON FILE IN MY OFFICE.	
WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>2nd</u>	
DAY OF <u>Nov.</u> A.D. 20 <u>00</u>	
GERALD E. FUERST, Clerk	
By <u>Lisa A. Jones</u>	Deputy

IN THE COURT OF COMMON PLEAS

SUBPOENA CIVIL RULE 45

THE STATE OF OHIO

SS.

Cuyahoga County

Clearfield Powdered Metals, Inc.

Plaintiff

vs.

John Doe

Defendant

No. 422073

Judge Kenneth R. Callahan

To USA-Choice Internet Services LLC (Keystone Internet Access, Inc.)

679 Collbert Avenue

Oil City, PA 16301

☐ YOU ARE COMMANDED to appear in the Court of Common Pleas to testify as witness on behalf of the (PLAINTIFF/DEFENDANT) in the above entitled case and not depart the Court without leave. Fail not under penalty of the law. Your appearance is required on the _____ of _____ 19 _____ at _____ o'clock _____ M. in Courtroom No. _____ of the:

☐ Justice Center-Courts Tower
1200 Ontario Street
Cleveland, Ohio 44113

☐ Cuyahoga County Courthouse
One Lakeside Avenue
Cleveland, Ohio 44113

☒ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of deposition in the above case. In lieu of testifying the deponent may produce the below information.

Law offices of Peter F. Smith	30 South 2nd St.,	11/14/00	9:30 a.m.
PLACE OF DEPOSITION	Clearfield, PA 16830	DATE	TIME

☒ YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the following documents or objects at the place, date, and time specified below (list documents or objects): Any and all documents disclosing the identity of the Keystone Internet Access, Inc. user who sent the attached electronic mails (Exhibit "2"), identified in said electronic mail as delphibalk@yahoo.com. Such document shall include, but is not limited to, name, address, account information and any other identifying information, the term "document" is defined in Exhibit "3".

Law offices of Peter F. Smith	30 South 2nd Street	11/14/00	9:30 a.m.
PLACE	Clearfield, PA 16830	DATE	TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE	TIME
----------	------	------

To insure taxation of their fees, witnesses must report each attendance to the Clerk of Court of Common Pleas on the first floor of the Justice Center-Courts Tower.

Section 2335.06 of the Ohio Revised Code provides that witnesses are entitled to receive \$12.00 for each full day's attendance and \$6.00 for each half day's attendance, plus ten cents per mile traveled to and from his place of residence outside of the City of Cleveland proper. Such fees are taxed as costs and mailed to the witness upon payment of the costs.

Robert S. Gilmore	1375 E. 9th St., 20th Floor, Cleveland, Ohio 44114
ATTORNEY NAME	ADDRESS

	Plaintiff	11/2/00
SIGNATURE	REPRESENTING	DATE

by D.R. Byrd GERALD E. FUERST, Clerk of Courts
Deputy Clerk

THE STATE OF OHIO

ss.

Cuyahoga County

Affidavit of Service of Subpoena by Sheriff or Officer, Attorney or Private Person

On the _____ day of _____, 19 _____

I served this Subpoena on the within named:

as follows:

SHERIFF'S FEES

Service on _____ \$ _____

_____ Copy _____

_____ Miles Travel _____

Return _____

\$ _____

Witness entitled to _____ miles

By _____ Deputy Sheriff/Attorney

Subscribed and sworn to before me, a

This _____ day of _____, 19 _____

RULE 45. RULES OF CIVIL PROCEDURE, Parts C & D:

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

(1) A PARTY OR AN ATTORNEY RESPONSIBLE FOR THE ISSUANCE AND SERVICE OF A SUBPOENA SHALL TAKE REASONABLE STEPS TO AVOID IMPOSING UNDUE BURDEN OR EXPENSE ON A PERSON SUBJECT TO THAT SUBPOENA.

(2)(a) 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.

(b) SUBJECT TO DIVISION (D)(2) OF THIS RULE, A PERSON COMMANDED TO PRODUCE AND PERMIT INSPECTION AND COPYING MAY, WITHIN FOURTEEN DAYS AFTER SERVICE OF THE SUBPOENA OR BEFORE THE TIME SPECIFIED FOR COMPLIANCE IF SUCH TIME IS LESS THAN FOURTEEN DAYS AFTER SERVICE, SERVE UPON THE PARTY OR ATTORNEY DESIGNATED IN THE SUBPOENA WRITTEN OBJECTIONS TO INSPECTION AND COPYING OF ANY OR ALL OF THE DESIGNATED MATERIALS OR OF THE PREMISES. IF OBJECTION IS MADE, 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, UPON NOTICE TO THE PERSON COMMANDED TO PRODUCE, MAY MOVE AT ANY TIME FOR AN ORDER TO COMPEL THE PRODUCTION. 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.

