

Sheehan & Associates, P.C.

Attorneys at Law
891 Northern Boulevard
Suite 201
Great Neck, NY 11021
Telephone: (516) 303-0552
Facsimile: (516) 234-7800
spencer@spencersheehan.com

Fax

Custodian of Records
T-Mobile Subpoena Compliance
4 Sylvan Way

To: Parsippany, NJ 07054

From: Spencer Sheehan, Esq.

Fax: (973) 292-8697

Pages: 25 (including cover page)

Phone: (973) 292-8911

Date: February 27, 2015

Re: Records Request/Subpoena *duces tecum*

Dear Custodian of Records:

Please see the attached documents. Thank you.

Very truly yours,



Spencer Sheehan

Sheehan & Associates, P.C.

Attorneys at Law
891 Northern Boulevard
Suite 201
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Facsimile: (516) 234-7800
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February 27, 2015

Via facsimile (973) 292-8697

Custodian of Records
T-Mobile Subpoena Compliance
4 Sylvan Way
Parsippany, NJ 07054

Re: Records Request/Subpoena *duces tecum*
United States District Court
Eastern District of New York
[Click here to enter text.](#)
Case No. [Click here to enter text.](#)

Dear Custodian of Records:

This firm represents defendant [Click here to enter text.](#) (“[Click here to enter text.](#)” or “defendant”) in the above-entitled action. Attached herewith please find the subpoena *duces tecum* (“subpoena”) issued by the United States District Court, Eastern District of New York, requesting information contained therein and in Attachment II to said subpoena.

I have been informed by the Subpoena Compliance Department, T-Mobile USA, Inc. (“T-Mobile”), that service of subpoenas, pursuant to the internal policies and procedures of T-Mobile, that delivery/transmission of a subpoena may be tendered via facsimile. It is also my understanding that payment for the production of any records is requested by T-Mobile after the provision of any documents. If any of the instructions I have recited may be inaccurate or imprecise, kindly inform me and I will remediate these issues forthwith.

The attached subpoena is in compliance with the Rule 45 of the Federal Rules of Civil Procedure (“FRCP”), as amended on December 1, 2013. To wit, this subpoena is issued from the United States District Court, Eastern District of New York, which is the Court where this action is

pending. Rule 45(a)(2). Additionally, the subpoena is issued and signed by your undersigned, Spencer Sheehan, an attorney duly authorized to practice in the issuing court. Rule 45(a)(3).

If there is any option whereby T-Mobile Subpoena Compliance can expedite this request, I respectfully request that this be carried out, and affirmatively consent to payment of any expedited processing fees assessed by T-Mobile in accordance with said request. If no options exist for expedited requests for the matter herein, please process this request accordingly.

Once the requested documents, electronically stored information, or tangible things (“records”) are assembled, you may, in lieu of appearance at the prescribed place set forth for production, transmit them to me via facsimile at (516) 234-7800, via mail to Sheehan & Associates, P.C., 891 Northern Boulevard, Suite 201, Great Neck, NY 11021 or via email at spencer@spencersheehan.com. Should you have any questions or concerns, please do not hesitate to contact me at (516) 303-0552. Thank you in advance for your courtesies and cooperation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Spencer Sheehan', written in a cursive style.

Spencer Sheehan

Attachments

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Click here to enter text.,)	
)	
Plaintiff,)	Case No. Click here to enter text.
)	
)	
)	
-against-)	
)	
Click here to enter text.)	
)	
)	
)	
Defendants.)	
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**NOTICE OF SERVICE OF SUBPOENA COMMANDING PRODUCTION OF
DOCUMENTS, ELECTRONICALLY STORED INFORMATION OR TANGIBLE
THINGS (*DUCES TECUM*)**

TO: Custodian of Records
T-Mobile Subpoena Compliance
4 Sylvan Way
Parsippany, NJ 07054

PLEASE TAKE NOTICE that pursuant to Rules 45(a)(C), 45(a)(D), 45(a)(2), 45(C)(2), 45(d)(2) and 45(e)(1) of the Federal Rules of Civil Procedure (“FRCP”), the attached subpoena, issued from the United States District Court, Eastern District of New York, will be served by the undersigned counsel for defendant [Click here to enter text.](#) in the above-entitled action, commanding the production of documents, electronically stored information, or tangible things

(*duces tecum*) upon the Custodian of Records, T-Mobile Subpoena Compliance, T-Mobile USA, Inc. (“T-Mobile”).

