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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

RANDALL SANTERRE,

CIVIL DIVISION

Plaintiff,

Misc. Civil Action No.: 04-1075-CD

vs.

WAL-MART STORES, INC.,

**PETITION FOR ORDER TO ISSUE
SUBPOENA PURSUANT TO 42 PA. C.S.A.
§5326**

Defendant.

Filed on behalf of Wal-Mart Stores, Inc.

Counsel of Record for this Party:

Brad D. Trust, Esquire
Pa. I.D. #83748
Dell, Moser, Lane & Loughney, LLC
525 William Penn Place, Suite 3700
Pittsburgh, PA 15219

Phone: (412) 471-1180
Fax: (412) 471-9012

JURY TRIAL DEMANDED

FILED

JUL 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

RANDALL SANTERRE

VS.

Defendant.

MISC. CIVIL ACTION NO. _____

5. The undersigned has attached an Order for Commission entered by the Honorable Arthur G. Pitts, Judge of the Supreme Court of the State of New York, IAS Part 43-County of

Suffolk at Civil Action No. 19128/02, in the case styled, "Randall Santerre v. Wal-Mart Stores, Inc.", authorizing the issuance of a subpoena to take the deposition of Jean Poutrain, who, upon information and belief, resides at 289 Glendale Lake Rd, Clearfield, Pennsylvania 16668.

6. The undersigned respectfully requests that the Court of Common Pleas of Clearfield County, Pennsylvania enter the Order attached hereto issuing, and granting permission and authorization to undersigned counsel to serve, pursuant to 42 Pa. C.S.A. §5326, a subpoena, directed to Jean Poutrain, requiring him to appear for a deposition and to give testimony in the case filed in the Supreme Court of the State of New York, IAS Part 43-County of Suffolk at Civil Action No. 19128/02.

WHEREFORE, Defendant, Wal-Mart Stores, Inc. respectfully requests that this Honorable Court enter the Order attached hereto authorizing Wal-Mart Stores, Inc. to serve a subpoena upon Jean Poutrain requiring Mr. Poutrain to appear for a deposition.

Respectfully submitted,

DELL, MOSER, LANE & LOUGHNEY, LLC



Brad D. Trust, Esquire
Counsel for Wal-Mart Stores, Inc., Defendant

W.M. 0218040
SUPREME COURT OF THE STATE OF NEW YORK *at a Term Supra*
IAS PART 43 - COUNTY OF SUFFOLK *Court Part 43 is in the County of Suffolk in Riverhead NY on the 18th day of June, 2004*

P R E S E N T: Arthur G. Pitts, JSC

-----X
RANDALL SANTERRE,

Plaintiff,

-against-

ORDER

WAL-MART STORES, INC.,

Defendant.
-----X

Defendant having moved this Court for an Order pursuant to CPLR 3108 directing the issuance of an Open Commission to enable defendant to take the deposition of Jean Poutrain as a non-party witness, and to request the Court of Common Pleas of Clearfield County of the State of Pennsylvania to issue a subpoena to Jean Poutrain to appear for and submit to his deposition at a time, date, and place to be set by the Court of Common Pleas of Clearfield County of the State of Pennsylvania;

NOW, upon reading and filing defendant's Notice of Motion, dated December 29, 2003, and the affirmation of Patricia A. O'Connor, Esq., duly affirmed the 29th day of December, 2003, and with no opposition from plaintiff and with due deliberation having been had thereon and upon reading and filing the Short Form Order of this Court dated March 23, 2004, directing defendant to "submit order,"

NOW, upon motion of BRODY, O'CONNOR & O'CONNOR, ESQS., attorneys for defendant herein, it is

ORDERED, that defendant's motion for an Open Commission to enable defendant to take the deposition of Jean Poutrain as a non-party witness in the State of Pennsylvania is GRANTED without opposition in all respects; and it is further

ORDERED, that a Commission issue to a Judge of the Court of Common Pleas of Clearfield County of the State of Pennsylvania to take the deposition on oral questions under oath of Jean Poutrain as a non-party witness. ✓

Dated: 6/14/04

ENTER:


ARTHUR G. PITTS, J.S.C.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

RANDALL SANTERRE

Plaintiff,

vs.

WAL-MART STORES, INC.

Defendant.

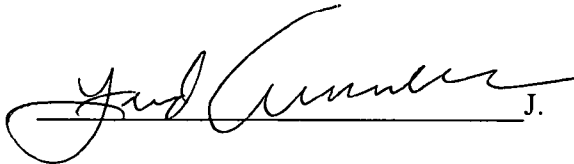
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) MISC. CIVIL ACTION NO. _____
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04-1075-02

ORDER OF COURT

AND NOW, this 19 day of July, 2004, it is hereby ORDERED, ADJUDGED and DECREED that Defendants Wal-Mart Stores, Inc.'s, Petition for Order to Issue Subpoena Pursuant to 42 Pa. C.S.A. §5326 is GRANTED and counsel for Defendant Wal-Mart Stores, Inc. is permitted and authorized to serve a subpoena upon Jean Poutrain for Mr. Poutrain's deposition to be used in the case filed in the Supreme Court of the State of New York, IAS Part 43-County of Suffolk at Civil Action No. 19128/02. The deposition taken pursuant to this Order shall occur in Clearfield County, Pennsylvania.

BY THE COURT:

 J.

FILED

JUL 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within Petition for Order to Issue Subpoena Pursuant to 42 Pa. C.S.A. §5326 has been served on this 13 day of

July, 2004 upon all parties, either individually or through counsel by:

☒ First Class, Mail, Postage Pre-Paid

☐ Hand Delivery

☐ Certified Mail-Return Receipt Requested

☐ Facsimile Transmission

at the following address(es):

Nils Hunter Berlin, Esquire
Law Offices of Nils Hunter Berlin, P.C.
130 West Main Street
East Islip, NY 11730
Attorneys for Plaintiff

Dell Moser, Lane & Loughney, LLC

By:



Brad D. Trust, Esquire

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Randall Santerre

Plaintiff(s)

Vs.

No. 2004-01075-CD

Wal-Mart Stores, Inc.

Defendant(s)

COPY

SUBPOENA TO ATTEND AND TESTIFY

TO: _____

1. You are ordered by the Court to come to _____

(Specify Courtroom or other place)

at _____ County, Pennsylvania, on _____ at _____

o'clock, __ M., to testify on behalf of _____

in the

above case, and to remain until excused.

2. And bring with you the following: _____

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH PA.R.C.P. No. 234.2(a).

NAME: _____

ADDRESS: _____

TELEPHONE: _____

SUPREME COURT ID # _____

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy

DATE: Tuesday, July 20, 2004

Seal of the Court

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with PA.R.C.P. No. 234.1. If a subpoena for production of documents, records or things is desired, complete Paragraph 2.

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Defendant.

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