

**STATE OF OHIO
SUPREME COURT : COUNTY OF LORAIN**

GIBSON BROS., INC. et al.

SUBPOENA DUCES TECUM

Plaintiffs

Case No. 17CV 193761

- vs -

JUDGE JOHN R. MIRALDI

OBERLIN COLLEGE, et al.

Defendants

THE PEOPLE OF THE STATE OF NEW YORK

**TO: WAJ MEDIA LLC d/b/a LEGAL INSURRECTION c/o WILLIAM A.
JACOBSON, STATUTORY AGENT
757 Warren Road, #4762
Ithaca, NY 14852**

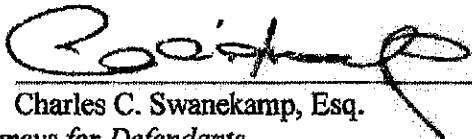
YOU ARE HEREBY COMMANDED, all business and excuses being laid aside, to appear and attend before BOND SCHOENECK & KING, PLLC, One Lincoln Center, Syracuse, NY 13202-1355, on the 5th day of July 2018 at 10 a.m., and at any recessed or adjourned date, to produce records, as requested immediately below, pursuant to CPLR 3101(a)(4) and CPLR 3119(4) on the grounds that the documents sought are relevant to, among other things, Plaintiffs' claims that Defendants caused their alleged damages, as well as Defendants affirmative defenses, including whether Plaintiffs have mitigated their damages.

WE FURTHER COMMAND YOU to bring with you, or to produce for inspection at the time and place aforesaid, the following "Documents" (as that term is defined herein):

- 1. Documents set forth in Exhibits A & B attached herewith.

TAKE FURTHER NOTICE THAT failure to comply with this Subpoena is punishable as a contempt of Court.

BOND SCHOENECK & KING PLLC

By: 
Charles C. Swanekamp, Esq.
Attorneys for Defendants
200 Delaware Ave.
Suite 900
Buffalo, New York 14202
Tel. 716-416-7055
cswanekamp@bsk.com

- i. The amount of \$25.00 plus mileage is attached and tendered for witness fee and processing costs.
- ii. Production of the requested documents will constitute compliance with this subpoena.
- iii. If you have any questions concerning this subpoena, please contact the attorneys issuing this subpoena immediately.

TO: Owen J. Rarric, Esq.
Terry A. Moore, Esq.
Matthew W. Onest, Esq.
Krugliak, Wilkins, Griffiths & Dougherty Co., L.P.A.
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IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO

*** CIVIL CASE SUBPOENA DUCES TECUM ***

GIBSON BROS., INC., et al.
Plaintiff

vs.

OBERLIN COLLEGE, et al.
Defendants

CASE NO. 17CV 193761

JUDGE JOHN R. MIRALDI

TO: WAJ Media LLC d/b/a "Legal Insurrection" c/o William A. Jacobson, Statutory Agent (Name)
757 Warren Road, #4762 (Address)
Ithaca, NY 14852 (City/State/Zip)

YOU ARE HEREBY COMMANDED TO:

- ATTEND AND GIVE TESTIMONY AT A DEPOSITION ON THE DATE, TIME, AND AT THE PLACE SPECIFIED BELOW.
- ATTEND AND PRODUCE DOCUMENTS AT A DEPOSITION ON THE DATE, TIME, AND AT THE PLACE SPECIFIED BELOW.
- PRODUCE AND PERMIT INSPECTION AND COPYING, ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY DESIGNATED DOCUMENTS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.
- PRODUCE AND PERMIT INSPECTION AND COPYING, TESTING OR SAMPLING ON THE DATE AND AT THE TIME AND PLACE SPECIFIED BELOW, OF ANY TANGIBLE THINGS THAT ARE IN YOUR POSSESSION, CUSTODY OR CONTROL.
- PERMIT ENTRY UPON THE FOLLOWING DESCRIBED LAND OR OTHER PROPERTY, FOR THE PURPOSES DESCRIBED IN CIV. R. 34(A)(3), ON THE DATE AND AT THE TIME SPECIFIED BELOW. DESCRIPTION OF LAND OR PREMISES:

DAY Monday DATE 7/5/18 TIME 10:00 am

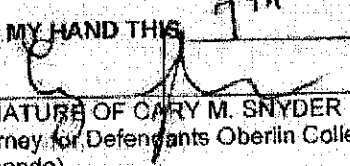
PLACE Bond Schoeneck & King PLLC, One Lincoln Center, Syracuse, NY 13202-1355

DESCRIPTION OF ITEMS TO BE PRODUCED: See attached Exhibits A & B

IN LIEU OF APPEARANCE, THE REQUESTED DOCUMENTS MAY BE MAILED OR E-MAILED (csnyder@taftlaw.com) TO THE UNDERSIGNED ATTORNEY ON OR PRIOR TO THE DATE REQUESTED ABOVE

THE STATE OF OHIO, CUYAHOGA COUNTY, SS:

WITNESS MY HAND THIS 7th DAY OF June, 2018.

By: 
SIGNATURE OF CARY M. SNYDER
(Attorney for Defendants Oberlin College aka Oberlin College and Conservatory and Dr. Meredith Raimondo)

REQUESTING PARTY NAME AND ADDRESS: Oberlin College c/o Taft Stettinius & Hollister LLP
200 Public Square, Suite 3500, Cleveland, OH 44114-2303

ATTORNEY REG. NO. 0096517 TELEPHONE NUMBER: 216-706-3932
NOTE: READ ALL INFORMATION ON THE NEXT PAGE OF THIS SUBPOENA

THE STATE OF OHIO

ss.

Lorain County

Affidavit of Service of Subpoena by Sheriff or Officer; Attorney or Private Person

On the _____ day of _____, 20____

I served this Subpoena on the within named:

As follows:

SHERIFF'S FEES

Service on _____ \$ _____ By _____ Deputy Sheriff/Attorney

_____ Copy _____
_____ Miles Travel _____
_____ Return _____
_____ \$ _____

Subscribed and sworn to before me, a
This _____ day of _____, 20____

Witness entitled _____ miles
to _____

CIVIL RULE 45(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

(1) A PARTY OR AN ATTORNEY RESPONSIBLE FOR THE ISSUANCE AND SERVICE OF A SUBPOENA SHALL TAKE REASONABLE STEPS TO AVOID IMPOSING UNDUE BURDEN OR EXPENSE ON A PERSON SUBJECT TO THAT SUBPOENA.

(2) (A) A PERSON COMMANDED TO PRODUCE UNDER DIVISIONS (A)(1)(B), (III), (IV), (V), OR (VI) OF THIS RULE NEED NOT APPEAR IN PERSON AT THE PLACE OF PRODUCTION OR INSPECTION UNLESS COMMANDED TO ATTEND AND GIVE TESTIMONY AT A DEPOSITION, HEARING, OR TRIAL.

(B) SUBJECT TO DIVISION (D)(2) OF THIS RULE, A PERSON COMMANDED TO PRODUCE UNDER DIVISIONS (A)(1)(B), (III), (IV), (V), OR (VI) OF THIS RULE MAY, WITHIN FOURTEEN DAYS AFTER SERVICE OF THE SUBPOENA OR BEFORE THE TIME SPECIFIED FOR COMPLIANCE IF SUCH TIME IS LESS THAN FOURTEEN DAYS AFTER SERVICE, SERVE UPON THE PARTY OR ATTORNEY DESIGNATED IN THE SUBPOENA WRITTEN OBJECTIONS TO PRODUCTION. IF OBJECTION IS MADE, THE PARTY SERVING THE SUBPOENA SHALL NOT BE ENTITLED TO PRODUCTION EXCEPT PURSUANT TO AN ORDER OF THE COURT BY WHICH THE SUBPOENA WAS ISSUED. IF OBJECTION HAS BEEN MADE, THE PARTY SERVING THE SUBPOENA, UPON NOTICE TO THE PERSON COMMANDED TO PRODUCE, MAY MOVE AT ANY TIME FOR AN ORDER TO COMPEL THE PRODUCTION. AN ORDER TO COMPEL PRODUCTION SHALL PROTECT ANY PERSON WHO IS NOT A PARTY OR AN OFFICER OF A PARTY FROM SIGNIFICANT EXPENSE RESULTING FROM THE PRODUCTION COMMANDED.