YOU ARE HEREBY ORDERED to produce at the offices of Sheehan & Associates, P.C., 891 Northern Boulevard, Suite 201, Great Neck, NY 11021 on [Click here to enter a date.](#) or at such other time and place agreed upon, all of the documents, electronically stored information, or tangible things in your possession, custody, or control that are listed and described in Attachment II and Exhibit “A”, annexed hereto. In lieu of appearing to produce at the offices of Sheehan & Associates, P.C., 891 Northern Boulevard, Suite 201, Great Neck, NY 11021 on [Click here to enter a date.](#) or at such other time and place agreed upon, you may transmit the requested documents, electronically stored information, or tangible things in your possession, custody, or control that are listed and described in Attachment II and Exhibit “A”, annexed hereto, via the following options: (i) via mail, to the offices of Sheehan & Associates, P.C., 891 Northern Boulevard, Suite 201, Great Neck, NY 11021, (ii) via facsimile to (516) 234-7800 or (iii) via electronic mail, to spencer@spencersheehan.com. Such production will be for the purpose of inspection and copying, as desired. This subpoena *duces tecum* does not request production of any information related to location based services, GPS data, cell site data, short message service (“SMS” or “text messages”) transmissions and content thereof, IP addresses, payment information and subscriber information, including Electronic Serial Numbers (“ESN”). None of the documents, electronically stored information, or tangible things requested herein is subject to any provisions of the Stored Communications Act (“SCA”), 18 U.S.C. § 2701 et seq.

Dated: Great Neck, New York
[Click here to enter a date.](#)



Spencer Sheehan, Esq.
SHEEHAN & ASSOCIATES, P.C.
Attorneys for Defendant
891 Northern Boulevard
Suite 201
Great Neck, NY 11021
Tel: (516) 303-0552
Fax: (516) 234-7800
spencer@spencersheehan.com

ATTACHMENT I

INTRODUCTION

1. Defendant [Click here to enter text.](#) hereby requests that for the purposes of complying with the subpoena commanding production of documents, electronically stored information or tangible things (*duces tecum*), that the Custodian of Records, T-Mobile Subpoena Compliance, T-Mobile USA, Inc. (“T-Mobile”) utilize the definitions proffered below.

2. The definitions proffered herein do not purport to expand the obligations to produce documents, electronically stored information or tangible things other than customer calling records or subscriber information as kept in the usual course of business.

3. This subpoena *duces tecum* does not request production of any information related to location based services, GPS data, cell site data, short message service (“SMS” or “text messages”) transmissions and content thereof, IP addresses, payment information and subscriber information, including Electronic Serial Numbers (“ESN”). None of the documents, electronically stored information, or tangible things requested herein is subject to any provisions of the Stored Communications Act (“SCA”), 18 U.S.C. § 2701 et seq.

DEFINITIONS

1. “You” or “your” includes but is not limited to T-Mobile USA, Inc., Omnicomm Communications, Inc. and any other entities, subsidiaries or capacities which you possess an interest in.

2. “Person(s)” includes not only natural persons, but also firms, limited liability companies, professional limited liability companies, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, trusts,

groups, and organizations.

3. As used herein, any reference to any “person” includes the present and former officers, members, executives, partners, directors, trustees, employees, attorneys, agents, representatives, and all other persons acting or purporting to act on behalf of the person and also its subsidiaries, affiliates, divisions, and predecessors and successors in interest.

4. The singular of each word shall be construed to include its plural and vice versa, and the root word and all derivations (i.e., “ing,” “ed,” etc.) shall be construed to include each other.

5. The following rules of construction apply to these discovery requests:

- i. **All/Any/Each.** The terms “all,” “any,” and “each” shall each be construed as encompassing any and all.
- ii. **And/Or.** The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- iii. **Number.** The use of the singular form of any word includes the plural and vice versa.
- iv. **Gender.** The masculine shall be construed to include the feminine and vice versa.
- v. **Tense.** The present tense shall be construed to include the past tense and vice versa.

6. “Knowledge,” “information,” “possession,” “custody,” and “control” of a person shall be construed to include such person’s agents, representatives, and attorneys.

7. “Including” shall have its ordinary meaning and shall mean “including but not limited to” and shall not indicate limitation to the examples or items mentioned.

8. “Reflect, refer, or relate to” means reflecting, referring to, relating to, regarding, describing, evidencing, discussing, concerning, mentioning, pertaining to, alluding to, or associated with or constituting, directly or indirectly.

9. “To present” means to the date on which you respond to these interrogatories and requests.

