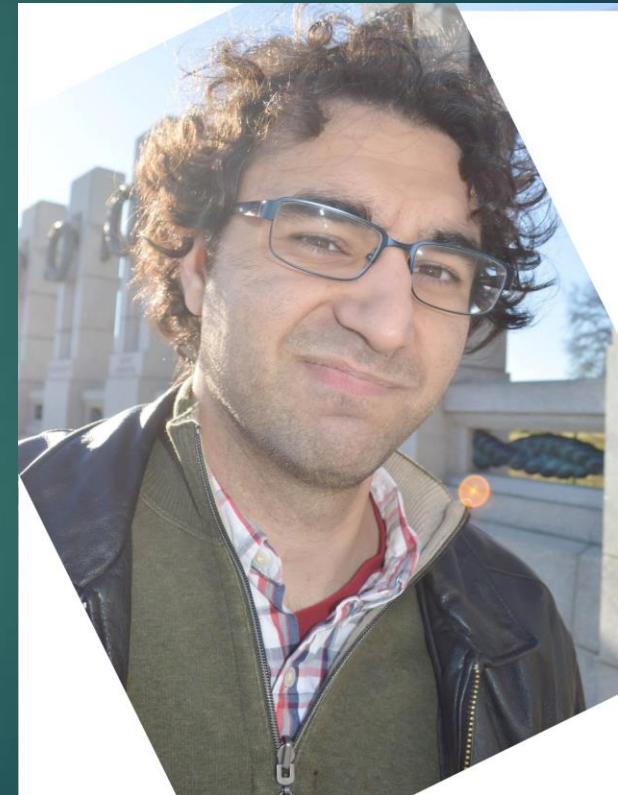


WHY YOU MIGHT SHOW UP IN COURT

LITIGATION & HOW TO PREPARE FOR IT

Rameen Nasrollahi

- ▶ UT College of Law, 2014
- ▶ 2 Years with Tennessee Court of Appeals
- ▶ 6 Years in Private Practice
 - ▶ Small Claims
 - ▶ Landlord Tenant Matters
 - ▶ Litigation Support in Multi-Million Dollar Business Disputes
 - ▶ Business Disputes in Local Trial Courts



Reasons You Are Before A Court

- ▶ Party to a Lawsuit
 - ▶ Individually
 - ▶ On Behalf of Company
- ▶ Receive a Subpoena
- ▶ Acting as a Witness

Getting Started

- ▶ You Were There
- ▶ Demand Letter
- ▶ You Get Served

_____ County	STATE OF TENNESSEE CIVIL SUMMONS page 1 of 1	Case Number _____
_____ Vs. _____		

Served On: _____

You are hereby summoned to defend a civil action filed against you in _____ Court, _____ County, Tennessee. Your defense must be made within thirty (30) days from the date this summons is served upon you. You are directed to file your defense with the clerk of the court and send a copy to the plaintiff's attorney at the address listed below. If you fail to defend this action by the below date, judgment by default may be rendered against you for the relief sought in the complaint.

Issued: _____ Clerk / Deputy Clerk

Attorney for Plaintiff: _____

NOTICE OF PERSONAL PROPERTY EXEMPTION

TO THE DEFENDANT(S): Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption as well as a homestead exemption from execution or seizure to satisfy a judgment. The amount of the homestead exemption depends upon your age and the other factors which are listed in TCA § 26-2-301. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for your self and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer. Please state file number on list.

Mail list to _____ Clerk, _____ County

CERTIFICATION (IF APPLICABLE)

I, _____ Clerk of _____ County do certify this to be a true and correct copy of the original summons issued in this case.

Date: _____ Clerk / Deputy Clerk

OFFICER'S RETURN: Please execute this summons and make your return within ninety (90) days of issuance as provided by law.

I certify that I have served this summons together with the complaint as follows: _____

Date: _____ By: _____
Please Print: Officer, Title

Agency Address _____ Signature _____

RETURN ON SERVICE OF SUMMONS BY MAIL: I hereby certify and return that on _____, I sent postage prepaid, by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in the above styled case, to the defendant _____. On _____ I received the return receipt, which had been signed by _____ on _____. The return receipt is attached to this original summons to be filed by the Court Clerk.

Date: _____ Notary Public / Deputy Clerk (Comm. Expires _____)

Signature of Plaintiff _____ Plaintiff's Attorney (or Person Authorized to Serve Process)
(Attach return receipt on back)

ADA: If you need assistance or accommodations because of a disability, please call _____, ADA Coordinator, at () _____.

But I Don't Want to Go to Court!

- ▶ Too bad!
- ▶ Anyone Can Sue for Anything
 - ▶ Who pays for my lawyer?
- ▶ Settle
- ▶ Contracts
 - ▶ Follow Them
 - ▶ Easier on the Front End
 - ▶ Fees
 - ▶ Pick and Choose Courts



Courts

- ▶ General Sessions
 - ▶ Small Claims (< \$25,000)
 - ▶ Landlord/Tenant
 - ▶ Quick Resolution (Potentially)
- ▶ Circuit & Chancery Courts
 - ▶ Courts of Record
 - ▶ Juries
- ▶ Court of Appeals & Supreme Court
- ▶ United States District Court for the Eastern District of Tennessee
 - ▶ Diversity Jurisdiction
 - ▶ Federal Law



Stages of Litigation

- ▶ Pleadings
- ▶ Discovery
 - ▶ Where the real work happens.
- ▶ Summary Judgment
- ▶ Trial
 - ▶ This is your only chance to tell the judge your story.
- ▶ Appeal
 - ▶ You could do the whole case over again!
- ▶ Collection
- ▶ LEGAL DRAMA
- ▶ THERE IS NO SILVER BULLET



Discovery

- ▶ Not Required in Sessions Court
 - ▶ Old School
- ▶ Preserve Documents Related to Case
 - ▶ As Soon As You Think Suit is Possible
 - ▶ Document Retention Plan
- ▶ Written Discovery
 - ▶ Interrogatories
 - ▶ Production of Documents
 - ▶ Where Preparation Comes in Handy
- ▶ Depositions



What do I have to turn over?

