



Sample Forms & Letters

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info4@omti.com

www.omti.com/mr

See for yourself how much better your business could look with MR8's legal forms.

Timothy Beale, et al

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IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

Akron Engineering, Inc.

151ST JUDICIAL DISTRICT

AFFIDAVIT

Records Pertaining To: **Timothy Beale**

Type of Records: **Any and all medical records, including but not limited to, any and all reports, notes, tests, test results, diagnoses, prognoses, office records, clinic records, therapy records, correspondence pertaining to Timothy Beale, SSN: 012-34-5678, DOB: 03/26/1953.**

Before me, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows: (Custodian of Records)

My name is _____, I am over eighteen (18) years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the Custodian of Records for:
Michael Hermann, M.D.

Attached hereto are _____ pages of records from this facility. These records are kept in the regular course of business, and it was the regular course of business for an employee or representative of this facility, with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The records attached hereto are the original or exact duplicates of the original.

AFFIANT (Custodian of Records)

Sworn to and subscribed before me on the _____ day of _____, 20_____.

NOTARY PUBLIC

My Commission Expires: _____

Timothy Beale, et al

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IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

Akron Engineering, Inc.

151ST JUDICIAL DISTRICT

AFFIDAVIT OF NO RECORDS

Records Pertaining To: **Timothy Beale**

Type of Records: **Any and all medical records, including but not limited to, any and all reports, notes, tests, test results, diagnoses, prognoses, office records, clinic records, therapy records, correspondence pertaining to Timothy Beale, SSN: 012-34-5678, DOB: 03/26/1953.**

Before me, the undersigned authority, personally appeared _____,
who, being by me duly sworn, deposed as follows: (Custodian of Records)

I, the undersigned, am the Custodian of Records for:

Michael Hermann, M.D.

am over eighteen (18) years of age, competent of making this affidavit and personally acquainted with the facts herein stated:

(a) That a thorough search of our files, carried out under my direction and control, revealed no records, as described above, on the person(s) named in the attached subpoena duces tecum.

(b) It is to be understood that this does not mean that records do not exist under another spelling, another name or under another classification, but that with the information furnished to our office and to the best of our knowledge, no such records exist in our files.

AFFIANT (Custodian of Records)

Sworn to and subscribed before me on the _____ day of _____, 20_____.

NOTARY PUBLIC

My Commission Expires:_____

No. **99-4511DF**

Timothy Beale, et al

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IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

Akron Engineering, Inc.

151ST JUDICIAL DISTRICT

ATTORNEYS OF RECORD:

Daniel Berg
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor
Houston, TX 77039 (713) 555-1234 Fax (832) 203-6088
Attorney for Defendant

Ronald E. Powell, III
Powell Law Offices
25 Grace Center, Suite 660
Waco, TX 79033 (457) 555-3411 Fax (457) 555-3111
Attorney for Plaintiff

Charles Schubert
Schubert, Smith & Wolfe Law Associates
300 7th Avenue, Suite 220
Houston, TX 77023 (832) 555-1234 Fax (832) 555-6700
Attorney for Plaintiff

Gerald E. Smith
Smith & Smith
600 Jefferson Road, Suite 430
Houston, TX 77031 (281) 555-6589 Fax (713) 555-6511
Attorney for Defendant

Order No. **01-5000**

December 23, 2003

Susan Cronk
Michael Hermann, M.D.
2901 Wilcrest Drive, Suite 211
Houston, TX 77042

RE: Cause No. **99-4511DF Harris**
Timothy Beale vs. Akron Engineering

Dear Custodian of Records,

Please be advised that as of this date, the request for production of **Medical** records pertaining to **Timothy Beale**, DOB **03/26/1953**, SSN **012-34-5678**, as ordered in the Subpoena Duces Tecum with Deposition by Written Questions, has been cancelled by the custodial attorney, **Daniel Berg**.

Please cease all work regarding this request.

Thank you again for your assistance regarding this legal matter. You will be noticed if we need to attempt this request again in the future.

