

## Schenkenberg, Philip

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**From:** Schenkenberg, Philip  
**Sent:** Thursday, August 25, 2011 11:31 AM  
**To:** 'scott@swierlaw.com'  
**Cc:** Joseph, Claire  
**Subject:** RE: SDN Case/Free Conf.  
**Attachments:** 20110825094411099.pdf; PCDOCS-#4211833-v1 -Admission of Service Free Conferencing Corp (S. Swier).doc

Scott, I have attached a subpoena for the document production (with a return date of Sept. 5 at my office), and an acknowledgment of service.

Any response to my proposed dates?

Phil Schenkenberg  
Briggs and Morgan, P.A.  
Direct 612.977.8246  
Fax 612.977.8650  
[pschenkenberg@briggs.com](mailto:pschenkenberg@briggs.com)  
2200 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402

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**From:** Schenkenberg, Philip  
**Sent:** Monday, August 22, 2011 3:31 PM  
**To:** 'scott@swierlaw.com'  
**Cc:** Joseph, Claire  
**Subject:** RE: SDN Case/Free Conf.

Scott,

We will get a subpoena issued and get that to you with an admission of service. Why don't we set a return date of Sept. 5, and you can provide documents rather than have a custodian show up.

As far as depo dates, I think I want to have a full day available. I could do 8-4 on Sept. 21, 22, Oct. 5, 6, 19, 20. If necessary, I could also do an afternoon followed by a morning (starting at 8) on Sept 21-22, Oct. 5-6, or Oct. 19-20.

Please let me know what will work for you and your people. I haven't prepared a Rule 30(b)(6) notice for Free Conferencing, but have attached one we sent to another calling company. The list starts on page 24 of the attached document.

Phil

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**From:** Schenkenberg, Philip  
**Sent:** Monday, August 08, 2011 9:49 AM  
**To:** 'scott@swierlaw.com'

**Cc:** Joseph, Claire  
**Subject:** FW: SDN Case/Free Conf.

Scott, I would like to get this finalized so we can serve, and establish a return date. I would also like to set a Deposition date for some time in September. I am out Tuesday afternoon and Wednesday and would like to discuss this if we need to today or tomorrow morning.

Phil

Phil Schenkenberg  
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**From:** Schenkenberg, Philip  
**Sent:** Friday, July 29, 2011 1:47 PM  
**To:** 'scott@swierlaw.com'  
**Cc:** Joseph, Claire  
**Subject:** SDN Case/Free Conf.

Scott, per our discussion please see revised list of topics. Note that I added NAT to the definition of Third Party. Not sure why that was left out the first time.

Phil

**Phil Schenkenberg**  
**Attorney**

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT OF )  
SOUTH DAKOTA NETWORK, LLC, )  
AGAINST SPRINT COMMUNICATIONS )  
COMPANY LP )

TC 09-098

IN THE MATTER OF THE THIRD PARTY )  
COMPLAINT OF SPRINT )  
COMMUNICATIONS COMPANY LP )  
AGAINST SPLITROCK PROPERTIES, INC., )  
NORTHERN VALLEY COMMUNICATIONS, )  
INC., SANCOM, INC., AND CAPITAL )  
TELEPHONE COMPANY. )

**SUBPOENA DUCES TECUM  
FOR FREE CONFERENCING  
CORPORATION**

TO: Free Conferencing Corporation; 110 W. Ocean Blvd.; Suite C; Long Beach, CA 90802:

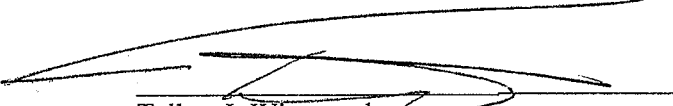
**YOU ARE HEREBY COMMANDED**, pursuant to SDCL § 15-6-45(a) and SDCL § 15-6-45(b), to designate one or more officers, directors, or managing agents or other persons to produce for inspection and copying all documents of Free Conferencing Corporation described in Exhibit A hereto. The recipient of this subpoena duces tecum is required to make such a designation, pursuant to SDCL § 15-6-30(b)(6).

The documents should be sent to Phil Schenkenberg, counsel for Sprint Communications Company L.P. ("Sprint"), at Briggs and Morgan; 80 S. 8th Street, Suite 2200; Minneapolis, MN 55402 on the 5th day of September, 2011.

ISSUED in the name of South Dakota Public Utilities Commission, Gary Hanson

Chairman, this 25<sup>th</sup> day of August, 2011.

