

LOUISVILLE / METRO
COUNCIL COURT

COMMONWEALTH OF KENTUCKY
LOUISVILLE/METRO GOVERNMENT
JEFFERSON COUNTY



IN THE MATTER OF THE REMOVAL CHARGES AGAINST DISTRICT TWENTY-
ONE COUNCILMAN DAN JOHNSON

ORDER

This matter came before the Louisville Metro Council Court (“Council Court”), on Respondent’s Applications for Subpoenas to compel the attendance of nineteen (19) witnesses. Respondent also seeks to compel the production of documents and things with Subpoenae Duces Tecum on those same witnesses. This Court having considered the applications and being otherwise sufficiently informed, it provides as follows:

SUBPOENAS

The Council Court has implied authority to issue subpoenas and compel testimony in the procedure for removal once formal charges were issued by the Charging Committee. See Stansbury v. Maupin, 599 S.W.2d 170, 172 (Ky. 1980). Louisville Metro Council Removal Hearings and Procedures. Rule 15, entitled *Subpoenas*, provides:

Upon a showing or proper need at the request of the Charging Committee or the Respondent, the Council Court shall issue subpoenas over the signature of the Chair to compel the attendance of witnesses or the production of documents or other documentary evidence in conjunction with the Council Court’s hearing on the removal charges. **Applications for subpoenas shall set forth the substance of the anticipated proof or relevance of the documentary evidence or testimony to be obtained and the need therefore in support of the application.**

Removal Rule 15 [emphasis supplied].

Given that the following witnesses are either parties to this matter, have provided affidavits, were listed as witnesses by both parties, or have been identified in the Complaint or

Exhibits tendered by the Charging Committee (thereby putting their testimony at issue), a proper showing has been found and subpoenas shall issue for the following:

- RICK BLACKWELL
- SARAH DAVASHER
- CHRIS DOOLIN
- ROBIN ENGLE
- STEVE GAHAFER
- NICOLE GEORGE
- JESSICA GREEN
- ERIN HINSON
- ELIZABETH HOFFMAN
- ANGELA LEET
- KENT OYLER
- JOAN STEWART
- DAVID TANDY
- DAVID YATES

The Council Court will not act as a serving agent for these subpoenas. It will be incumbent upon the Respondent's representative to serve the same.

With regard to the following individuals, who were requested to be subpoenaed by Respondent, but did not appear in the Complaint or exhibits thereto, and where, more importantly, **there was no particularized showing of proper need in compliance with Rule 15**, subpoenas will not issue for the following based on the reasons stated below:

- PHILLIP BAILEY. No showing of particularized or proper need was made for Mr. Bailey and, as such a subpoena shall not issue. Additionally, this Court notes that Mr. Bailey is a protected person within the ambit of KRS § 421.100 and he cannot be compelled to testify as to his sources of information. Moreover, while Respondent makes mere mention of "exculpatory information" as a basis to examine Mr. Bailey and his books and papers, it does not appear that Respondent has any good faith belief that such material exists and is merely seeking to examine this reporter as part of a fishing expedition. Finally, Mr. Bailey's published sources—that is, those that have provided statements to the press that they have relevant evidence in this matter—would be subject to process making Mr. Bailey unnecessary in this matter.
- JANE DOE. The Council Court cannot issue a Subpoena in the name of an unknown. Should the testimony of Ms. Sarah Davasher reveal the name of Jane

Doe and a particularized showing of need regarding Jane Doe is made by Respondent, the Council Court will consider issuing a subpoena. The Charging Committee's Complaint at Paragraph 11 has made this person's testimony germane to this determination.

