**Chapter Seven**

**Substantive Civil Law and Procedure**

**I. Sample Test Questions**

**True/False**

 **T F 1. It is the plaintiff rather than the defendant who most commonly alleges affirmative defenses.**

**T F 2. Complaints are filed by the plaintiff.**

**T F 3. The defendant has the first opening statement at trial.**

**T F 4. It is the plaintiff who most commonly files for defaults.**

**T F 5. It is the defendant who most often files third party claims.**

**T F 6. With an affirmative defense, the defense is arguing that the defense should win even if the allegations in the plaintiff’s complaint are true.**

**T F 7. If there is more than one defendant, a separate summons must be prepared for each one.**

**T F 8. Statutes of limitations apply to the period of time from the date that the cause of action is filed until the decision is rendered in a lawsuit.**

**T F 9. The document filed by the defendant that responds to each allegation of the Complaint is known as the Answer.**

**Fill-ins**

 **1. A document used to compel the attendance of a witness at a trial is known as a**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **2. A document that notifies a person that he or she is being sued and has to respond within a certain number of days under the Rules of Civil Procedure is known as a**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **3. The process of jury selection is also referred to as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **4. Every corporation must designate an individual who will be responsible for accepting service of process on behalf of the corporation. That individual is known as the**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **5. X sues Y. Y then makes a claim against X. This is known as a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **6. A document that serves as a second attempt to inform you that you have been sued is**

**known as a(n) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **7. When a plaintiff’s attorney asks questions of the defendant’s witnesses for the first time,**

**this is known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

 **8. If the defendant does not file a responsive pleading within the designated time period,**

**the plaintiff can request that the clerk enter a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ against the defendant.**

 **9. Questioning the truthfulness of a witness is known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**10. X sues Y. Y claims that it is Z’s fault. This type of claim is referred to as a**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**11. If a second attempt summons is defective in form or manner of service, a third version**

**called a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ may be issued.**

**12. A \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is an action by one party against a co-defendant.**

**13. A \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ occurs before the trial between the judge and all the parties to narrow the issues, limit the number of expert witnesses, explore the possibilities of settlement, and deal with other issues.**

**14. The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is the top portion of a pleading containing information such as the names of the parties, the case number, and the name of the court hearing the case.**

**Short Answer**

 **1. Who has the authority to serve summonses in our state?**

 **2. What is the purpose of a subpoena?**

 **3. Who has the authority to serve subpoenas in our state?**

 **4. What is the purpose of a Subpoena Duces Tecum?**

 **5. What is an affirmative defense? List and define three affirmative defenses.**

 **6. Under what circumstances is a counterclaim compulsory?**

 **7. How many days does one have to answer a civil complaint in our state?**

 **8. List two matters addressed at a pretrial conference.**

 **9. What is the difference between a motion for a directed verdict and a motion for a judgment N.O.V.?**

**10. Why might there be multiple counts in a complaint?**

**11. Name and define a common motion in anticipation of appeal.**

**12. Kerry sues Ben Larson, Jim Harton, and Penny Stone in a damages suit for negligence. How many summonses does Kerry need to prepare (not counting photocopies)?**

**13. Linton sues Barnard and Winters. Barnard files papers claiming that it is Winter's fault and not his own. What would such a claim be referred to as?**

**14. Linton sues Barnard and Winters. Barnard files papers claiming that it is Smith’s fault. What would such a claim be referred to as?**

**15. Bill sues Moe, Larry, and Curly in a damages suit for eye injuries that he, Bill, sustained. How many summonses does Bill need to prepare (not counting photocopies)? How many original complaints must be prepared?**

**16. If you were served today with a Complaint and Summons, what is the last possible date you would have to file the Answer?**

1. Which of the following occurs first in a standard jury trial? Write the letter of the correct answer in the space to the left of each pair.

\_\_\_\_ a. plaintiff’s opening argument

 b. defendant’s opening argument

\_\_\_\_ c. plaintiff’s opening argument

 d. jury selection

\_\_\_\_ e. plaintiff’s direct examination

 f. defendant’s direct examination

\_\_\_\_ g. plaintiff’s direct examination

h. defendant’s cross examination

\_\_\_\_ i. plaintiff’s redirect examination

j. defendant’s cross examination

\_\_\_\_ k. defendant’s motion for a directed verdict

l. plaintiff’s closing argument

18. Which of the following comes first in a standard civil case? Please mark your answer in the space to the left of each pair.