10. “Document(s)” include all “writings,” “recordings,” and “photographs,” as those terms are defined in Rule 1001 of the Federal Rules of Evidence (“FRE”), and should be construed in the broadest sense permissible. Accordingly, “document(s)” includes, but is not limited to, all written, printed, recorded or graphic matter, photographic matter, sound reproductions, or other retrievable data (whether recorded, taped, or coded electrostatically, electromagnetically, optically or otherwise on hard drive, diskette, compact disk, primary or backup tape, audio tape or video tape) from whatever source derived and however and by whomever prepared, produced, reproduced, disseminated or made. Without limiting the generality of the foregoing, “document(s)” includes the original and any non-identical copy and also every draft and proposed draft of all correspondence, internal memoranda, notes of meetings, telegrams, telexes, facsimiles, electronic mail, reports, transcripts or notes of telephone conversations, diaries, notebooks, minutes, notes, tests, reports, analyses, studies, testimony, speeches, worksheets, maps, charts, diagrams, computer printouts, and any other writings or documentary materials of any nature whatsoever, whether or not divulged to other parties, together with any attachments thereto and enclosures therewith. In addition, the word “document(s)” encompasses all forms and manifestations of electronically or optically coded, stored, and/or retrievable information, including but not limited to “email,” “voice mail,” digital images and graphics, digital or analog audiotapes and files, and digital or analog videotapes and files.

11. “Communication” means the transmittal of information (in the form of facts, digits, numbers, alphanumeric representations, ideas, inquiries or otherwise).

12. Identify (with respect to persons). When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address, telephone number (including, where applicable, country code) and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

13. Identify (with respect to documents). When referring to documents, “to identify” means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; (iv) author(s), addressee(s) and recipient(s); (v) the location of the document; (vi) the identity of the person who has custody of the document; (vii) Whether the document has been destroyed, and if so, the date of its destruction, the reason for its destruction and the identity of the person who destroyed it or caused it to be destroyed.

ATTACHMENT II

INTRODUCTION

1. The definitions set forth in Attachment I are incorporated herein by reference.
2. This subpoena *duces tecum* does not request production of any information related to location based services, GPS data, cell site data, short message service (“SMS” or “text messages”) transmissions and content thereof, IP addresses, payment information and subscriber information, including Electronic Serial Numbers (“ESN”). None of the documents, electronically stored information, or tangible things requested herein is subject to any provisions of the Stored Communications Act (“SCA”), 18 U.S.C. § 2701 et seq.
3. For a statement of your obligations in producing documents under this subpoena, see Rules 45(d)(1) and (2) of the Federal Rules of Civil Procedure (“FRCP”), which appear on the final page of the subpoena *duces tecum* form (AO 88B).
4. For a statement of your obligations in producing documents under this subpoena, see Rules 45(d)(1) and (2) of the Federal Rules of Civil Procedure (“FRCP”), which appear on the final page of the subpoena *duces tecum* form (AO 88B).
5. In responding to the subpoena *duces tecum* served on you requesting the production of documents, electronically stored information, or tangible things, please furnish all documents, electronically stored information, or tangible things, however obtained, that are available to or in possession or control of yourself, your agents, and/or your attorneys.
6. Please produce documents, electronically stored information, or tangible things in a reasonably useable form.
7. Identify any documents, electronically stored information, or tangible things responsive to this request that have been destroyed and state the circumstances of their

destruction.

8. If you cannot respond to this request in full after exercising due diligence to secure the documents, electronically stored information, or tangible things, so state and respond to the extent possible, specifying your inability to provide the remaining documents, electronically stored information, or tangible things, stating whatever information or knowledge you have concerning the remaining documents, electronically stored information, or tangible things, and detailing what you did in attempting to secure the documents, electronically stored information, or tangible things.

9. If you object to a request on the grounds of privilege or work product, provide documents, electronically stored information, or tangible things (or portions thereof) with such non-privileged information as is responsive, identify the nature of the information withheld as privileged, and specify the basis for your claim of privilege. List all documents, electronically stored information, or tangible things (or portions thereof) or other information withheld pursuant to the claim of privilege, provide a general description of the documents, electronically stored information, or tangible things (or portions thereof) or information withheld pursuant to the claim of privilege, and identify the specific privilege(s) which provide(s) the basis for nondisclosure of each piece of responsive information.

10. This request shall be deemed to be continuing until and during the course of trial. Information sought by these requests and that you obtain after you respond to these requests must be disclosed to defendant [Click here to enter text.](#) by supplementary responses.

11. The itemized production requests below may be duplicative based on naming conventions for the relevant documents, electronically stored information, or tangible things sought which may be referred to by different names, sections, titles, etc., at various points of

time from various telecommunications and/or wireless service providers.