Sincerely,
OMTI Records Services, Inc.

Susan Lloyd
Processor

Order No. **01-5000-001**

STYLE OF
CASE : **Timothy Beale, et al**

vs.

Akron Engineering, Inc.

CASE NO. : **99-4511DF**

PERTAIN TO : **Elizabeth Beale**

FROM : **Med. Tex. Med. Center
Medical & Billing**

DELIVER TO : **Daniel Berg
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor
Houston, TX 77039**

**IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
151ST JUDICIAL DISTRICT**

The taxable cost of \$ 120.00 was charged to Attorney for Defendant, TBA # 12345

CERTIFICATE OF DEPOSITION

Pursuant to Texas Rules of Civil Procedure Rule 203, I certify that the original deposition(s) and exhibit was delivered or mailed certified with return receipt requested to the above attorney of record and a copy of the certificate was served on all parties pursuant to Texas Rules of Civil Procedure 21a.

Date: March 3, 2004
By: Megan Godall

Order No. **01-5008-001**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice and written questions has been hand-delivered and/or mailed receipt requested, to the attorneys of record.

Dated: _____

OMTI Records Services, Inc.
2901 Wilcrest Drive, Suite 211

Houston, TX 77042
(832) 203-6083 Fax (832) 203-6088

OMTI RECORDS SERVICES, INC.

2901 WILCREST DRIVE, SUITE 211
HOUSTON, TX 77042
(832) 203-6083 FAX: (832) 203-6088

VIA: MAIL FAX: COVER AND _____ PAGES

CUSTODIAN OF RECORDS
Michael Hermann, M.D.
2901 Wilcrest Drive, Suite 211
Houston, TX 77042

Please find enclosed a request for records of:

Timothy Beale
DOB 03/26/1953 SSN 012-34-5678

We are requesting:

Any and all medical records, including but not limited to, any and all reports, notes, tests, test results, diagnoses, prognoses, office records, clinic records, therapy records, correspondence pertaining to Timothy Beale, SSN: 012-34-5678, DOB: 03/26/1953.

We will call you within 10 days for a page count and fee approval and to assist you with the legal documents. At this time we will also schedule a pick-up time for custodians in the Houston Metroplex. Custodians outside the Houston Metroplex are requested to mail all the documents and legal papers. IF YOUR FEES EXCEED \$50.00, please call for approval before sending records. Thank you for your cooperation.

We need these records and legal documents returned **BEFORE:** _____.

- | | |
|--|---|
| <input type="checkbox"/> Subpoena | <input type="checkbox"/> Cross Questions |
| <input type="checkbox"/> Written Questions | <input type="checkbox"/> Affidavit of No Record |
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> |

Contact: **Susan Lloyd**

Order No. **01-5000-001**

Timothy Beale, et al

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IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

Akron Engineering, Inc.

151ST JUDICIAL DISTRICT

DELIVERY SLIP

Pertaining To: **Timothy Beale**

From: **OMTI Records Services, Inc.
2901 Wilcrest Drive, Suite 211
Houston, TX 77042
(832) 203-6083 Fax (832) 203-6088**

Date: **December 23, 2003**

Deliver To: **Daniel Berg
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor
Houston, TX 77039
(713) 555-1234 Fax (832) 203-6088**

Enclosed: Notice of Intention
 Notice of Cross-Questions
 Notice of Delivery
 Other _____

Received By: _____

Date: _____

STYLE OF
CASE : **Timothy Beale, et al**

vs.

Akron Engineering, Inc.

CASE NO. : **99-4511DF**

PERTAIN TO : **Timothy Beale**

FROM : **Michael Hermann, M.D.
Medical**

DELIVER TO : **Daniel Berg
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor
Houston, TX 77039**

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

151ST JUDICIAL DISTRICT

The taxable cost of \$ 156.45 was charged to Attorney for Defendant, TBA #

Timothy Beale, et al

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IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

Akron Engineering, Inc.