(3) ON TIMELY MOTION, THE COURT FROM WHICH THE SUBPOENA WAS ISSUED SHALL QUASH OR MODIFY THE SUBPOENA, OR ORDER APPEARANCE OR PRODUCTION ONLY UNDER SPECIFIED CONDITIONS, IF THE SUBPOENA DOES ANY OF THE FOLLOWING:

- (a) FAILS TO ALLOW REASONABLE TIME TO COMPLY;
- (b) REQUIRES DISCLOSURE OF PRIVILEGED OR OTHERWISE PROTECTED MATTER AND NO EXCEPTION OR WAIVER APPLIES;
- (c) REQUIRES DISCLOSURE OF A FACT KNOWN OR OPINION HELD BY AN EXPERT NOT RETAINED OR SPECIALLY EMPLOYED BY ANY PARTY IN ANTICIPATION OF LITIGATION OR PREPARATION FOR TRIAL AS DESCRIBED BY CIV. R. 26(B)(5), IF THE FACT OR OPINION DOES NOT DESCRIBE SPECIFIC EVENTS OR OCCURRENCES IN DISPUTE AND RESULTS FROM STUDY BY THAT EXPERT THAT WAS NOT MADE AT THE REQUEST OF ANY PARTY;
- (d) SUBJECTS A PERSON TO UNDUE BURDEN.

(4) BEFORE FILING A MOTION PURSUANT TO DIVISION (C)(3)(D) OF THIS RULE, A PERSON RESISTING DISCOVERY UNDER THIS RULE SHALL ATTEMPT TO RESOLVE ANY CLAIM OF UNDUE BURDEN THROUGH DISCUSSIONS WITH THE ISSUING ATTORNEY. A MOTION FILED PURSUANT TO DIVISION (C)(3)(D) OF THIS RULE SHALL BE SUPPORTED BY AN AFFIDAVIT OF THE SUBPOENAED PERSON OR A CERTIFICATE OF THAT PERSON'S ATTORNEY OF THE EFFORTS MADE TO RESOLVE ANY CLAIM OF UNDUE BURDEN.

(5) IF A MOTION IS MADE UNDER DIVISION (C)(3)(C) OR (C)(3)(D) OF THIS RULE, THE COURT SHALL QUASH OR MODIFY THE SUBPOENA UNLESS THE PARTY IN WHOSE BEHALF THE SUBPOENA IS ISSUED SHOWS A SUBSTANTIAL NEED FOR THE TESTIMONY OR MATERIAL THAT CANNOT BE OTHERWISE MET WITHOUT UNDUE HARDSHIP AND ASSURES THAT THE PERSON TO WHOM THE SUBPOENA IS ADDRESSED WILL BE REASONABLY COMPENSATED.

CIVIL RULE 45(D) DUTIES IN RESPONDING TO SUBPOENA

(1) A PERSON RESPONDING TO A SUBPOENA TO PRODUCE DOCUMENTS SHALL, AT THE PERSON'S OPTION, PRODUCE THEM AS THEY ARE KEPT IN THE USUAL COURSE OF BUSINESS OR ORGANIZED AND LABELED TO CORRESPOND WITH THE CATEGORIES IN THE SUBPOENA. A PERSON PRODUCING DOCUMENTS OR ELECTRONICALLY STORED INFORMATION PURSUANT TO A SUBPOENA FOR THEM SHALL PERMIT THEIR INSPECTION AND COPYING BY ALL PARTIES PRESENT AT THE TIME AND PLACE SET IN THE SUBPOENA FOR INSPECTION AND COPYING.

(2) IF A REQUEST DOES NOT SPECIFY THE FORM OR FORMS FOR PRODUCING ELECTRONICALLY STORED INFORMATION, A PERSON RESPONDING TO A SUBPOENA MAY PRODUCE THE INFORMATION IN A FORM OR FORMS IN WHICH THE INFORMATION IS ORDINARILY MAINTAINED IF THAT FORM IS REASONABLY USEABLE, OR IN ANY FORM THAT IS REASONABLY USEABLE. UNLESS ORDERED BY THE COURT OR AGREED TO BY THE PERSON SUBPOENAED, A PERSON RESPONDING TO A SUBPOENA NEED NOT PRODUCE THE SAME ELECTRONICALLY STORED INFORMATION IN MORE THAN ONE FORM.

