STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY \_\_\_\_CVD\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

PLAINTIFF,

vs. MOTION TO QUASH SUBPOENA

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

DEFENDANT.

NOW COMES \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Attorney for the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_County Department of Social Services, the Movant herein, and respectfully moves the court to quash subpoena heretofore [served on /delivered to] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_ County Department of Social Services, pursuant to Rule 45 of the North Carolina Rules of Civil Procedure, which seeks the production of documentation reasonably calculated to require disclosure of confidential records or information, and as grounds for said Motion respectfully shows unto the Court as follows:

1. Your Movant is the \_\_\_\_\_\_\_\_\_\_Department of Social Services, by and through the Attorney for \_\_\_\_\_\_\_\_\_\_\_\_\_County Department of Social Services.
2. A subpoena has been served on \_\_\_\_\_\_\_\_\_\_\_\_\_. The subpoena commands \_\_\_\_\_\_\_\_\_\_\_\_ to produce the following items, “[quotation from the subpoena]” at “\_\_\_\_\_\_\_\_\_\_\_\_” on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, at \_\_\_\_\_\_\_ \_\_\_.m.
3. The subpoena is procedurally defective in that it was served on \_\_\_\_\_\_\_\_\_\_\_\_\_ who is not the custodian of records for the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Department of Social Services and lacks the authority to produce the requested records.
4. The subpoena is procedurally defective in that it was not served pursuant to Rule 45 on the Director of the \_\_\_\_\_\_\_\_\_\_\_\_\_ County Department of Social Services.
5. The subpoena fails to allow reasonable time for compliance.
6. The subpoena is vague. There may exist Medicaid, Food Stamps, or other documents in the possession of the \_\_\_\_\_\_\_\_\_\_\_\_ County Department of Social Services not related to any \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ issue that may be the crux of desired information needed in this matter and would be over-burdensome and not be in the interest of justice. In addition, said documents would be subject to both Federal and State confidentiality statutes that would prevent their dissemination.
7. The said subpoena is unreasonable and oppressive and that the subpoena may require the employee of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Department of Social Services to violate the provisions of N.C.G.S. §108A-80 which makes it:

"Unlawful for any person to obtain, disclose or use, or to authorize, permit, or acquiesce in the use of any list of names or other information concerning persons applying for or receiving public assistance or social services that may be directly or indirectly derived from the records, files or communications of the department, of the County Boards of Social Services, or the County Departments of Social Services or acquired in the course of performing official duties except for the purposes directly connected with the administration of the programs of public assistance and Social Services in accordance with Federal Rules and Regulations and the Rules and Regulations of the Social Services Commission or the Department."

1. That the disclosure of any information contained in the records, files, or communications of employees of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Department of Social Services would result in a breach of confidentiality and frustrate the purposes of providing Social Services in that it would curtail the honest, truthful, open and personal disclosure of information provided to Social Workers in the performance of their duties to correct family problems if parties involved were aware that their communications may be required to be disclosed.
2. That further similar efforts by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to compel such disclosure would be vexatious, overly burdensome and not reasonably calculated to be successful.
3. Movant requests the Court, if it determines that said records should be produced, to inspect the record in camera and to determine what, if any, information contained in such record is relevant, pertinent, and not obtainable from another source before requiring the release of said records. Further Movant requests the Court to specify such pertinent information and to order the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Department of Social Services to disclose such pertinent information, but in no case should the name of any reporter be released or made available.
4. Pursuant to Rule 45, the custodian of the records is entitled to request reimbursement of the cost of copying the records so requested and to be reimbursed prior to furnishing the same.
5. The Movant is entitled to receive Attorney's fees for the necessity of quashing this unreasonable and oppressive subpoena.

WHEREFORE, your Movant respectfully prays of the Court to enter an order for the following:

1. Quash the subpoena served upon \_\_\_\_\_\_\_\_\_\_\_\_\_\_ requiring production of any alleged information and/or records and files allegedly in the possession of Movant.
2. In the alternative, determine what documents are necessary for production and review the requested documents in chambers and redact any documents that are not relevant, not pertinent or obtainable from another source. In particular, redact any and all identifying information regarding any “reporter” to maintain that confidentiality as required by statute.
3. Limit access to the information and documents, the matters contained therein, and extracts or summaries thereof to the presiding District Court Judge; the attorneys of record, their associates, assistants and employees; court personnel; and any actual trial witness, to the extent it is necessary to tender to such a witness a confidential document as an exhibit to elicit relevant testimony in this case.
4. Order individuals permitted access to confidential records and information not to show, reveal, convey, discuss or reproduce any information or documents so designated or any parts, extracts or summaries thereof to any individual or entity who would not otherwise have access to said information or documents under the provisions of this order.
5. Restrict the release of names or identifying information pertaining to clients to anyone other than the presiding judge; the attorneys of record, their associates, assistants and employees; and the parties.
6. Prevent the distribution of copies of documents to parties, witnesses or any other person who does not have a statutory right to said documents.
7. Require \_\_\_\_\_\_\_\_\_\_\_\_ to pay the cost of copying the requested documents, prior to the dissemination, at the rate of $.50 per page.

Respectfully submitted this\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 201\_.

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

[Attorney name and address]