151ST JUDICIAL DISTRICT

DIRECT QUESTIONS TO BE PROPOUNDED TO THE WITNESS

Custodian of Records for: **Michael Hermann, M.D.**

Records Pertaining To: **Timothy Beale**

Type of Records: **Any and all medical records, including but not limited to, any and all reports, notes, tests, test results, diagnoses, prognoses, office records, clinic records, therapy records, correspondence pertaining to Timothy Beale, SSN: 012-34-5678, DOB: 03/26/1953.**

1. Please state your full name.

Answer: _____

2. Please state by whom you are employed and the business address.

Answer: _____

3. What is the title of your position or job?

Answer: _____

4. Are the medical records, outlined in the subpoena duces tecum, pertaining to the above-named person, in your custody or subject to your control, supervision or direction?

Answer: _____

5. Are you able to identify these medical records as the originals or true copies of the originals?

Answer: _____

6. Please hand to the Officer taking this deposition copies of the medical records mentioned in Question No. 4. Have you complied? If not, why?

Answer: _____

7. Are the copies which you have handed to the Officer taking this deposition true and correct copies of all such medical records?

Answer: _____

8. Were such medical records kept in the regular course of business of this facility?

Answer: _____

9. Please state whether or not it was the regular course of business of the above mentioned facility for a person with knowledge of the acts, events, conditions, opinion, or diagnoses, recorded to make the record or to transmit information thereof to be included in such record.

Answer: _____

10. Were the medical records made by nurses, doctors and other employees or representatives made at or near the time when the acts, events, conditions, courses of treatment, diagnoses and other information contained therein occurred, were observed or rendered, or made reasonably soon thereafter?

Answer: _____

WITNESS (Custodian of Records)

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument in the capacity therein stated, who being first duly sworn, stated upon his/her oath that the answers to the foregoing questions are true and correct. I further certify that the records attached hereto are exact duplicates of the original records.

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20_____.

NOTARY PUBLIC

My Commission Expires: _____

Timothy Beale, et al

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IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

Akron Engineering, Inc.

151ST JUDICIAL DISTRICT

NOTICE OF DELIVERY

RE: **Michael Hermann, M.D. (Medical)**

I, _____, Notary Public in and for the State of Texas, hereby certify pursuant to the Rule 206, Texas Rules of Civil Procedure,

1. That this Deposition by Written Questions of **Susan Cronk**, the Custodian of Records for the above named is a true and exact duplicate of the records pertaining to **Timothy Beale**, given by the witness named herein, after said witness was duly sworn by _____;
2. That the transcript is a true record of the testimony given by the witness;
3. That \$ **156.45** is the charge for the preparation of the completed Deposition by Written Questions and any copies of exhibits, charged to Attorney for **Defendant, Daniel Berg, TBA #** ;
4. That the deposition transcript was submitted on the day of , , to the witness for examination, signature and return to the officer by a specified date;
5. That changes, if any made by the witness, in the transcript and otherwise are attached thereto or incorporated therein;
6. That the witness returned the transcript;
7. That the original deposition by Written Questions and a copy thereof, together with copies of all exhibits was delivered to the attorney or party who Noticed the first questions for safekeeping and use at trial;
8. That pursuant to information made a part of the records at the time said testimony was taken, the following includes all parties of record:

Ronald E. Powell, III, Attorney For Plaintiff
Charles Schubert, Attorney For Plaintiff
Gerald E. Smith, Attorney For Defendant

and

9. A copy of this Notice of Delivery was served on all parties shown herein.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE _____ day of _____, 20____.