\_\_\_\_ a. service of an alias summons

 b. service of a pluries summons

\_\_\_\_ c. jury selection

 d. opening statements

\_\_\_\_ e. pretrial conference

 f. filing of the answer

\_\_\_\_ g. plaintiff’s direct examination

 h. defendant’s cross examination

**II. Answers to the Sample Test Questions**

**True/False**

 **1. F**

 **2. T**

 **3. F**

 **4. T**

 **5. T**

 **6. T**

 **7. T**

 **8. F**

 **9. T**

**Fill-ins**

 **1. subpoena**

 **2. summons**

 **3. *voir dire***

 **4. registered agent**

 **5. counterclaim**

 **6. alias summons**

 **7. cross examination**

 **8. default**

 **9. impeachment**

**10. third party claim**

**11. pluries summons**

**12. cross-claim**

**13. pretrial conference**

**14. caption**

**Short Answer**

 **1. Answers will vary depending on the state.**

 **2. The purpose of a subpoena is to compel someone to appear at a trial, hearing, or deposition.**

 **3. Answers will vary depending on the state.**

 **4. The purpose of a Subpoena Duces Tecum is to compel someone to appear at a trial, hearing, or deposition, and to bring tangible evidence with him or her.**

 **5. An affirmative defense is a defense which, if accepted by the court, will relieve the defendant of liability even if the allegations of the complaint are shown to be true. Examples of affirmative defenses are:**

**a. *res judicata.* When using this defense, the defendant is arguing that, regardless of the truth of the allegations in the complaint, the matter has already been ruled upon by a court of law and the present case should therefore be dismissed.**

**b. contributory negligence. This defense is applicable only in negligence cases. It releases the defendant from liability if the defendant can prove any negligence on the part of the plaintiff.**

**c. statute of limitations. With this defense, the defendant is arguing that the plaintiff cannot file a lawsuit because the statute of limitations has expired. The statute of limitations is a statute that states the maximum time allowed by law from the date that a cause of action accrued (or possibly when the party *should* have known of the existence of the cause of action) until the filing of a suit.**

***Note: Other affirmative defenses that may be listed by students include release and comparative negligence***

 **6. A counterclaim is compulsory when the basis for a counterclaim results from the same facts that give rise to the original claim.**

 **7. Answers will vary by state.**

 **8. Answers will vary, but may include:**

**simplification of issues**

**necessity or desirability of amendments to the pleadings**

**avoidance of unnecessary proof**

**advance rulings on the admissibility of evidence**

**identification of witnesses to testify and evidence to be submitted**

**disposition of pending motions**

**control and scheduling of discovery**

**an order for a separate trial with respect to any issue in the case**

**an order establishing a reasonable limit on the time allowed for presenting evidence**

**the possibility of settlement**

 **9. A motion for a directed verdict takes place during the trial. A motion for a judgment N.O.V. takes place after the jury verdict.**

**10. A complaint may contain multiple counts when there are multiple defendants or multiple causes of action.**

1. A common motion in anticipation of an appeal is a motion for a judgment N.O.V., which requests that the court overrule the verdict of the jury on the grounds that there was insufficient evidence as a matter of law to support that verdict.

12. Three summonses are required.

13. a cross-claim

14. a third-party claim

15. three summonses; one original complaint

16. Answers will vary by state.

17. a.

d.

e.

g.

j.

k.

18. a.

c.

f.

g.

**III. Answers to the Review Questions in the Text**

***Note to instructors:*** *The forms used in the textbook are designed for instructional purposes only, and they are not intended for unmodified use in any particular jurisdiction. The instructor should note the particular areas in which the forms from the book differ from any*

*forms that may be used in local practice. Not all of the information contained in the questions that require the use of the forms need be used in preparing the requested documents.*

1. Barber’s claim against Kendricks would be described as a cross-claim.

2. Piston’s claim against Aldonmaker would be described as a third party complaint.

3.(The answer to this question is dependent upon which state’s rules are being applied.)

4. Three summonses must be prepared - one for each of the three defendants.

5. As a general rule, if personal service cannot be obtained in a case that requires such service, the plaintiff cannot acquire a personal judgment against the defendant. If Korden learns of an alternative address where the defendant may be located, he can make a second attempt at personal service by the use of an alias summons.