(3) A PERSON NEED NOT PROVIDE DISCOVERY OF ELECTRONICALLY STORED INFORMATION WHEN THE PRODUCTION IMPOSES UNDUE BURDEN OR EXPENSE. ON MOTION TO COMPEL DISCOVERY OR FOR A PROTECTIVE ORDER, THE PERSON FROM WHOM ELECTRONICALLY STORED INFORMATION IS SOUGHT MUST SHOW THAT THE INFORMATION IS NOT REASONABLY ACCESSIBLE BECAUSE OF UNDUE BURDEN OR EXPENSE. IF A SHOWING OF UNDUE BURDEN OR EXPENSE IS MADE, THE COURT MAY NONETHELESS ORDER PRODUCTION OF ELECTRONICALLY STORED INFORMATION IF THE REQUESTING PARTY SHOWS GOOD CAUSE. THE COURT SHALL CONSIDER THE FACTORS IN CIV. R. 26(B)(4) WHEN DETERMINING IF GOOD CAUSE EXISTS. IN ORDERING PRODUCTION OF ELECTRONICALLY STORED INFORMATION, THE COURT MAY SPECIFY THE FORMAT, EXTENT, TIMING ALLOCATION OF EXPENSES AND OTHER CONDITIONS FOR THE DISCOVERY OF THE ELECTRONICALLY STORED INFORMATION.

(4) WHEN INFORMATION SUBJECT TO A SUBPOENA IS WITHHELD ON A CLAIM THAT IT IS PRIVILEGED OR SUBJECT TO PROTECTION AS TRIAL PREPARATION MATERIALS, THE CLAIM SHALL BE MADE EXPRESSLY AND SHALL BE SUPPORTED BY A DESCRIPTION OF THE NATURE OF THE DOCUMENTS, COMMUNICATIONS, OR THINGS NOT PRODUCED THAT IS SUFFICIENT TO ENABLE THE DEMANDING PARTY TO CONTEST THE CLAIM.

(5) IF INFORMATION IS PRODUCED IN RESPONSE TO A SUBPOENA THAT 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 RECEIVING PARTY MUST PROMPTLY RETURN, SEQUESTER, OR DESTROY THE SPECIFIED INFORMATION AND ANY COPIES WITHIN THE PARTY'S POSSESSION, CUSTODY OR CONTROL. A PARTY MAY NOT USE OR DISCLOSE THE INFORMATION UNTIL THE CLAIM IS RESOLVED. A RECEIVING PARTY MAY PROMPTLY PRESENT THE INFORMATION TO THE COURT UNDER SEAL FOR A DETERMINATION OF THE CLAIM OF PRIVILEGE OR OF PROTECTION AS TRIAL PREPARATION MATERIAL. IF THE RECEIVING PARTY DISCLOSED THE INFORMATION BEFORE BEING NOTIFIED, IT MUST TAKE REASONABLE STEPS TO RETRIEVE IT. THE PERSON WHO PRODUCED THE INFORMATION MUST PRESERVE THE INFORMATION UNTIL THE CLAIM IS RESOLVED.

CIVIL RULE 45(E) SANCTIONS

FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED IN CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA ISSUED. A SUBPOENAED PERSON OR THAT PERSON'S ATTORNEY WHO FRIVOLOUSLY RESISTING RESISTS DISCOVERY UNDER THIS RULE MAY BE REQUIRED BY THE COURT TO PAY THE REASONABLE EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, OF THE PARTY SEEKING THE DISCOVERY. THE COURT FROM WHICH A SUBPOENA WAS ISSUED MAY IMPOSE UPON A PARTY OR ATTORNEY IN BREACH OF DUTY IMPOSED BY DIVISION (C)(1) OF THIS RULE AN APPROPRIATE SANCTION, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, LOST EARNINGS AND REASONABLE ATTORNEY'S FEES.

