# United States District Court

for the

District of North Dakota

BRANDY SUCKLEY, ET AL.	
Plaintiff )  V. )  THE CITY OF WILLISTON, NORTH DAKOTA )  Defendant )	Civil Action No. 21-cv-00012-CRH
SUBPOENA TO PRODUCE DOCUMENT OR TO PERMIT INSPECTION OF PR	
To: Dogsbite.org Inc.: Office: 2235 E. 6th Apt. 303, Austin, TX 15th St. Austin	
(Name of person to whom t	his subpoena is directed)
Production: YOU ARE COMMANDED to produce at documents, electronically stored information, or objects, and to produce at material: See Attached Schedule A and Exhibits	permit inspection, copying, testing, or sampling of the
Place: Gene Summlerlin, HUSCH BLACKWELL LLP 111 Congress Ave., Suite 1400 Austin, TX 78701	Date and Time: 01/03/2022 9:00 am
☐ Inspection of Premises: YOU ARE COMMANDED to other property possessed or controlled by you at the time, date, a may inspect, measure, survey, photograph, test, or sample the property.	and location set forth below, so that the requesting party
Tidee.	Date and Time.
The following provisions of Fed. R. Civ. P. 45 are attack Rule 45(d), relating to your protection as a person subject to a surrespond to this subpoena and the potential consequences of not of Date: 12/13/2021	abpoena; and Rule 45(e) and (g), relating to your duty to
CLERK OF COURT	
	OR
Signature of Clerk or Deputy Clerk	/s/ Gene Summerlin  Attorney's signature
The name, address, e-mail address, and telephone number of the Gene Summerlin gene summerlin@huschblackwell.com (402)	attorney representing (name of party)B. Suckley et al, who issues or requests this subpoena, are:

# Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 21-cv-00012-CRH

# PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

(date)	·		
☐ I served the su	abpoena by delivering a copy to the nar	med person as follows:	
		on (date)	or
☐ I returned the	subpoena unexecuted because:		
		States, or one of its officers or agents, I e, and the mileage allowed by law, in the	
fees are \$	for travel and \$	for services, for a total of \$	0.00
I declare under p	enalty of perjury that this information i	s true.	
e:		Server's signature	
		server's signature	
		Printed name and title	
		Server's address	

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

#### (c) Place of Compliance.

- (1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:
- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- **(B)** within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
- (ii) is commanded to attend a trial and would not incur substantial expense.

#### (2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
  - **(B)** inspection of premises at the premises to be inspected.

#### (d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

## (2) Command to Produce Materials or Permit Inspection.

- (A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.
- **(B)** Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:
- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

# (3) Quashing or Modifying a Subpoena.

- (A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:
  - (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
  - (iv) subjects a person to undue burden.
- **(B)** When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:
- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.
- (C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:
- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
  - (ii) ensures that the subpoenaed person will be reasonably compensated.

## (e) Duties in Responding to a Subpoena.

- (1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:
- (A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
- **(B)** Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
- (C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.
- **(D)** Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

#### (2) Claiming Privilege or Protection.

- (A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
  - (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
- **(B)** *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