6. In most states, it is permissible for him to make such a claim in the answer by including a counterclaim against Janeway. Generally, it would be mandatory that he either raise the issue at this time or waive it since the claim results from the same “transaction”or incident as the one that forms the basis for the original complaint.

*All of the remaining review questions for this chapter call for the preparation of exhibits. Those exhibits follow this page.*

Question 7 - Complaint

Summons

Answer

Question 8 - Motion for Default, and Default

Question 9 - Final Judgment

Question 10 - Cross-claim

Question 11 - Subpoena Duces Tecum for Trial

IN THE (appropriate court for your state) COURT OF THE (appropriate circuit for your state) JUDICIAL CIRCUIT IN AND FOR (your county and state)

Case No. 04-88942

State Bar No. 2538946

Harold Lane, )

)

Plaintiff, )

 )

v. )

)

Phyllis Jenko, ) This is designed to show basic format, and is ) not designed for use in any given jurisdiction.

)

Defendant. )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

 COMPLAINT

The plaintiff, Harold Lane, sues the defendant, Phyllis Jenko, and alleges:

1. This is an action for damages in excess of (place the dollar amount for the appropriate court in your state that handles $100,000 claims), the jurisdictional limit of this court.

2. On or about December 8, 2003, both plaintiff, Harold Lane, and defendant, Phyllis Jenko, owned and operated their respective motor vehicles at the intersection of Simons Street and Collins Avenue in Oakland, (your state).

3. At that time and place mentioned in allegation #2, the defendant, Phyllis Jenko, negligently operated or maintained her motor vehicle so that it collided with the vehicle of the plaintiff, Harold Lane.

4. As a result plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a previously existing condition. The losses are either permanent or continuing and the plaintiff will suffer the losses in the future. The plaintiff’s automobile was damaged and she lost the use of it during the period required for its repair or replacement.

 Demand for Jury Trial

5. The plaintiff hereby demands trial by jury as to all issues so triable.

WHEREFORE plaintiff demands judgment for damages against the defendant.

DATED this 11th day of March, 2004.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Matthew Cortez

Attorney for the Plaintiff

1324 35th Avenue

Turlington, (your state and zip code)

(205) 555-5555

IN THE **(appropriate court in your state)** COURT OF THE **(appropriate circuit in your state)** JUDICIAL CIRCUIT IN AND FOR **(your county and state)**

 Case No: **04-88942**

**State Bar No. 2538946**

**Harold Lane,** )

)

Plaintiff, )

)

v. )

) This form is designed for

**Phyllis Jenko,**  ) instruction, and not for use

) in all jurisdictions.

 Defendants. )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_ )

Serve: **Phyllis Jenko**

  **21 Begley Circle**

 **Oakland, (your state and zip code)**

SUMMONS:

(PERSONAL SERVICE

ON A NATURAL PERSON)

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written

response to the court you must also mail or take a copy of your written response to the

“Plaintiff/Plaintiff's Attorney” named below.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Plaintiff's Attorney

**Matthew Cortez**

**1324 35th Avenue**

**Turlington, (your state and zip code)**

**(205) 555-5555**

STATE OF **(your state)**

TO EACH SHERIFF OF THE STATE

You are commanded to serve this summons and a copy of the complaint in this law suit on the above-named Defendant.

DATED this day of , 20 .

Clyde Clerk

 (Seal) As Clerk of the Court

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

As Deputy Clerk My commission expires:

IN THE (appropriate court in your state) COURT OF THE (appropriate circuit in your state) JUDICIAL CIRCUIT IN AND FOR (your county and state)

Case No. 04-88942

State Bar No. 4239065

Harold Lane, )

)

Plaintiff, )

 )

v. )

)

Phyllis Jenko, ) This is designed to show basic format, and is ) not designed for use in any given jurisdiction.

)

Defendant. )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

 ANSWER

COMES NOW the defendant, Phyllis Jenko, by and through her undersigned attorney, and answers the allegations of the plaintiff’s complaint as follows:

1. The defendant admits that this is an action for damages in excess of (place the dollar amount for the appropriate court in your state that handles $100,000 claims), the jurisdictional limit of this court.

