

[CAPTION]

**NON-PARTY REQUEST FOR PRODUCTION**

TO: Name and Address of  
non-party subject of request

The Defendant, by counsel, pursuant to Trial Rule 34 hereby requests production of the following documents and records for inspection and copying by Defendant's attorneys, at [attorney's address], within thirty (30) days after the receipt of this Request for Production:

[LIST DOCUMENTS AND RECORDS SOUGHT]

Definitions and Instructions

A. The term "document" refers to any and all documentary material, as defined in Trial Rule 34, both originals and non-identical copies, and all drafts of such material, including but not limited to: correspondence, memoranda, notes, reports, paper files, books, records, contracts, agreements, telegrams, and other communications sent or received; printouts, diary entries, and calendars; tables, compilation tabulations, charts, graphs, records of accounts, worksheets, logs, and work papers; minutes, notes, summaries, and other written records or recordings of or relating to any conference, meeting, visit, interview, or telephone conversation; bills, statements, invoices, and other records of any obligation or expenditure; canceled checks, vouchers, receipts, and other records of payment, financial and statistical data, analysis, surveys, and schedules; audio and video tapes and cassettes and transcripts thereof; affidavits, transcripts of testimony, legal pleadings, statements, interviews, and records of conversation; microfilm, microfiche, discs, film, tapes, and other sources from which information can be obtained, including material used in computer programming and electronic data processing.

B. A document that "refers or relates to" any given subject matter means any document that constitutes, contains, embodies, identifies, states, refers to, deals with, pertains to, or in any way, directly or indirectly, bears upon or deals with that subject including, without limitation, documents concerning the preparation of other documents.

C. This request for production is made pursuant to Trial Rule 34(C). Pursuant to that rule, you are entitled to a security deposit against damages or payment of damages resulting from this Request. You may respond to this Request by submitting to its terms, by proposing different terms, by objecting specifically or generally to the request by serving a written response to Defendant's attorney at the address above within thirty (30) days, or by moving to quash as permitted by Indiana Rule of Procedure 45(B).

Should you fail to respond to this request for production or object to it or move to quash it, as provided by the applicable Indiana Rules of Trial Procedure, within ten (10) days from receipt, you may then be subject to sanctions for failure to provide discovery pursuant to Indiana Rule of Trial Procedure 37.

(Signature)

## REFERENCES

T.R. 34 (a copy of this request must be served upon the prosecutor 15 days prior to service on the non-party).

## CASE LAW

WTHR-TV v. State, 685 N.E.2d 1091 (Ind.Ct.App. 1997) (in criminal prosecutions, often the media may be a non-party with discoverable information; the First Amendment and Article I, Section 9 does not afford journalists privilege to withhold from a criminal Defendant evidence relating to crime). See also WTHR-TV v. Cline, 693 N.E.2d 1 (Ind. 1998).

WTHR-TV v. Cline, 693 N.E.2d 1 (Ind. 1998) (a blanket discovery request does not meet standard of Ind. Trial Rules, requiring discovery request to specify item or information sought with reasonable particularity and establish at least its potential materiality to case). See also WTHR-TV v. Milam, 690 N.E.2d 1174 (Ind. 1998).

Crawford v. State, 948 N.E.2d 1165 (Ind. 2011) (the three-step test set forth in WTHR applies only to requests for non-privileged materials).

Rita v. State, 674 N.E.2d 96 (Ind. 1996) (the State cannot use I.C. 33-39-1-1 to 5 to ex parte talk with witnesses or obtain documents prior to trial; permitting only one side to question prospective witnesses ex parte conflicts with reciprocal discovery rights secured by Indiana Trial Rules 30 and 31, which afford all parties right to receive notice of and be present at any questioning). See also Oman v. State, 737 N.E.2d 1131 (Ind. 2000).

Lundy v. State, 26 N.E.3d 656 (Ind.Ct.App. 2015) (the particularity requirement for discoverability of records by a criminal defendant is not to be construed strictly against Defendant but should be administered so as to maximize pre-trial discovery and the benefits to the judicial system which flow therefrom; Defendant's medical prescription records were not "readily available" to her so as to render records undiscoverable, despite Defendant's knowledge of where she could possibly obtain records).