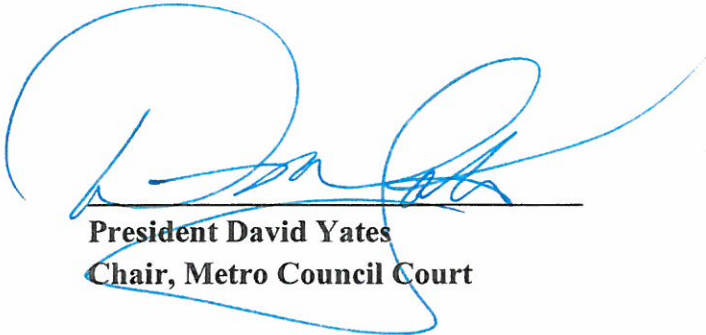
- GREG FISCHER. The Respondent has not made a particularized showing of need with regard to this witness. The mere attendance at the event does not establish that the mayor has relevant testimony regarding the allegations contained in the complaint.
- BILL HOLLANDER. The Respondent has not made a particularized showing of need with regard to these witnesses. While Respondent has alleged in his application that Jessica Green has spoken to them confidentially, the substance of these supposed confidential communications was not stated and there has been no showing that questioning Councilwoman Green herself would not satisfy Respondent's need.
- PAT MULVIHILL. The Respondent has not made a particularized showing of need with regard to these witnesses. While Respondent has alleged in his application that Jessica Green has spoken to them confidentially, the substance of these supposed confidential communications was not stated and there has been no showing that questioning Councilwoman Green herself would not satisfy Respondent's need. In addition, "A legislative decision-maker will not be disqualified simply because he or she has taken a public position on a policy issue related to the dispute, or demonstrated a bias or pre-disposition toward a certain result." Warren County Citizens for Managed Growth, Inc. v. Bd. of Commissioners of Bowling Green, 207 S.W.3d 7, 17 (Ky. App. 2006) (citing Hilltop Basic Resources Inc. v. County of Boone, 180 S.W.3d 464 (Ky. 2005)).

SUBPOENA DUCES TECUM

The same particularized showing required for the issuance of a subpoena in this matter is likewise required of the Subpoena Duces Tecum requesting the production of papers and things. In this regard, Respondent's application is deficient. Respondent appears to merely issue a Subpoena Duces Tecum upon these witnesses as an afterthought. Again, Rule 15 provides, in pertinent part,

Applications for subpoenas shall set forth the substance of the anticipated proof or relevance of the documentary evidence or testimony to be obtained and the need therefore in support of the application

Given that there has been no showing of need or the substance of the anticipated proof, the requests for Subpoenae Duces Tecum are hereby DENIED.



President David Yates
Chair, Metro Council Court

10/26/17
DATE

Copies to:

Chair Pro Tem, Bill Hollander

Members, Council Court

Matthew Golden, Assistant Jefferson County Attorney

Sarah Martin, Assistant Jefferson County Attorney

Jamie McKiernan, Assistant Jefferson County Attorney

Annale Renneker, Assistant Jefferson County Attorney

Deborah Kent, Counsel for Charging Committee

Thomas McAdam, Counsel for Respondent Dan Johnson

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCESS TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Hon. Rick Blackwell**
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0020 *SLC*

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:

Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017 Time: 1:00 p.m.

- 3. To appear /testify/ produce on behalf of: The Charging Committee The Respondent, Councilman Dan Johnson
- 4. You are required to: testify
 produce documents/and/or other tangible items

~~You are required to bring with you any and all documents, memoranda, emails, communications, photographs, or audio or video recordings relating Councilman Dan Johnson, or the subject matter of this hearing.~~

5. *[Signature]*
Signature & Title of Issuing Officer
Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

- 6. Served by delivery of a true copy to:

or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCE TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Ms. Sarah Davasher**
Chief Operating Officer
Greater Louisville, Inc.
614 West Main Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/29/17 TIME: 0020 A.M.

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:

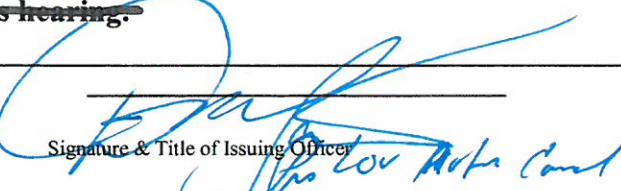
Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017

Time: 1:00 p.m.

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Date 10/26/17

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2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

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Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Mr. Chris Doolin**
Department of Public Works
Louisville Metro Hall
501 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0020 *S. O.*

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:
Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017 Time: 1:00 p.m.

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5. *Thomas A. McAdam, III*
 Signature & Title of Issuing Officer
 Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

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Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCE TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Hon. Robin Engle**
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0020 *Adk*

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Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
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5. *Thomas A. McAdam, III*
Signature & Title of Issuing Officer

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Date 10/26/17

Name of Requesting Party

Telephone No. (502) 584-7255

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This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCES TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Mr. Steve Gahafer**
Board President
Arthur Kling Center
219 West Ormsby Avenue
Louisville, Kentucky 40203

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/29/17 TIME: 0020 A. C.

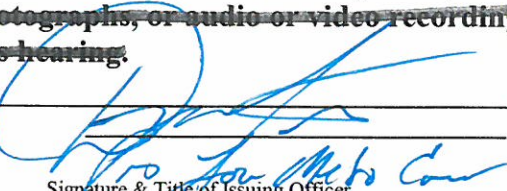
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601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

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Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

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This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCE TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Ms. Nicole George**
Kent School of Social Work
University of Louisville, Belknap Campus
2217 South Third Street
Louisville, Kentucky 40208

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0200

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:

Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017 Time: 1:00 p.m.

