

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**Midas Green Technologies, LLC,**

Plaintiff,

- vs. -

**Green Revolution Cooling, Inc.**

Defendant

Civil Action No. 6:24-cv-00166-ADA

**Jury Trial Demanded**

**PLAINTIFF MIDAS GREEN TECHNOLOGIES, LLC'S  
NOTICE OF THIRD-PARTY SUBPOENAS—MARK GARNETT**

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 45, Plaintiff Midas Green Technologies, LLC will serve the attached subpoenas for production of documents and testimony, respectively, upon Mark Garnett.

DATED: March 11, 2025

Respectfully submitted,

/s/ Henry M. Pogorzelski

Henry Pogorzelski

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*Attorneys for Plaintiff Midas Green Technologies LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that counsel of record who have appeared electronically in this case are being served on March 11, 2025 with a copy of this document via email.

/s/ Henry M. Pogorzelski  
Henry M. Pogorzelski

# UNITED STATES DISTRICT COURT

for the

Western District of Texas

Midas Green Technologies, LLC

*Plaintiff*

v.

Green Revolution Cooling, Inc.

*Defendant*

Civil Action No. 6:24-cv-00166-ADA

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

To: Mark Chiono Garnett, [REDACTED]

*(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:

Please see attached Exhibit A

|                                                                                          |                                      |
|------------------------------------------------------------------------------------------|--------------------------------------|
| Place: K&L Gates LLP<br>10100 Santa Monica Boulevard, 8th Floor<br>Los Angeles, CA 90067 | Date and Time:<br>04/11/2025 9:00 am |
|------------------------------------------------------------------------------------------|--------------------------------------|

The deposition will be recorded by this method: audiovisual and stenographic means

☐ **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: 03/11/2025

CLERK OF COURT

OR

/s/ Henry M. Pogorzelski

*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)* Plaintiff, Midas Green Technologies LLC

, who issues or requests this subpoena, are:  
Henry Pogorzelski, 2801 Via Fortuna, Suite 650, Austin, Texas 78746, Henry.Pogorzelski@klgates.com, 512 482 6826

### 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. 6:24-cv-00166-ADA

**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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; 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: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*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.

## **EXHIBIT A**

### **DEFINITIONS**

The following terms shall have the meaning set forth below unless otherwise indicated:

- A. The terms “You” or “Your” mean Mark Garnett.
- B. “GRC” means Green Revolution Cooling, Inc., and their present and former directors, officers, employees, predecessors in interest, successors in interest, servants, agents, attorneys, consultants, partners, associates, investigators, representatives, accountants, financial advisors, distributors, and any other person acting on their behalf, pursuant to their authority, or subject to their control.
- C. “Midas” means Midas Green Technologies LLC, and their present and former directors, officers, employees, predecessors in interest, successors in interest, servants, agents, attorneys, consultants, partners, associates, investigators, representatives, accountants, financial advisors, distributors, and any other person acting on their behalf, pursuant to their authority, or subject to their control.
- D. The term “document(s)” has its broadest possible meaning under Rule 34(a) of the Federal Rules of Civil Procedure and includes “writing(s)” and “recording(s)” under Rule 1001 of the Federal Rules of Evidence and includes, but is not limited to, all of the following matter in Your actual or constructive possession, custody, or control: all written, typed, printed, recorded, textual, graphic or photographic matter, software, source code, and object code, however produced or reproduced, any notes or drafts, and all copies on which any mark, alteration, writing, or any other change from the original has been made.
- E. The term “communication(s)” means any transmission of information between persons by any means or medium, whether in original, draft, or copy form, whether stored in hard

copy, on tape, or electronically, and whether oral or in writing, including: conversations; correspondence; electronic mails; telexes; facsimile transmissions; telecopies; recordings; telephone or message logs; notes or memoranda; and any translations.

### **DEPOSITION TOPICS**

1. The development by GRC, Midas and other immersion cooling companies of inventions in the immersion cooling space.
2. Your work at GRC.
3. The immersion cooling systems of GRC, Midas and other immersion cooling companies.

# UNITED STATES DISTRICT COURT

for the  
Western District of Texas

Midas Green Technologies, LLC

*Plaintiff*

v.

Green Revolution Cooling, Inc.