GUNDERSON, PALMER, NELSON  
& ASHMORE, LLP



Talbot J. Wiczorek  
Attorneys for Sprint Communications  
Company LP  
P.O. Box 8045  
Rapid City, SD 57709-8045  
Phone: 605-342-1078  
Fax: 605-342-0480  
Email: tjw@gpnlaw.com

## EXHIBIT A

### DOCUMENTS TO BE PRODUCED BY CUSTODIAN OF RECORDS OF FREE CONFERENCING CORPORATION PURSUANT TO SUBPOENA REQUESTED BY SPRINT COMMUNICATIONS COMPANY L.P. FOR SDCL § 15-6-45(a) AND SDCL § 15-6-45(b) DEPOSITION

#### Definitions

“**Document**” means all written, printed, typed, punched, taped, filed, or graphic matter, however produced, reproduced or stored, of every kind and description, now or formerly in your actual or constructive possession, custody, trust, care, or control, including but not limited to: correspondence (such as letters, e-mail, faxes, cables, and telegrams); notes; memoranda (including memoranda of conversations, conferences, and telephone conversations); reports; data compilation or analyses; logs and records; photographs; books; papers; manuals; handbooks; bulletins; advisories; messages; magazines; periodicals; film strips or movies; press releases; newspaper clippings; pamphlets, studies; notations; working papers; charts; graphs; plans; drawings; diagrams; computer printouts; indexes; minutes; transcripts; contracts; agreements; leases; legal pleading; invoices; billings; statements; accounting books or records; financial data of any kind; journals; ledgers; diaries; tax returns; bylaws; rules; regulations; constitution; annual reports; programs; certifications; resolutions; any electronic or any other records of any kind or nature and any mechanical or electronic sound or recordings or transcripts thereof; computer files; data faxes; and all copies or facsimiles of documents by whatever means made. *All electronically stored information shall be produced in the following formats: in general, in searchable .pdf form, but for spreadsheets and data files, which should be produced in their native formats.*

**“You,” “your” or “yours”** means Free Conferencing Corporation, and its predecessors and assigns and includes, without limitation, its officers, directors, employees, agents, consultants, attorneys, corporate subsidiaries and affiliates.

**“Northern Valley”** means Northern Valley Communications, LLC or its parent company, James Valley Communications, Inc.

**“Sancom”** means Sancom, Inc.; its parent company, Santel Communications Cooperative, Inc.; or Sancom, Inc., doing business as Mitchell Telecom.

**“Splitrock”** means Splitrock Properties, Inc. or its parent company, Alliance Communications Cooperative, Inc.

**“NAT”** means Native American Telecom LLC.

**“Third Party”** means Northern Valley, Sancom, Splitrock, NAT, or any of their affiliates.

**“Person”** means any and all natural persons, corporations, businesses, firms, companies, partnerships, unincorporated associations, governmental or public agencies, joint ventures and all other entities, including, without limitations, all employees, representatives, consultants and agents of any of the foregoing.

**“Correspondence”** means any written communication, including but not limited to, emails and letters exchanged by U.S. Mail, overnight mail, facsimile or any other transmission method.

**“Relate” or “relating”** means regards, connects to, supports, evidences, describes, mentions, refers to, contradicts, comprises, or to be associated with.

The words **“any”** and **“all”** shall be considered to include each and every.

The singular of any word shall include the plural and the plural of any word shall include the singular.

All of the documents sought seek materials from January 1, 2006 to the present unless specifically stated otherwise.

**DOCUMENTS TO PRODUCE**

1. Provide all documents evidencing communications (including but not limited to correspondence or other documentation exchanged) between you and any Third Party or between you and a person that helped facilitate your relationship with a Third Party.
2. Provide all contracts, agreements or other documentation of understandings or arrangements between you and any Third Party or between you and a person that helped facilitate your relationship with a Third Party.
3. Provide all documents relating to any contracts, agreements, or other documentation of understandings or arrangements responsive to the above request.
4. Provide documents that evidence the volume of traffic that has been routed or delivered to you from any Third Party.
5. Provide all documents relating to the equipment you, your clients or parties with whom you have contracted have deployed that allows for conference calling, chat lines, podcasts, voice mail, international calling services or any other services that you offered for telephone numbers that any Third Party assigned to you. This should include, but not be limited to documents relating to:
  - a. The type of equipment deployed;
  - b. The location of the deployed equipment;
  - c. How the equipment operates;
  - d. How calls are routed to or from any portion or components of the equipment; and

- e. When this equipment was deployed.
6. Provide all documents relating to the revenues you have received from any Third Party, or from a person that helped facilitate your relationship with a Third Party.
7. Provide all documents relating to the monies you have paid to any Third Party or any person that that helped facilitate your relationship with a Third Party.
8. Provide all documents relating to the telephone numbers assigned to you by any Third Party, or any person that helped that helped facilitate your relationship with a Third Party.
9. Provide your advertisements, web pages, promotional materials or other marketing materials related to services you provide to those calling numbers any Third Party has assigned to you, regardless of when created, used, or effective.
10. Provide your certificate or other authorization to (a) conduct business or (b) provide telecommunications services in the state of South Dakota.
11. Provide all invoices or bills or documents related to invoices or bills that you have received from any Third Party or any person that helped facilitate your relationship with a Third Party.
12. Provide all documents relating to the rates, terms and conditions under which you obtain any services from any Third Party.
13. Provide any documents already produced to Qwest Communications Co. with respect to any litigation involving any Third Party in South Dakota.