EXHIBIT A

The following definitions apply to the requests for documents set forth in Exhibit B hereto:

1. **Document(s)**: The term "document" is synonymous in meaning and equal in scope to the usage of this term in Rule 34(A) of the Ohio Rules of Civil Procedure and specifically includes any electronically stored information. The term document shall mean or refer to the original and all copies of written, printed, digital, recorded, video or graphic matter or sound reproduction, however produced or reproduced, of any kind, including, but not limited to, the original and all copies of correspondence, e-mails, instant message, text messages, cellular phone text messages, posts and data related to any social media networking site (including but not limited to Facebook and Twitter), deeds, letters, telegrams, telexes, cables, summaries, reports and records of telephone and personal conversations, investigations, meetings, conferences, interviews, other records, memoranda, notes, diaries, reports, studies, calculations, fliers, advertisements, computer input sheets and printouts, messages, minutes, charts, graphs, photographs, tapes, discs, data, data sheets, spreadsheets, drawings, plans, sketches, specifications, schedules, tables, books, account vouchers, bills, statements, purchase orders, journals, ledgers, balance sheets, income and other financial statements, checks, invoices, contracts, agreements, affidavits, orders, diaries, films, film strips, and/or other information, communications or records.

Different versions of the same document (e.g., copies of a printed document with differing handwritten notations and superseded drafts) are different documents within the meaning of the term as used herein.

The term document further means all electronically stored information, including, but not limited to, computer floppy disks, computer compact disks or CD-ROM disks, computer tapes, computer hard drives, computer ZIP drives, or any type of memory, device, method, or medium of electronic or digital recording of computer files or memory, including backup files and memory and shadow memory, e-mails, and information stored in a computer database.

2. **Tzangas Law Firm:** Shall mean and refer to Tzangas Plakas Mannos Ltd., including without limitation, all of its agents, representatives, employees, officers, directors, attorneys, shareholders and any other holder of any ownership or financial interest in Tzangas Plakas Mannos Ltd.

3. **Krugliak Law Firm:** Shall mean and refer to Krugliak, Wilkins, Griffiths & Dougherty Co., L.P.A., including without limitation, all of its agents, representatives, employees, officers, directors, attorneys, shareholders and any other holder of any ownership or financial interest in Krugliak, Wilkins, Giffiths & Dougherty Co., L.P.A.

4. **You or Your:** Shall mean and refer to WAJ Media, LLC d/b/a "Legal Insurrection", including without limitation, all of its agents, representatives, employees, officers, and directors.

5. **Gibson's Bakery:** Shall mean and refer to Gibson Bros., Inc. and Gibson's Bakery, located at 23 W. College St., Oberlin, Ohio 44074, including, without limitation, all of their agents, representatives, employees, officers, directors, attorneys, shareholders and any other holder of any ownership interest in Gibson Bros., Inc.

6. **Incident:** Shall mean and refer to an alleged attempt by Jonathan Aladin, Cecelia Whettston, and/or Endia J. Lawrence, to steal items or otherwise illegally obtain items from Gibson's Bakery on November 9, 2016.

7. **Demonstrations:** Shall mean and refer to the meeting and/or collection of individuals in front of Gibson's Bakery on November 10 or 11, 2016, in response to the Incident.

8. **Lawsuit:** Shall mean and refer to the litigation pending in the Lorain County Court of Common Pleas and captioned *Gibson Bros., Inc., et al., v. Oberlin College, et al.*, Case No. 17CV193761, as well as any and all allegations and matters contained therein.

9. **Plaintiffs:** Shall mean and refer to the plaintiffs in the Lawsuit, as defined herein, including Gibson Bros., Inc., David Gibson and Allyn Gibson, and Gibson's Bakery, individually, collectively or in any combination, including all of their respective agents, representatives, employees, officers, directors, attorneys, members, subsidiaries, affiliates, parent entities, predecessors, successors, shareholders, and/or owners.

EXHIBIT B

Produce any and all Documents that refer, relate or pertain to the following:

- 1) All communications between You and the Tzangas Law Firm concerning the Incident, Demonstrations, or the Lawsuit.
- 2) All documents that You sent to or received from the Tzangas Law Firm concerning the Incident, Demonstrations, or the Lawsuit.
- 3) All communications between You and the Krugliak Law Firm concerning the Incident, Demonstrations, or the Lawsuit.
- 4) All documents that You sent to or received from the Krugliak Law Firm concerning the Incident, Demonstrations, or the Lawsuit.