OMTI Records Services, Inc.
2901 Wilcrest Drive, Suite 211
Houston, TX 77042
(832) 203-6083 Fax (832) 203-6088

 Notary Public in and for the State of Texas

Timothy Beale, et al	:	IN THE DISTRICT COURT OF
	:	
	:	
vs.	:	HARRIS COUNTY, TEXAS
	:	
	:	
Akron Engineering, Inc.	:	151ST JUDICIAL DISTRICT

**NOTICE OF INTENTION
TO TAKE DEPOSITION BY WRITTEN QUESTIONS**

To Plaintiff by and through their attorney(s) of record: **Ronald E. Powell, III and Charles Schubert**
To other party/parties by and through their attorney(s) of record: **Gerald E. Smith**

You will please take notice that twenty (20) days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of Custodian of Records for:

- Michael Hermann, M.D. (Medical)**
2901 Wilcrest Drive, Suite 211 Houston, TX 77042
- Memorial Hermann Northwest Hospital (Medical)**
1635 North Loop West Houston, TX 77008
- Sugar Land Imaging Center (Radiology)**
1234 Falcon Drive Sugar Land, TX 77009
- Grayson Smith, M.D. (Medical)**
115 Warden Lane San Marcos, TX 78666-6549

before a Notary Public for **OMTI Records Services, Inc. (832) 203-6083 Fax (832) 203-6088**
2901 Wilcrest Drive, Suite 211 , Houston, TX 77042

or its designated agent, which deposition with attached questions may be used in evidence upon the trial of the above-styled and numbered cause pending in the above named court. Notice is further given that request is hereby made as authorized under Rule 200, Texas Rules of Civil Procedure, to the officer taking this deposition to issue a subpoena duces tecum and cause it to be served on the witness to produce any and all records as described on the attached questions and/or Exhibit(s) and any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to:

Timothy Beale

and to turn all such records over to the officer authorized to take this deposition so that photographic reproductions of the same may be made and attached to said deposition.

Daniel Berg
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor
Houston, TX 77039
(713) 555-1234 Fax (832) 203-6088
Attorney for Defendant

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all Counsel of Record by hand delivery, FAX, and/or certified mail, return receipt requested, on this day.

Dated: December 23, 2003 by _____

OMTI RECORDS SERVICES, INC.

2901 WILCREST DRIVE, SUITE 211
HOUSTON, TX 77042
(832) 203-6083 FAX: (832) 203-6088

STATUS-ORDER CONFIRMATION

December 23, 2003

Megan Goodall
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor
Houston, TX 77039
(713) 555-1234 Fax (832) 203-6088

RE: Cause No. 99-4511DF Harris Client Matter #: **45-011**
Timothy Beale vs. Akron Engineering
Pertaining To: **Timothy Beale**
Order No.: 01-5000 (4 parts) Acct Rep:

Dear Megan Goodall:

Thank you for your request for records. Through research we have found the following:

001 Michael Hermann, M.D. (Medical)
2901 Wilcrest Drive, Suite 211 , Houston, TX 77042
(832) 555-1234 Fax : (832) 555-2345

002 Memorial Hermann Northwest Hospital (Medical)
1635 North Loop West , Houston, TX 77008
(713) 867-4335 Fax : (832) 203-6088

003 Sugar Land Imaging Center (Radiology)
1234 Falcon Drive , Sugar Land, TX 77009
(713) 887-0099 Fax : (713) 887-0000

004 Grayson Smith, M.D. (Medical)
115 Warden Lane , San Marcos, TX 78666-6549
(512) 353-8666 Fax : (512)

OMTI RECORDS SERVICES, INC.

2901 WILCREST DRIVE, SUITE 211

TX, TEXAS 77042

(832) 203-6083 FAX: (832) 203-6088

Timothy Beale, et al	:	IN THE DISTRICT COURT OF
	:	
vs.	:	HARRIS COUNTY, TEXAS
	:	
Akron Engineering, Inc.	:	151ST JUDICIAL DISTRICT

STATUS-PROGRESS REPORT

December 23, 2003

Megan Goodall
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor
Houston, TX 77039
(713) 555-1234 Fax (832) 203-6088

RE: Cause No. 99-4511DF Harris Client Matter #: **45-011**
Timothy Beale vs. Akron Engineering
Pertaining To: **Timothy Beale**
Order No.: 01-5000 (3 parts) Acct Rep:

001 Michael Hermann, M.D. (Medical)
2901 Wilcrest Drive, Suite 211 , Houston, TX 77042
STATUS : Records Obtained
COMMENT : You can download from our website

002 Memorial Hermann Northwest Hospital (Medical)
1635 North Loop West , Houston, TX 77008
STATUS : In Progress
COMMENT : Waiting for a fee approval (\$125)

003 Sugar Land Imaging Center (Radiology)
1234 Falcon Drive , Sugar Land, TX 77009
STATUS : In Progress
COMMENT : Will pickup on 6/15/2003

OMTI RECORDS SERVICES, INC.

