

1 **IN THE JUDICIAL COURT OF THE TOHONO O'ODHAM NATION**

2 **CRIMINAL DIVISION**

3 \_\_\_\_\_, )  
 4 Plaintiff ) Case No.: \_\_\_\_\_  
 5 vs. )  
 6 \_\_\_\_\_, )  
 7 Defendant )

**SUBPOENA  
IN A CRIMINAL CASE**

8 TO: \_\_\_\_\_  
9 (Name of Recipient)

10 [Select one or more of the following:]

11  **For Attendance of Witnesses at a Hearing or Trial**

12 **YOU ARE ORDERED** to appear at the Tohono O'odham Justice Center in Sells,  
 13 Arizona, and to remain there until excused, on the following date and time to testify  
 at  a hearing  the trial in this case:

14 On behalf of \_\_\_\_\_

15 Date: \_\_\_\_\_

16 Time: \_\_\_\_\_

17  **For Attendance of Witnesses at a Deposition**

18 **YOU ARE ORDERED** to appear at \_\_\_\_\_  
 19 and to remain there until excused, on the following date and time to testify at a  
 deposition in this case:

20 On behalf of \_\_\_\_\_

21 Date: \_\_\_\_\_

22 Time: \_\_\_\_\_

1  **For Production of Documentary Evidence or Inspection of Premises**

2 **YOU ARE ORDERED**, to produce and allow inspection, copying, testing, or  
3 sampling of these documents, electronically stored information or tangible things, or  
to allow the inspection of premises (list): \_\_\_\_\_

4 \_\_\_\_\_  
5 \_\_\_\_\_

6 at the place, date, and time set below:

7 Place of Production or Inspection: \_\_\_\_\_

8 Address: \_\_\_\_\_

9 Date: \_\_\_\_\_

Time: \_\_\_\_\_

10 **Your Duties in Responding To This Subpoena**

11 ***Attendance at a Hearing or Trial.*** If this subpoena orders you to appear at a hearing or trial,  
12 you must appear at the place, date, and time in the subpoena. You do not have to appear if the  
party serving the subpoena excuses you, or if you file a timely motion with the Court and the  
13 Court quashes or modifies the subpoena. *See* T.O. R. Crim. P. 11, T.O. R. Civ. P. 15(e)(2). *See*  
*also* “Your Right to Object to This Subpoena” section below.

14 ***Production of Documentary Evidence or Inspection of Premises.*** If this subpoena orders you  
15 to produce and allow inspection, copying, testing, or sampling of designated documents,  
electronically stored information, or tangible things, you must make the items available at the  
16 place, date, and time set in this subpoena, and in the case of electronically stored information,  
in the form or forms requested, unless you make a good faith written objection to the party or  
17 legal counsel who served the subpoena. *See* T.O. R. Crim. P. 11, T.O. R. Civ. P. 15(c)(4). *See*  
*also* “Your Right to Object to This Subpoena” section below.

18 If this subpoena orders you to make certain property available for inspection, you must allow  
19 inspection of the property on the date and time set in this subpoena unless you make a good  
faith written objection to the party or legal counsel who served the subpoena. *See* T.O. R.  
20 Crim. P. 11, T.O. R. Civ. P. 15(c)(4). *See also* “Your Right to Object to This Subpoena”  
section below.

21 An order to produce certain designated materials, or to allow the inspection of premises, *may*  
22 be combined with an order to appear at a deposition, hearing, or trial. You do not need to  
appear in person at the place of production or inspection unless the subpoena *also* states you

1 must appear for and give testimony at a deposition, hearing, or trial. *See* T.O. R. Crim. P. 11,  
2 T.O. R. Civ. P. Rule 15(c)(2).

3 If the subpoena orders you to produce documents, you must produce the designated documents  
4 as kept by you in the usual course of business, or you may organize the documents and label  
5 them to match the categories stated in the subpoena. *See* T.O. R. Crim. P. 11, T.O. R. Civ. P.  
6 15(c)(3).

### 7 **Your Right to Object to This Subpoena**

8 ***Generally.*** If you have concerns or questions about this subpoena, you must first contact the  
9 party or legal counsel who served the subpoena. The party or legal counsel serving the  
10 subpoena must try to avoid imposing an undue burden or expense on you. If you cannot  
11 resolve your concern with the party or legal counsel serving the subpoena, you may file an  
12 objection with the Court. *See* T.O. R. Crim. P. 11, T.O. R. Civ. P. 15(e)(1).

13 ***Procedure for Objecting to a Subpoena.*** A subpoena may combine an order to appear at a  
14 deposition, hearing, or trial with an order to produce documents, electronically stored  
15 information, or tangible things, or to allow inspection of premises. If you wish to object to a  
16 subpoena, you must file a motion to quash or modify the subpoena with the Court to obtain a  
17 Court order excusing you from complying with this subpoena. Your motion must clearly say  
18 to what part or parts of the subpoena you object. You must file the motion with the Tohono  
19 O’odham Court before the time for compliance stated in the subpoena, or within fourteen (14)  
20 days after the subpoena is served, whichever is earlier. You must also send a copy of any  
21 motion to quash or modify the subpoena to the party or legal counsel who served the subpoena.  
22 *See* T.O. R. Crim. P. 11, T.O. R. Civ. P. 15(e).

23 If you object to the subpoena in writing, you do not need to comply with the subpoena until  
24 the Court orders you to do so. It is up to the party or legal counsel serving the subpoena to  
first consult with you and engage in good faith efforts to resolve your objection and, if the  
objection cannot be resolved, to seek an order from the Court to compel you to provide the  
documents or inspection requested, after providing notice to you. *See* T.O. R. Crim. P. 11,  
T.O. R. Civ. P. 15(c)(4)(B).

***Actions by the Court After an Objection is Filed.*** The Court may take the following actions  
after you properly file a written objection.

The Court *must* quash or modify a subpoena if the Court finds:

1. you are immune from service or enforcement of the subpoena; or
2. the subpoena does not allow a reasonable time to comply; or
3. the subpoena requires disclosure of privileged or other protected matter, if no  
exception or waiver applies; or
4. the subpoena causes an undue burden; or

1 The Court *may* quash or modify a subpoena if the Court finds the subpoena:

- 2
- 3 1. requires disclosure of a trade secret or other confidential research, development, or
  - 4 2. requires disclosing an unretained expert's opinion or information that does not
  - 5 3. requires you to incur substantial travel expense and you are not a party or a party's
  - 6 4. should be modified or quashed in the interests of justice.

7 In these last four circumstances, a Court *may*, instead of quashing or modifying a subpoena,

8 order your appearance or order the production of material under specified conditions if the

9 serving party or legal counsel shows a substantial need for the testimony or material that

10 cannot be otherwise obtained without undue hardship.

11 **IF YOU FAIL TO APPEAR AS ORDERED, A WARRANT MAY BE**

12 **ISSUED FOR YOUR ARREST.**

13 **Requests for reasonable accommodation for persons with disabilities must be made to**

14 **the Court by parties at least three (3) working days before a scheduled Court proceeding.**

15 \_\_\_\_\_

16 Party/Attorney for party requesting subpoena

17 SIGNED AND SEALED this date \_\_\_\_\_.

18 CLERK OF COURT

19 By: \_\_\_\_\_

20 Court Clerk