

A. L. ...
G. A. ...

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff,

No. 269 M.D. 2001

- vs -

Reliance Insurance Company,

Defendant.

AFFIDAVIT OF SERVICE

I, RENEÉ F. BERGMANN, of Nixon Peabody LLP, counsel to Sage Realty, being duly sworn, deposes and says that:

1. On June 6, 2005, I caused a true and correct copy of a Subpoena addressed to Howard E. Steinberg, and Order to Take Depositions and For Production of Documents Pursuant to CPLR 3102(e) to be served at upon Mr. Howard E. Steinberg at 50 Rockefeller Plaza, New York, NY, his place of business. A copy of the Affidavit of Service is attached hereto as Exhibit "A."

NIXON PEABODY LLP

Dated: June 15, 2005

By: 

Renee F. Bergmann, Esquire

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF SAGE REALTY CORPORATION, PETITIONER

Index No. 107461/2005

Plaintiff(s)

against

Defendant(s)

AFFIDAVIT OF SERVICE OF SUBPOENA

ORDER TO TAKE DEPOSITIONS AND FOR PRODUCTION OF DOCUMENTS PURSUANT TO CPLR 3102 (e), AFFIRMATION IN SUPPORT

STATE OF NEW YORK, COUNTY OF NEW YORK

SS: The undersigned, being duly sworn, deposes and says: deponent is not a party herein, is over 18 years of age and resides at CORONA, NEW YORK

That on 6/6/05

at 4:05 P.M. at 50 ROCKEFELLER PLAZA, NEW YORK, NEW YORK 11TH FL.

deponent served the within subpoena on HOWARD E. STEINBERG, ESQUIRE witness therein named, ORDER TO TAKE DEPOSITIONS AND FOR PRODUCTION OF DOCUMENTS PURSUANT TO CPLR 3102 (e), AFFIRMATION IN SUPPORT

INDIVIDUAL

1.

by delivering a true copy to said witness personally; deponent knew the person so served to be the witness described in said subpoena.

CORPORATION

2.

a corporation, by delivering thereat a true copy to personally. deponent knew said corporation so served to be the corporation witness and knew said individual to be thereof.

SUITABLE AGE PERSON

3.

by delivering thereat a true copy to ROBERT J. CANDELLA (CO-WORKER) a person of suitable age and discretion. Said premises is witness'—actual place of business—dwelling place—usual place of abode—within the state.

AFFIXING TO DOOR, ETC.

4.

by affixing a true copy to the door of said premises, which is witness'—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find witness or a person of suitable age and discretion thereat, having called there

MAILED ON: 6/7/05 AT 7:00 P.M.
C/O MCDERMOTT, WILL & EMERY

MAILING TO RESIDENCE

USE WITH 3 OR 4

5A.

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to witness at witness' last known residence, at said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.

MAILING TO BUSINESS

USE WITH 3 OR 4

5B.

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class postpaid envelope properly addressed to witness at witness' actual place of business, at 50 ROCKEFELLER PLAZA, NEW YORK, N.Y. 10020 in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the witness.

DESCRIPTION USE WITH 1, 2, OR 3

- | | | | | | | |
|--|--|--|---|--|---|--|
| <input checked="" type="checkbox"/> Male | <input checked="" type="checkbox"/> White Skin | <input checked="" type="checkbox"/> Black Hair | <input type="checkbox"/> White Hair | <input type="checkbox"/> 14-20 Yrs. | <input type="checkbox"/> Under 5' | <input type="checkbox"/> Under 100 Lbs. |
| <input type="checkbox"/> Female | <input type="checkbox"/> Black Skin | <input type="checkbox"/> Brown Hair | <input checked="" type="checkbox"/> Balding | <input type="checkbox"/> 21-35 Yrs. | <input type="checkbox"/> 5'0"-5'3" | <input type="checkbox"/> 100-130 Lbs. |
| | <input type="checkbox"/> Yellow Skin | <input type="checkbox"/> Blonde Hair | <input type="checkbox"/> Mustache | <input checked="" type="checkbox"/> 36-50 Yrs. | <input type="checkbox"/> 5'4"-5'8" | <input type="checkbox"/> 131-160 Lbs. |
| | <input type="checkbox"/> Brown Skin | <input type="checkbox"/> Gray Hair | <input type="checkbox"/> Beard | <input type="checkbox"/> 51-65 Yrs. | <input checked="" type="checkbox"/> 5'9"-6'0" | <input checked="" type="checkbox"/> 161-200 Lbs. |
| | <input type="checkbox"/> Red Skin | <input type="checkbox"/> Red Hair | <input type="checkbox"/> Glasses | <input type="checkbox"/> Over 65 Yrs. | <input type="checkbox"/> Over 6' | <input type="checkbox"/> Over 200 Lbs. |

Other identifying features:

NEW YORK COUNTY CLERK'S OFFICE

JUN 9 2005

At the time of said service, deponent paid (tendered) in advance \$ 19.00 the authorized traveling expenses and one day's witness fee.

Sworn to before me on 6/7/05

IRVING BOTWINICK
Notary Public, State of New York
No. 01804657147
Qualified in Rockland County
Expiration Expires Oct. 31 2005

PRINT NAME BENEATH SIGNATURE
JUAN D. AGUIRRE

License No. 843839

CERTIFICATE OF SERVICE

I, René F. Bergmann, Esquire, do hereby certify that on 15th day of June 2005, I caused a true and correct copy of an Affidavit of Service evidencing service of a Subpoena and Order to Take Depositions and for Production of Documents Pursuant to CPLR 3102(e), to be served upon counsel below, as well as the attached service list, via first class mail:

Alan Gershenson, Esquire
Blank Rome
One Logan Square
Philadelphia, PA 19103-6998

Emy Pould, Esquire
Reliance Insurance Company
5 Hanover Square
New York, NY 10005



René F. Bergmann

Dated: June 15, 2005