2901 WILCREST DRIVE, SUITE 211
TX, TEXAS 77042
(832) 203-6083 FAX: (832) 203-6088

STATUS-FEE APPROVAL

DATE: December 23, 2003
TO: Megan Goodall
OF: Berg, Steiner, Chapman & Brookes
FAX: (832) 203-6088
FROM:

CUSTODIAN: Michael Hermann, M.D.
PATIENT: **Timothy Beale**
RE: Timothy Beale vs. Akron Engineering
FILE NO.: 45-011

Please be advised that the custodian of records for the above referenced custodian is requiring a fee of \$ _____ for approx. _____.

Please mark below if you will approve the fee:

YES WE APPROVE NO, PLEASE CANCEL THIS REQUEST
 PLEASE HOLD OTHER:

Should you have any questions, please feel free to call our office at (832) 203-6083.

Order No. **01-5000-001**

OMTI RECORDS SERVICES, INC.

2901 WILCREST DRIVE, SUITE 211
HOUSTON, TEXAS 77042
(832) 203-6083 FAX: (832) 203-6088

STATUS-NO RECORDS

DATE: December 23, 2003
TO: Megan Goodall
OF: Berg, Steiner, Chapman & Brookes
FAX: (832) 203-6088
FROM:

CUSTODIAN: Michael Hermann, M.D.
PATIENT: **Timothy Beale**
RE: Timothy Beale vs. Akron Engineering
FILE NO.: 45-011

Please be advised that the above referenced custodian is unable to locate any records pertaining to the patient named above.

The following questions have been asked of the custodian:

- Have the records been destroyed?
- Are the records in storage?
- Are the records stored at another location?
- Are the records at a hospital, clinic or with another physician?
- Does or has the doctor practiced at another location?

Please mark below how you would like us to proceed:

- Please provide a negative deposition. Please cancel this request.
 Please provide an Affidavit of No Record. Please hold.
 Other:

Should you have any questions, please feel free to call our office at (832) 203-6083.

Order No. **01-5000-001**

United States District Court

**FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Timothy Beale, et al

SUBPOENA IN A CIVIL CASE

vs.

CASE NUMBER: 99-4511DF

Akron Engineering, Inc.

TO: Custodian of Records for: **Sugarland Family Practice
1111 Highway 6, #100
Sugar Land, TX 77478 (281) 491-0909**

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
The office of the custodian: 1111 Highway 6, #100 Sugar Land, TX 77478	Instanter

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):
**Any and all billing records, including but not limited to,
any and all itemized billing statements**

PLACE	DATE AND TIME
The office of the custodian: 1111 Highway 6, #100 Sugar Land, TX 77478	Instanter

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

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b) (6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
Attorney for Defendant	

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
**Daniel Berg
Berg, Steiner, Chapman & Brookes
445 Louisiana Street, 3rd Floor, Houston, TX 77039 (713) 555-1234**

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	MANNER OF SERVICE	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal 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. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(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 paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or 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 may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel the 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) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (I) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person,

- except that, subject to the provisions of clauses (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and not exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (I) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) 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, or
- (iii) requires a person who is not a party or an officer of an party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if 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, the court may order appearance or production only upon specified conditions.

(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.

(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.