(3) ON TIMELY MOTION, THE COURT FROM WHICH THE SUBPOENA WAS ISSUED SHALL QUASH OR MODIFY THE SUBPOENA, OR ORDER APPEARANCE OR PRODUCTION ONLY UNDER SPECIFIED CONDITIONS, IF THE SUBPOENA DOES ANY OF THE FOLLOWING:

(a) FAILS TO ALLOW REASONABLE TIME TO COMPLY;

(b) REQUIRES DISCLOSURE OF PRIVILEGED OR OTHERWISE PROTECTED MATTER AND NO EXCEPTION OR WAIVER APPLIES;

(c) REQUIRES DISCLOSURE OF AN UNRETAINED EXPERT'S OPINION OR INFORMATION NOT DESCRIBING SPECIFIC EVENTS OR OCCURRENCES IN DISPUTE AND RESULTING FROM THE EXPERT'S STUDY MADE NOT AT THE REQUEST OF ANY PARTY;

(D) SUBJECTS A PERSON TO UNDUE BURDEN.

(4) BEFORE FILING A MOTION PURSUANT TO DIVISION (C)(3)(d) OF THIS RULE, A PERSON RESISTING DISCOVERY UNDER THIS RULE SHALL ATTEMPT TO RESOLVE ANY CLAIM OF UNDUE BURDEN THROUGH DISCUSSIONS WITH THE ISSUING ATTORNEY. A MOTION FILED PURSUANT TO DIVISION (C)(3)(d) OF THIS RULE SHALL BE SUPPORTED BY AN AFFIDAVIT OF THE SUBPOENAED PERSON OR A CERTIFICATE OF THAT PERSON'S ATTORNEY OF THE EFFORTS MADE TO RESOLVE ANY CLAIM OF UNDUE BURDEN.

(5) IN CASES UNDER DIVISION (C)(3)(c) OR (C)(3)(d) OF THIS RULE, THE COURT SHALL QUASH OR MODIFY THE SUBPOENA UNLESS 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.

(D) DUTIES IN RESPONDING TO SUBPOENA.

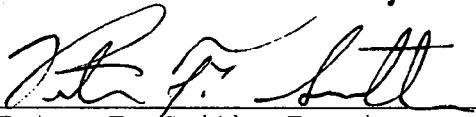
(1) A PERSON RESPONDING TO A SUBPOENA TO PRODUCE DOCUMENTS SHALL PRODUCE THEM AS THEY ARE KEPT IN THE USUAL COURSE OF BUSINESS OR SHALL ORGANIZE AND LABEL THEM TO CORRESPOND WITH THE CATEGORIES IN THE DEMAND. A PERSON PRODUCING DOCUMENTS PURSUANT TO A SUBPOENA FOR THEM SHALL PERMIT THEIR INSPECTION AND COPYING BY ALL PARTIES PRESENT AT THE TIME AND PLACE SET IN THE SUBPOENA FOR INSPECTION AND COPYING.

(2) WHEN INFORMATION SUBJECT TO A SUBPOENA IS WITHHELD ON A CLAIM THAT IT 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.

VERIFICATION

I, Peter F. Smith, local counsel for Plaintiff, in the foregoing Petition, hereby verify that the foregoing statements in the Petition for Issuance of Subpoena are true based upon my personal knowledge or information and belief. This statement is made subject to the penalties of 18 Pa C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: Nov 8, 2000



Peter F. Smith, Esquire
Local Counsel for Plaintiff

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10384

CLEARFIELD POWDERED METALS INC

00-1379-CD

VS.

DOE, JOHN

SUBPOENA DUCES TECUM

SHERIFF RETURNS

NOW NOVEMBER 9, 2000 AT 2:00 PM EST SERVED THE WITHIN SUBPOENA DUCES
TECUM ON KEYSTONE INTERNET ACCESS INC., DEFENDANT AT EMPLOYMENT, RT.
255, SHAFFER ROAD, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING
TO WILLIAM HOOK, OWNER A TRUE AND ATTESTED COPY OF THE ORIGINAL
SUBPOENA DUCES TECUM AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: COUDRIET/RYEN

Return Costs

Cost Description

28.21 SHFF. HAWKINS PAID BY: ATTY.

FILED

NOV 17 2000

018:57

William A. Shaw
Prothonotary

Sworn to Before Me This

17th Day of November 2000

William A. Shaw
WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,

Chester A. Hawkins
by Marilyn Harris
Chester A. Hawkins
Sheriff