

## UNITED STATES DISTRICT COURT

for the

Northern District of Illinois

Madeline Mendoza/Marilyn Mulero,

*Plaintiff*

v.

Reynaldo Guevara, et al,

*Defendant*

Civil Action No. 23cv2441/23cv4795

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

Cook County State's Attorney's Office

(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must promptly confer in good faith with the party serving this subpoena about the following matters, or those set forth in an attachment, and you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about these matters:

SEE ATTACHED RULE 30(B)(6) NOTICE

Place: Borkan & Scahill, Ltd.  
20 South Clark Street, Suite 1700, Chicago, IL 60603

Date and Time:  
02/24/2025 10:00 am

The deposition will be recorded by this method: court reporter and videographer

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/31/2025

CLERK OF COURT

OR

/s/ Timothy P. Scahill

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Guevara, who issues or requests this subpoena, are:

Timothy P. Scahill, Borkan &amp; Scahill, Ltd, 20 S Clark, #1700, Chicago, IL 60603 312-580-1030; tscahill@borkanscahill.com

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things 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. 23cv2441/23cv4795

**PROOF OF SERVICE**

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

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
via email: david.adelman@cookcountysao.org and jessica.scheller@cookcountysao.org  
\_\_\_\_\_ on *(date)* 01/31/2025 ; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: 01/31/2025 \_\_\_\_\_  
/s/ Elena Favela  
Server's signature

\_\_\_\_\_  
Elena Favela, Legal Assistant  
Printed name and title

\_\_\_\_\_  
20 South Clark Street, Chicago, IL 60603  
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.

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MADELINE MENDOZA,	)	
	)	
Plaintiff,	)	
vs.	)	No.: 23 CV 2441
	)	
REYNALDO GUEVARA, et al.,	)	
	)	
Defendants.	)	
	)	
_____ MARILYN MULERO, et al.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No.: 23 cv 4795
	)	
REYNALDO GUEVARA, et al.,	)	
	)	
Defendants.	)	

**NOTICE OF RULE 30(B)(6) DEPOSITION OF COOK COUNTY STATE'S  
ATTORNEY'S OFFICE**

To: Cook County State's Attorney's Office

Please take notice that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Defendant Reynaldo Guevara, by and through their undersigned counsel, will take the deposition of the Cook County State's Attorney's Office Special Litigation Unit on February 24, 2025, at 10 AM at Borkan and Scahill, LTD, 20 S Clark St., Chicago, IL60603. The Instructions and Definitions set forth in Plaintiff's prior discovery requests to Cook County State's Attorney's Office are hereby incorporated into this Notice as though fully set forth herein.

The deposition will address matters reasonably known to the Cook County State's Attorney's Office ("CCSAO"), including but not limited to the Special Litigation Unit and the Conviction Integrity Unit and/or any other Unit whatever it is or was called, and shall include, but not be limited to, the topics outlined below. As to counsel of record for the CCSAO, this is a demand upon you to designate and produce the person(s) who can provide binding testimony on behalf of the CCSAO pursuant to FRCP 30(b)(6) on the following subjects:

1. **Post-Conviction Litigation:** Procedures, policies, and practices of the Special Litigation Unit, Conviction Integrity Unit and/or any other Unit involved in post-conviction proceedings, regarding post-conviction matters, including in the procedures, policies, and practices undertaken in connection with reviewing and ligating petitions for post-

conviction relief for *People v Marilyn Mulero*, 92CR1308802 and *People v Madeline Mendoza*, 92CR1308803. This includes the CCSAO's expressed position in the matters of *People v Marilyn Mulero*, 92CR1308802 and *People v Madeline Mendoza*, 92CR1308803, including the dismissal of Marilyn Mulero's conviction on August 9, 2022, and the subsequent Certificate of Innocence granted on November 22, 2024, as well as the dismissal of Madeline Mendoza's conviction on January 3, 2023, and the subsequent Certificate of Innocence granted on July 11, 2023.

2. **Evidentiary Hearings:** The criteria relied upon by the CCSAO including but not limited to the Special Litigation Unit in conducting or not conducting evidentiary hearings related to post-conviction cases as it relates to *People v Marilyn Mulero*, 92CR1308802 and *People v Madeline Mendoza*, 92CR1308803, including the dismissal of Marilyn Mulero's conviction on August 9, 2022, and the subsequent Certificate of Innocence granted on November 22, 2024, as well as the dismissal of Madeline Mendoza's conviction on January 3, 2023, and the subsequent Certificate of Innocence granted on July 11, 2023.
3. **Policies on Vacating Convictions:** Policies, practices, and factors and information evaluated in determining whether or not to oppose the vacating of convictions in post-conviction cases generally and as it relates to *People v Marilyn Mulero*, 92CR1308802 and *People v Madeline Mendoza*, 92CR1308803, including the dismissal of Marilyn Mulero's conviction on August 9, 2022, and the subsequent Certificate of Innocence granted on November 22, 2024, as well as the dismissal of Madeline Mendoza's conviction on January 3, 2023, and the subsequent Certificate of Innocence granted on July 11, 2023.
4. **Collaboration with Defense Counsel:** Procedures and guidelines for communicating and collaborating with defense counsel in post-conviction matters, including the communication and collaboration with defense counsel in the connection with the matters of *People v Marilyn Mulero*, 92CR1308802 and *People v Madeline Mendoza*, 92CR1308803.
5. **Staff Roles and Responsibilities:** The organizational structure of the Special Litigation Unit, including roles and responsibilities of individuals involved in post-conviction matters and evidentiary hearings.
6. **Training and Oversight:** Training programs, policies, and oversight mechanisms for personnel involved in post-conviction litigation and evidentiary hearings.
7. **Data and Recordkeeping:** Practices for maintaining records and data related to post-conviction matters, evidentiary hearings, and decisions to oppose or not oppose vacating convictions.
8. **Legal and Policy Frameworks:** Internal and external legal or policy frameworks guiding the Special Litigation Unit's actions in post-conviction cases.
9. **Guevara Case Review Protocol:** The substance, provisions, objectives, implementation phases, mechanisms for review, and standards of the "Guevara Case Review Protocol" of the CCSAO generally and Conviction Integrity Unit specifically as well as if and how such protocols were applied as it relates to *People v Marilyn Mulero*, 92CR1308802 and *People v Madeline Mendoza*, 92CR1308803.

The person(s) designated must be prepared to testify about all knowledge reasonably available to the CCSAO concerning the topics listed above.

The person(s) designated pursuant to this Notice should produce, at least seven (7) dates prior to the deposition, any and all documents related to the above topics within their possession, custody or control, or, if the documents have already been produced in this litigation, identify those documents by bates number.

Respectfully Submitted,

/s/ Timothy P. Scahill

Borkan & Scahill, LTD.  
20 S. Clark St., Suite 1700  
Chicago, IL 60602  
*Counsel for Defendant Reynaldo Guevara*