DEPOSITION SUBPOENA TO TESTIFY OR PRODUCE DOCUMENTS OR THINGS

THE STATE OF TEXAS

To any Sheriff or Constable of the State of Texas or other person authorized to serve subpoenas under RULE 176 OF TEXAS RULES OF CIVIL PROCEDURE. - GREETINGS -

You are hereby commanded to subpoena and summon the following witness(es):

Custodian of Records for:

Michael Hermann, M.D.
2901 Wilcrest Drive, Suite 211
Houston, TX 77042 (832) 555-1234

to be and appear before a Notary Public of my designation for

OMTI Records Services, Inc. (832) 203-6083
2901 Wilcrest Drive, Suite 211 , Houston, TX 77042

or its designated agent, on the forthwith day of Instanter at the office of the custodian and there under oath to make answers of certain written questions to be propounded to the witness and to bring and produce for inspection and photocopying

Any and all medical records, including but not limited to, any and all reports, notes, tests, test results, diagnoses, prognoses, office records, clinic records, therapy records, correspondence pertaining to Timothy Beale, SSN: 012-34-5678, DOB: 03/26/1953.

and any other such record in the possession, custody or control of the said witness, and every such record to which the witness may have access, pertaining to: **Timothy Beale**

Social Security Number: 012-34-5678 Date of Birth: 03/26/1953

at any and all times whatsoever, then and there to give evidence at the instance of the **Defendant, Akron Engineering**, represented by **Daniel Berg**, Attorney of Record, in that Certain Cause No. **99-4511DF**, pending on the docket of the **District Court of the 151st Judicial District of Harris County**, Texas.

This Subpoena is issued under and by virtue of Rule 200 and Notice of Deposition Upon Written Questions on file with the above named court, styled

Timothy Beale, et al

vs.

Akron Engineering, Inc.

and there remain from day to day and time to time until discharged according to law.

WITNESS MY HAND, this 23rd day of December, 2003.

NOTARY PUBLIC

176.8 Enforcement of Subpoena. (a) *Contempt.* Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

OFFICER'S RETURN

Came to hand this _____ day of _____, 20____, and executed this the ____ day of _____, 20____, in the following manner: By delivering to the witness _____, a true copy hereof.

Returned this _____ day of _____, 20____.

PROCESS SERVER

Order No. **01-5000-001**

Timothy Beale, et al

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IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

Akron Engineering, Inc.

151ST JUDICIAL DISTRICT

WAIVER OF NOTICE

Our client, **Daniel Berg**, has commissioned OMTI Records Services, Inc. to obtain records on **Timothy Beale** from the following custodian for use in the above referenced case.

IF COPIES ARE DESIRED, PLEASE INDICATE BELOW BY MARKING Y OR N. Original records will be held inhouse for 30 days. Copies may not be available after that time.

- _____ **Michael Hermann, M.D. (Medical)**
- _____ **Memorial Hermann Northwest Hospital (Medical)**
- _____ **Sugar Land Imaging Center (Radiology)**
- _____ **Grayson Smith, M.D. (Medical)**

I agree that I and/or my firm will be responsible for payment of the copies of records ordered on this waiver. I acknowledge that invoices are due and payable within 30 days of receipt and that actions for collection of services are performable and payable in Harris County, Texas.

- _____ I DO AGREE TO WAIVE THE NOTICE PERIOD.
- _____ I DO NOT AGREE TO WAIVE THE NOTICE PERIOD.

Dated: December 23, 2003

Signed

Ronald E. Powell, III
Powell Law Offices
25 Grace Center, Suite 660
Waco, TX 79033 (457) 555-3411 Fax (457) 555-3111
Attorney for Plaintiff
SBA #

Please Return To: **OMTI Records Services, Inc.**
2901 Wilcrest Drive, Suite 211
Houston, TX 77042
(832) 203-6083 Fax (832) 203-6088

NOTE: RETURN OF THIS FORM IS REQUIRED WITHIN TWENTY (20) DAYS TO PROCESS YOUR REQUEST. ANY CANCELLATION OF THE ABOVE MUST BE IN WRITING. IF THE RECORDS HAVE ALREADY BEEN COPIED AND FEES INCURRED, THEN BILLING WILL BE PRORATED ACCORDINGLY.

Order No. **01-5000-001 thru 004**