PRODUCTION REQUESTS

1. Records, time and duration of incoming and outgoing calls placed or received by the telephone number [Click here to enter text.](#) owned or associated with Enter Name of Person (Date of Birth: [Click here to enter a date.](#)); Social Security Number:[Click here to enter text.](#); Address:[Click here to enter text.](#), for dates and telephone numbers set forth in Exhibit “A”, annexed hereto.

2. Call logs containing records, time and duration of incoming and outgoing calls placed or received by the telephone number [Click here to enter text.](#) owned or associated with Enter Name of Person (Date of Birth: [Click here to enter a date.](#)); Social Security Number:[Click here to enter text.](#); Address:[Click here to enter text.](#), for dates and telephone numbers set forth in Exhibit “A”, annexed hereto.

3. Call history containing records, time and duration of incoming and outgoing calls placed or received by the telephone number [Click here to enter text.](#) owned or associated with Enter Name of Person (Date of Birth: [Click here to enter a date.](#)); Social Security Number:[Click here to enter text.](#); Address:[Click here to enter text.](#), for dates and telephone numbers set forth in Exhibit “A”, annexed hereto.

4. Billing history containing records, time and duration of incoming and outgoing calls placed or received by the telephone number [Click here to enter text.](#) owned or associated with Enter Name of Person (Date of Birth: [Click here to enter a date.](#)); Social Security Number:[Click here to enter text.](#); Address:[Click here to enter text.](#), for dates and telephone numbers set forth in Exhibit “A”, annexed hereto.

5. Monthly statement information containing records, time and duration of

incoming and outgoing calls placed or received by the telephone number [Click here to enter text.](#) owned or associated with [Enter Name of Person](#) ([Date of Birth: Click here to enter a date.](#)); [Social Security Number:Click here to enter text.](#); [Address:Click here to enter text.](#), for dates and telephone numbers set forth in Exhibit “A”, annexed hereto.

6. Cellular Service Call Details containing records, time and duration of incoming and outgoing calls placed or received by the telephone number [Click here to enter text.](#) owned or associated with [Enter Name of Person](#) ([Date of Birth: Click here to enter a date.](#)); [Social Security Number:Click here to enter text.](#); [Address:Click here to enter text.](#), for dates and telephone numbers set forth in Exhibit “A”, annexed hereto.

Dated: Great Neck, New York
October 12, 2015

Yours, etc.

SHEEHAN & ASSOCIATES, P.C.

By: _____
Spencer Sheehan
Attorneys for Defendant
891 Northern Boulevard
Suite 201
Great Neck, NY 11021
Tel: (516) 303-0552
Fax: (516) 234-7800
spencer@spencersheehan.com

CASE NO. [Click here to enter text.](#)
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

[Click here to enter text.,](#)

PLAINTIFF,

- AGAINST -

[Click here to enter text.,](#)

DEFENDANTS.

**SUBPOENA *DUCES TECUM*
SERVED UPON CUSTODIAN OF RECORDS,
T-MOBILE SUBPOENA COMPLIANCE**

Sheehan & Associates, P.C.
Attorneys for Defendant
891 Northern Boulevard
Suite 201
Great Neck, NY 11021
Tel: (516) 303-0552
Fax: (516) 234-7800
spencer@spencersheehan.com

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, and belief, formed after an inquiry reasonable under the circumstances, the contentions contained in the annexed documents are not frivolous.

Dated: Nassau, New York
[Click here to enter a date.](#)



SPENCER SHEEHAN, ESQ.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
Click here to enter text.,

Click here to enter text.

Plaintiff,

- against -

CERTIFICATE OF SERVICE

Click here to enter text.

Defendants.

-----X

TO: Clerk of the Court

I hereby certify that on the [Click here to enter a date.](#) , I have caused service of the foregoing **NOTICE OF SERVICE OF SUBPOENA COMMANDING PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION OR TANGIBLE THINGS (DUCES TECUM) UPON CUSTODIAN OF RECORDS, T-MOBILE SUBPOENA COMPLIANCE**, by mailing same with the United States Postal Service, via first-class mail, upon counsel of record for plaintiff [Click here to enter text.](#) , as follows:



Spencer Sheehan, Esq.
SHEEHAN & ASSOCIATES, P.C.
Attorneys for Defendant
891 Northern Boulevard
Suite 201
Great Neck, NY 11021
Tel: (516) 303-0552

EXHIBITS

EXHIBIT A

A. Specified dates and targeted incoming and/or outgoing telephone calls to the telephone number [Click here to enter text.](#)