*Defendant*

Civil Action No. 6:24-cv-00166-ADA

## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Mark Chiono Garnett, [REDACTED]

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Please see attached Exhibit A

Place: K&L Gates LLP  
10100 Santa Monica Boulevard, 8th Floor  
Los Angeles, CA 90067

Date and Time:

03/31/2025 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

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: 03/11/2025

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

/s/ Henry M. Pogorzelski

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiff, Midas Green Technologies LLC, who issues or requests this subpoena, are:

Henry Pogorzelski, 2801 Via Fortuna, Suite 650, Austin, Texas 78746, Henry.Pogorzelski@klgates.com, 512 482 6826

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

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises 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. 6:24-cv-00166-ADA

**PROOF OF SERVICE**

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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 person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; 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: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

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(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:

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**(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.

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### **DEFINITIONS**

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- C. “Midas” means Midas Green Technologies LLC, and their present and former directors, officers, employees, predecessors in interest, successors in interest, servants, agents, attorneys, consultants, partners, associates, investigators, representatives, accountants, financial advisors, distributors, and any other person acting on their behalf, pursuant to their authority, or subject to their control.
- D. The term “document(s)” has its broadest possible meaning under Rule 34(a) of the Federal Rules of Civil Procedure and includes “writing(s)” and “recording(s)” under Rule 1001 of the Federal Rules of Evidence and includes, but is not limited to, all of the following matter in Your actual or constructive possession, custody, or control: all written, typed, printed, recorded, textual, graphic or photographic matter, software, source code, and object code, however produced or reproduced, any notes or drafts, and all copies on which any mark, alteration, writing, or any other change from the original has been made.
- E. The term “communication(s)” means any transmission of information between persons by any means or medium, whether in original, draft, or copy form, whether stored in hard

copy, on tape, or electronically, and whether oral or in writing, including: conversations; correspondence; electronic mails; telexes; facsimile transmissions; telecopies; recordings; telephone or message logs; notes or memoranda; and any translations.

### **INSTRUCTIONS**

1. Each Request is to be read, construed and responded to separately and independently without reference to or being limited by any other Request.

2. In responding to these Requests, please furnish all documents available to you, including documents in the possession, custody or control of your attorneys, agents, accountants, bankers, advisors, and all persons acting on your behalf, and not merely such documents known to you of your direct or personal knowledge. If you cannot respond to any of these Requests in full after exercising due diligence to secure the information, you are required to so state and answer to the extent possible, specifying your inability to respond to the remainder, stating what documents you have concerning the portions to which no response is given and why you are unable to respond thereto.

3. If any documents responsive to these Requests are withheld from production, provide a list of all such documents withheld, containing a complete identification of each such document (as defined above) and a statement of the ground(s) upon which it is being withheld, in sufficient detail to permit a ruling on the validity of the withholding.

4. For any documents withheld from production based in-whole or in-part on a claim of attorney-client privilege, attorney work product, common interest doctrine, or any other claim of privilege, provide a written privilege log setting forth sufficient information to permit a full determination of whether the claim of privilege is valid, including at a minimum:

(a) An identification of each communication or document embodying the allegedly protected information by author, date, and title;

(b) The identity of all person(s) from and to whom the information has been communicated;

(c) A brief description of the subject matter of the information; and

(d) The legal and factual ground(s) upon which you rely in withholding the information in sufficient detail so that the Court may make a determination on your claim of privilege.

5. If no documents are responsive to a particular request, you are to state that no responsive documents exist.

6. All documents requested shall be produced in the same file or other organizational environment in which they are maintained. For example, a document that is part of a file, docket, or other grouping, should be physically produced together with all other documents from said file, docket or grouping, in the same order or manner of arrangement as the original. For example, documents stored in electronic format shall be produced in a medium that preserves the original file structure where the document resided and shall be produced with sufficient metadata to indicate the original file structure. Documents stored in electronic format shall be produced in their native format unless otherwise agreed by the parties.

## **REQUESTS FOR PRODUCTION**

1. Documents created by You/Mark Garnett, in whole or in part, in connection with WIPO publication WO 2010/019517 (a copy of which is included for your convenience), and its progeny for which You are a listed inventor—*e.g.* Pat. Nos. 10,123,463 and 9,992,914.
2. All documents pertaining to You/Mark Garnett, and any of Christiaan Best, Mark Tlapak and/or GRC, relating to immersion cooling systems.
3. All communications between You/Mark Garnett, and any of Christiaan Best, Mark Tlapak or GRC.
4. Documents related to inefficiencies in existing cooling technologies for computer servers discovered from January 1, 2007 to the present.
5. Documents related to technology, systems, documents, and expertise of Midas or its products or patents.
6. Documents related to the alleged unique, novel, and distinct designs for GRC's immersion cooling systems.
7. Documents related to GRC's development and filing of patent applications on upgrades to its products.