2. As to allegation #2, the defendant admits that both she and the plaintiff were operating motor vehicles at the intersection of Simons Street and Collins Avenue in Oakland, (your state) on or about December 8, 2003, and that she, the defendant was the owner of her vehicle. The defendant has no knowledge as to whether the plaintiff was the owner of his vehicle.

3. As to allegation #3, the defendant admits that there was a collision, but denies that it was due to the defendant’s negligence.

4. Allegation #4 of the plaintiff’s complaint is denied.

 Affirmative Defense

5. The plaintiff had a seat belt readily available to him that would have either significantly decreased or eliminated the chance of serious injury that the plaintiff claims to have suffered, and because of the fact that the plaintiff was negligent in failing to use the seat belt, his recovery should be reduced proportionately to reflect such negligence.

 Demand for Jury Trial

6. The defendant hereby demands trial by jury as to all issues so triable.

I HEREBY CERTIFY that a copy of the foregoing Answer has been mailed to Matthew Cortez, attorney for the plaintiff, 1324 35th Avenue, Turlington, (your state and zip code) this 24th day of March, 2004.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Martha Blackwell

Attorney for the Defendant

220 Wellington Park Blvd., Suite 245

Oakland, (your state and zip code) (205) 555-4671

IN THE (appropriate court for your state) COURT OF THE (appropriate circuit for your state) JUDICIAL CIRCUIT IN AND FOR (your county and state)

Case No. 03-77487

State Bar No. 3721586

Mary Utley, )

)

Plaintiff, )

 )

v. )

)

Debra Wescot, ) This is designed to show basic format, and is

) not designed for use in any given jurisdiction.

Defendant. )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

 MOTION FOR DEFAULT

Plaintiff moves for an entry of a default by the clerk against the Defendant, Debra Wescot, for failure to serve any paper on the undersigned or file any paper as required by law.

I HEREBY CERTIFY that a copy of the foregoing Motion for Default, and Default has been mailed to Kelly Hathaway, 512 24th Avenue, Fort Halverson, (your state and zip code) this 9th day of January, 2004.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Paul Hart

Hart and Hart, P.A.

Attorney for the Plaintiff

44 Cypress Drive

Rollings, (your state and zip code)

(567) 555-1928

 DEFAULT

A default is entered in this action against the defendant named in the foregoing motion for failure to serve or file any paper as required by law.

DATED this 9th day of January, 2004.

(name of the Clerk of the Court in your county and state)

As Clerk of the Court

By: /s/ Karen Valish

As Deputy Clerk

IN THE (appropriate court for your state) COURT OF THE (appropriate circuit for your state) JUDICIAL CIRCUIT IN AND FOR (your county and state)

Case No. 04-58531

State Bar No. 2538946

Doris Hardy, )

)

Plaintiff, )

 )

v. )

) This is designed to show basic format, and is

Ronald Deal, ) not designed for use in any given jurisdiction.

)

Defendant. )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

 DEFAULT JUDGMENT

THIS ACTION was heard after entry of default against defendant and

IT IS ADJUDGED that Plaintiff, Doris Hardy, recover from the Defendant, Ronald Deal, the sum of $8,766.54 with costs in the sum of $347.75, prejudgment interest in the amount of $892.36, and attorneys fees in the amount of $1,575.00 making a total of $11,581.65. All of these amounts shall bear interest at the legal rate of interest until paid in full, for which let execution issue.

ORDERED in (your city, county, and state) on this, the 17th day of March, 2004.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Circuit Judge

cc: Steven Young cc: Mary Thorison

Attorney for the Plaintiff Attorney for the Defendant

1984 Lakeview Drive 481 Downey Road

Mount Pleasant, (your state and zip code) St. Stevens, (your state and zip code)

IN THE (appropriate court for your state) COURT OF THE (appropriate circuit for your state) JUDICIAL CIRCUIT IN AND FOR (your county and state)

Case No. 04-33192

State Bar No. 718234

Spencer Martz, )

)

Plaintiff, )

 )

v. )

)

Patricia Hodgekin and ) This is designed to show basic format, and is

Marla West, ) not designed for use in any given jurisdiction.

)

Defendants. )

)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

 CROSS-CLAIM

Defendant, Marla West, by and through her undersigned attorney, sues co-defendant Patricia Hodgekin in cross-claim and alleges the following:

1. This is an action for damages in excess of (place the dollar amount for the appropriate court in your state that handles $100,000 claims), the jurisdictional limit of this court.

