

ELECTRONICALLY FILED
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01-CV-2021-902121.00
CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
JACQUELINE ANDERSON SMITH, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

MATRIX, LLC,)
)
Plaintiff,)
)
v.)
)
CANOPY PARTNERS, LLC; TMP)
INTERACTIVE LLC; JEFF PITTS;)
GREG GILBERT; ABIGAIL MACIVER;)
APRIL ODOM; and FICTITIOUS)
DEFENDANTS ONE, TWO and THREE,)
)
Defendants.)

CIVIL ACTION NUMBER:
01-CV-2021-902121.00

NOTICE OF INTENT TO SERVE SUBPOENA ON NON-PARTY

TAKE NOTICE that upon the expiration of fifteen (15) days from the date of service of this notice, Defendants Canopy Partners, LLC and TMP Interactive, LLC, will apply to the Clerk of this Court for issuance of the attached subpoena directed to:

**The Southern Company
c/o Corporation Service Company Inc.
641 South Lawrence Street
Montgomery, AL 36104**

Said subpoena will require the production of documents or things at the time and place specified in the subpoena.

Respectfully submitted this 29th day of July, 2022.

/s/ Bruce F. Rogers
Bruce F. Rogers

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**Attorneys for Defendants Canopy Partners, LLC
and TMP Interactive, LLC.**

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2022, a copy of the above and foregoing document has been filed with the Court's CM/ECF system, which will serve a copy on all counsel of record.

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/s/ Bruce F. Rogers
OF COUNSEL

NOTICE

With respect to a subpoena which seeks only a production of documents or tangible things or an inspection of premises, as provided in Ala. R.Civ.P. 45(a)(3)(C), the production documents or tangible things or the inspection of premises pursuant to this subpoena shall take place where the documents or tangible things are regularly kept or at some other reasonable place designated by the recipient of this subpoena. As recipient of this subpoena, you have the option to deliver or mail legible copies of the documents or things to the party causing issuance of this subpoena, and the preparation of copies may be conditioned on the payment in advance of the reasonable cost of making such copies. Other parties involved in this lawsuit have the right to be present at the time of the production or inspection. The recipient of this subpoena has the right to object to the production or inspection at any time prior to the date of production or inspection set forth in this subpoena. See Ala. R.Civ.P. 45(c)(2)(B), which is set out below.

Rule 45, Ala. R.Civ.P., Paragraphs (c) & (d)

(c) Protection of person 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 from 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 fee.
- (2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, document 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 at any time before the time specified 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 production shall protect any person who is not a party or an officer of a party from significant expenses resulting from the inspection and copying commanded. For compliance may serve upon the party or attorney designed in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein means mailing to the party or attorney. 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
- (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 resident of this state who is not a party or an officer of a party to travel to place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a nonresident of this state who is not a party or an officer of a party to travel to a place within this state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provision of clause (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 no 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 a party to incur substantial expenses 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.
- (3) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.
- (4) A person responding to a subpoena need not produce the same electronically stored information in more than one form.
- (5) A person responding to a subpoena need not provide discovery of electronically stored information from sources the person identifies to the requesting party as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(B). The court may specify conditions regarding the production of the discovery.
- (6) If information is produced in discovery that is subject to a claim of privilege or of protection as trial-preparation material, the person or party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. Any party or the producing person may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

EXHIBIT A TO CIVIL SUBPOENA FOR PRODUCTION OF DOCUMENTS
UNDER RULE 45

**TO: The Southern Company
c/o Corporation Service Company Inc.
641 South Lawrence Street
Montgomery, AL 36104**

You are hereby noticed of the following request of the Defendants Canopy Partners, LLC and TMP Interactive, LLC, to produce and permit said Defendants to inspect and copy each of the following documents within fifteen (15) days after service of this subpoena on you:

1. All contracts with Joe Perkins or entities owned or related to Joe Perkins including but not limited to Matrix LLC, Perkins Communications, P & K Consulting, and Perkins Property from 2015 through 2020.
2. All records of payments sent to entities owned or related to Joe Perkins including by not limited to Matrix LLC, Perkins Communications, P & K Consulting, and Perkins Property, including monthly retainer or other contractual payments and any “special workorders” from 2015 through 2020.
3. All videos, photographs, or other materials derived from any surveillance activities targeting any Southern Company board member, executive, or employee during, but not limited to, occurring in 2009 through 2020.
4. All videos, photographs, or other materials derived from any surveillance activities of public figures, groups, or other companies provided by Joe Perkins or related entities from 2015 through 2020.
5. All communications between Southern Company Executives and Joseph Perkins, Matrix, LLC, or any of Matrix’s employees or agents from 2015 through 2020.
6. Any other emails, memoranda, letters, facsimiles, handwritten notes, electronic files, text messages, invoices, phone recordings, and all other materials relating to Matrix, LLC, Dr. Joseph Perkins, Canopy Partners, LLC, or Jeff Pitts from 2015 through 2020.

Such production and inspection is to take place where the documents or things are regularly

kept or at some reasonable place designated by you. The other parties to this action have the right to be present at the time of such production or inspection.

You may comply with this subpoena by mailing or delivering copies of the requested documents to Bruce F. Rogers, Bainbridge, Mims, Rogers & Smith, LLP, The SouthState Bank Building, 600 Luckie Drive, Suite 415, Birmingham, AL 35223. These documents may also be provided via email to brogers@bainbridgemims.com. Defendant agrees to pay for the reasonable cost of making the copies sent, but please inform us if the reasonable charges will exceed \$100.00.

NOTE: As required by A.R.C.P. 45(a)(1)(D), the text of subdivision (c) and (d) of A.R.C.P. 45 are included in this Court's required subpoena form that will be issued in this case.

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