## (g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

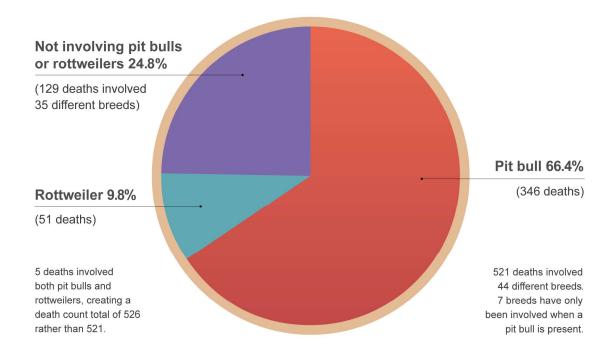
# **SCHEDULE A**

- 1. Produce copies of all "news reports" identified as "available upon request" in Exhibit B on pages marked as DBSub00001, DBSub00012, DBSub00020, DBSub00031, DBSub00038, DBSub00049, DBSub00061, DBSub00073, DBSub00092, DBSub00114, DBSub00144, DBSub00172, DBSub00203, DBSub00241, and DBSub00267. ("Identified News Reports").
- 2. Produce copies of all other data, data sets, compilations, or documents supporting or underlying the 15 Year U.S. Dog Bite Fatality Chart 2005 to 2019 found on dogsbite.org and attached hereto as Exhibit A, *excluding* the Identified News Reports requested in Schedule A.1. above.



# 15 Year U.S. Dog Bite Fatality Chart - 2005 to 2019

During this 15-year period, 521 Americans suffered death due to dog bite injury.



# **Breeds of Dogs Involved in the Most Human Fatalities**

Dog Breed	<b>Fatalities</b>	% of Total
Pit bull	346	66.4%
Rottweiler	51	9.8%
Mixed-breed	27	5.2%
German shepherd	22	4.2%
Mastiff/Bullmastiff <sub>†</sub>	18	3.5%
American bulldog	16	3.1%
Husky	14	2.7%
Combination of 37 dog breeds <sub>t</sub>	≤ 9	

DogsBite.org contains verifiable information about U.S. citizens killed by dogs including the name and age of each victim, location of attack, dog breed and up to <u>25 other factors</u>. Source citations are available at www.DogsBite.org.

<sup>&</sup>lt;sup>†</sup> This category includes: Italian, English, South African and Neapolitan mastiffs, bullmastiffs and mastiff-mixes. This category excludes: cane corsos, presa canarios and Dogo argentinos. <sup>‡</sup> 7 dog breeds contributed from 9 to 4 deaths, 9 breeds contributed from 3 to 2 deaths, and 21 breeds contributed to 1 death. 10% of all fatal attacks involved multiple breeds, thus the total number of deaths attributed to each breed will always exceed the actual number of deaths.



DogsBite.org

Dogs bite. Some dogs don't let go. | DogsBite.org is a public education website

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dog bite victims

staying safe



In the 15-year period of 2005 through 2019, canines killed 521 Americans. Pit bulls contributed to 66% (346) of these deaths. Combined, pit bulls and rottweilers contributed to 76% of the total recorded deaths. | More »

Home » Dog bite statistics » Fatality citations » 2005



## 2005 dog bite fatality citations ::

U.S. dog bite fatality citations are primarily gathered through news reports at the time of the attack. Copies of news reports are <u>available upon request</u>. Learn more about our <u>data collection process</u>.

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#### **Barbara Pilkington**

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Melanie Bennett, "Police seek dog complaints," The Ledger-Enquirer, February 7, 2005 (ledger-enquirer.com)

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#### **Lorinze Reddings**

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U.S. dog bite fatality citations are primarily gathered through news reports at the time of the attack. Copies of news reports are <u>available upon request</u>. Learn more about our <u>data collection process</u>.

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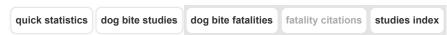
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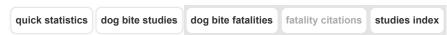
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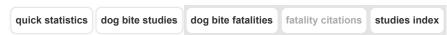
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**Autopsy report of Jane Marie Egle.** Received April 16, 2018. A FOIA request was sent to the Buncombe County Medical Examiner September 25, 2017. Autopsy conducted May 3, 2017 under the presence of multiple "representatives for Buncombe County Sheriff's Office." The first news report was released May 5 -- two days after the autopsy -- where Natalie Bailey, a spokeswoman for the Sheriff's Office states, "her exact cause of death had not been determined." This denial continued until April 16, 2018 when the autopsy report was finally released.

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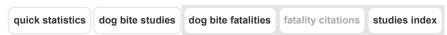
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