2. On or about January 14, 2004, defendant Patricia Hodgekin owned and operated a motor vehicle at the intersection of Grover Blvd. and 22nd Avenue in Talton, (your state).

3. At that time and place defendant Patricia Hodgekin negligently operated or maintained the motor vehicle so that it collided with the vehicle of Marla West.

4. As a result Marla West suffered bodily injury and resulting pain and suffering, disability, disfigurement, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a previously existing condition. The losses are either permanent or continuing and Marla West will

suffer the losses in the future. Marla West's automobile was damaged and she lost the use of it during the period required for its repair or replacement.

 Count II

5. This is an action for damages in excess of (place the dollar amount for the appropriate court in your state that handles $100,000 claims), the jurisdictional limit of this court.

6. On or about January 14, 2004, Defendant Patricia Hodgekin owned and operated a motor vehicle at the intersection of Grover Blvd. and 22nd Avenue in Talton, (your state).

7. At that time and place defendant Patricia Hodgekin negligently operated or maintained the motor vehicle so that it collided with the vehicle of Marla West.

8. Spencer Martz was a passenger in the vehicle owned and operated by Patricia Hodgekin.

9. Spencer Martz filed suit against both Marla West and Patricia Hodgekin in the Circuit Court in and for Lawson County, (your state) on October 31, 2004 for damages sustained as a result of the collision.

10. Defendant Patricia Hodgekin was so negligent in the maintenance and operation of her automobile that such negligence was the sole legal cause of the damages demanded in the plaintiff’s complaint, and Marla West is therefore entitled to indemnification for any amounts recoverable from Marla West by the plaintiff. Alternatively, Patricia Hodgekin was responsible for the plaintiff’s damages to such a degree that any amounts recovered by the plaintiff against Marla West will entitle Marla West to contribution from Patricia Hodgekin in direct proportion to Patricia Hodgekin’s negligence under the doctrine of comparative negligence.

 Demand for Jury Trial

Marla West, by and through her undersigned attorney, hereby demands trial by jury as to all issues so triable.

WHEREFORE Marla West, by and through her undersigned attorney, demands

judgment for damages against defendant, Patricia Hodgekin.

I HEREBY CERTIFY that a copy of this cross-claim was mailed to Mr. Louis Montoya, attorney for the plaintiff, 722 Military Road, Rockway, (your state and zip code) this 12th day of November, 2004.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Caroline Fister

Attorney for defendant Marla West 37 Sofia Street

Rockway, (your state and zip code)

(299) 555-6300

THE (**appropriate court for your state)** COURT OF THE

(**appropriate circuit for your state)** JUDICIAL CIRCUIT

IN AND FOR (**your county and state)**

Case No: **04-53525**

**State Bar No. 7173629**

**Roger Wallace,**  )

) This form is designed for

Plaintiff, ) instruction, and not for use

) in all jurisdictions.

v. )

)

**Melissa Derosa,** ) TIME:

)

 Defendant. ) DATE:

 )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) SERVER:

 SUBPOENA DUCES TECUM FOR TRIAL

THE STATE OF **(your state)**:

TO: **John Carlisle**

 **982 40th Way**

 **Marketville, (your state and zip code)**

YOU ARE COMMANDED to appear before the Honorable **Susan Wilson**, Judge of the (**appropriate court for your state)** Court, at the **(your county)** County Courthouse in **(your city)** in the state of **(your state)** on the **5th** day of **April, 2004,** at **9:00 A.M.** to testify in this action and to have with you at that time and place the following:

**the ledger books showing all receipts and expenditures for the ABC sole proprietorship for the year 2002.**

If you fail to appear, you may be in contempt of court.

YOU ARE SUBPOENAED to appear by the following attorney and unless excused from this subpoena by these attorneys or the court, you shall respond to this subpoena as directed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Plaintiff's Attorney

**Julia Cox**

**41 Maplewood Lane**

**Windsor, (your state and zip code)**

**(497) 555-8000**

DATED this **28th** day of **March, 2004.**

**(the Clerk of the Court in your county)**

Clerk of the Court

By: **/s/ Daniel Evers**

As Deputy Clerk