- ▶ Any document that is “relevant”.
 - ▶ Broad definition.
- ▶ This includes way more documents than you think.
 - ▶ E-mails
- ▶ Copies of how things are kept in the “ordinary course of business”
 - ▶ Notes
- ▶ Can't Produce What you Don't Have
 - ▶ Document Retention Policies

Practices to Avoid

- ▶ Personal Business on Company Communications
 - ▶ “I’m dealing with Acme Corp. tonight, so I will be late to dinner.”
- ▶ Disparaging Statements
 - ▶ “These idiots are the most incompetent morons I have ever worked with. I don’t even know how they can run a business.”
 - ▶ “We have this subset of clients that we like to call [insert sexist/racist/inappropriate epithet here]”.
 - ▶ Off-Color Remarks
 - ▶ Mixing Client Info

WORST CASE SCENARIO

- What if I just don't give the other side anything?



Subpoenas

- ▶ Served in Same Manner as Complaint
- ▶ For Testimony or for Documents
 - ▶ Testimony – Show Up in Court
 - ▶ Documents
 - ▶ Similar to Document Discovery
 - ▶ Can Avoid Court Appearance
- ▶ Can Object

Court County Tennessee	SUBPOENA	Case Number
_____ vs. _____ [Plaintiff's Name] [Defendant's Name]		

To: _____

Under penalty prescribed by law, you are commanded:

1. **Subpoena for Attendance at Hearing or Trial** – to appear personally before the _____ Court of _____ County, _____ [street address], _____ [city/town], Tennessee, on _____ [date] at _____ [time] _____ a.m./p.m., and give testimony, pursuant to Rule 45.01 and 45.05 of the Tennessee Rules of Civil Procedure; when you arrive, you must remain at the court until the judge or a court officer allows you to leave;

2. **Subpoena for Production of Documentary Evidence (Books, Papers, Documents, etc.)** – to produce and permit inspection, copying, testing, or sampling of the following designated books, papers, documents, electronically stored information, or tangible things: _____
 _____ and to swear or affirm that the things produced are authentic to the best of your knowledge, information, and belief, and to state whether all responsive things have been produced, pursuant to Rule 45.02 of the Tennessee Rules of Civil Procedure; the subpoenaed items must be produced at _____ [address where subpoenaed items must be produced] _____ on or before _____ [date] at _____ [time] _____ a.m./p.m.;

3. **Subpoena for Inspection of Premises** – to permit inspection of the following premises: _____ [address of premises to be inspected] _____ on _____ [date] at _____ [time] _____ a.m./p.m., pursuant to Rule 45.02 of the Tennessee Rules of Civil Procedure; and/or

4. **Subpoena for Deposition Testimony** – to appear personally at _____ [address of deposition location] _____ in _____ [city/town] _____, Tennessee, on _____ [date] _____, at _____ [time] _____ a.m./p.m., then and there to testify by deposition in this matter, and to bring the following items: _____, pursuant to Rule 45.04 of the Tennessee Rules of Civil Procedure.

Notice for a subpoena for production of documentary evidence (#2 above) or for a subpoena for deposition testimony (#4 above): The failure to serve an objection to this subpoena within twenty-one days after the day of service of the subpoena waives all objections to the subpoena, except the right to seek the reasonable cost for producing books, papers, documents, electronically stored information, or tangible things.

This subpoena is issued on behalf of Plaintiff or Defendant . The name, address, and telephone number of the issuing party's attorney are: _____.

Signature of issuing party's attorney: _____

Date Issued: _____

Signature of Clerk/Deputy Clerk

For Americans With Disabilities Act (ADA) assistance only,
 call: _____ [name & telephone number].

NOTICE: YOU CAN BE FOUND IN CONTEMPT OF COURT FOR FAILING TO COMPLY WITH THIS SUBPOENA AND IF FOUND GUILTY OF CONTEMPT YOU MAY BE FINED, IMPRISONED, OR BOTH.

(This is a general form subpoena. The party issuing the subpoena is responsible for complying with any provision of law imposing additional notice requirements that apply to the pending case or to the type of records being sought under this subpoena.)

Depositions



Being a Witness

- ▶ Testify in Your Own Case
- ▶ Testify in Someone Else's Case
- ▶ Testify as an Expert Witness
 - ▶ Business Valuation Cases
 - ▶ Forensic Investigations
- ▶ Requirements
 - ▶ Qualifications (Including List of Publications)
 - ▶ List of Previous Cases
 - ▶ Statement of Compensation
 - ▶ Expert Report
 - ▶ Deposition



Collecting Judgments

- ▶ I won! I get my money now, right?
 - ▶ Nope! You have a piece of paper.
 - ▶ Settlements avoid this problem.
- ▶ How do I get it?
 - ▶ Garnish Wages
 - ▶ Execute on Bank Accounts
 - ▶ Lien Properties?
- ▶ What if they don't have any money?
 - ▶ But their spouse has it!
 - ▶ What if they hid it all?
 - ▶ More Legal Action



Thank You

Rameen Nasrollahi
EGERTON, McAFEE, ARMISTEAD & DAVIS
865-546-0500
RJN@EMLAW.COM