- 3. To appear /testify/ produce on behalf of: The Charging Committee The Respondent, Councilman Dan Johnson
- 4. You are required to: testify
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5. 
Signature & Title of Issuing Officer

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Date 10/20/17

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

- 6. Served by delivery of a true copy to:

or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

**SUBPOENA
~~DUCES TECUM~~**

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Hon. Jessica Green**
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0020 JGA

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:

Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017 Time: 1:00 p.m.

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5. Thomas A. McAdam, III
Signature & Title of Issuing Officer

Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

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or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCE TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Ms. Erin Hinson**
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0020 *SH*

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:

Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017

Time: 1:00 p.m.

- 3. To appear /testify/ produce on behalf of: The Charging Committee The Respondent, Councilman Dan Johnson
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5. *[Signature]*
Signature & Title of Issuing Officer
Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

- 6. Served by delivery of a true copy to:

or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCE TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Ms. Elizabeth Hoffman**
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 05:20 LCH

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:

Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017 Time: 1:00 p.m.

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5. [Signature]
Signature & Title of Issuing Officer

Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

- 6. Served by delivery of a true copy to:

or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCES TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Hon. Angela Leet**
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0020 *SLB*

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:
Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

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5. *[Signature]*
Signature & Title of Issuing Officer Angela Leet, Louisville Metro Council

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Date 10/26/17

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

- 6. Served by delivery of a true copy to:

or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

**SUBPOENA
~~DUCES TECUM~~**

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Mr. Kent Oyler**
Chief Executive Officer
Greater Louisville, Inc.
614 West Main Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 10:00 A.M.

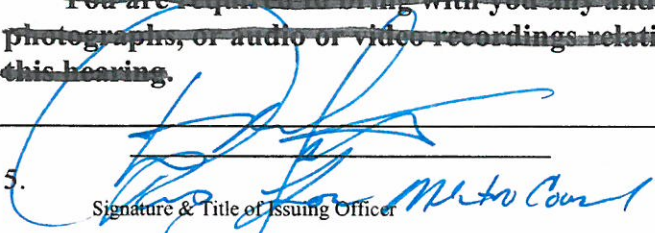
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Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017 Time: 1:00 p.m.

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5. 
Signature & Title of Issuing Officer
Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

- 6. Served by delivery of a true copy to:

or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
DUCE TECUM

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Ms. Joan Stewart**
Executive Director
Arthur Kling Center
219 West Ormsby Avenue
Louisville, Kentucky 40203

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0020 SCB

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:
Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

Date: Wednesday, November 1, 2017 Time: 1:00 p.m.

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5. Thomas A. McAdam, III
Signature & Title of Issuing Officer

Date 10/26/17

Thomas A. McAdam, III, Attorney at Law
2950 Breckenridge Lane, Suite 9
Louisville, Kentucky 40220

Name of Requesting Party

Telephone No. (502) 584-7255

PROOF OF SERVICE

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or reason not served:

This _____ day of _____, 2017

By Officer: _____ Title _____

Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

SUBPOENA
~~DUCES TECUM~~

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Mr. David Tandy, Esq.**
Bingham, Greenbaum, Doll, LLP
3500 PNC Tower
101 South Fifth Street
Louisville, Kentucky 40201

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 0030 A.D.

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:
Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
Louisville, Kentucky 40202

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5. Thomas A. McAdam, III
Signature & Title of Issuing Officer

Thomas A. McAdam, III, Attorney at Law
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Louisville, Kentucky 40220

Date 10/26/17

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Louisville Metro Council Court



Commonwealth of Kentucky
Louisville/Metro Government
Jefferson County

**SUBPOENA
~~DUCES TECUM~~**

In the Matter of the Removal Charges Against Councilman DAN JOHNSON

- 1. The Louisville Metro Council Court to: **Hon. David Yates**
Louisville Metro Council
Louisville City Hall
601 West Jefferson Street
Louisville, Kentucky 40202

OFFICE OF METRO COUNCIL CLERK
RECEIVED
DATE 10/27/17 TIME: 5:020 S.O.

- 2. You are commanded to appear before/produce documents/or other tangible evidence for use at:

Louisville Metro Council Court
Louisville Metro Council Chambers
601 West Jefferson, 3rd Floor
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5. [Signature]
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