SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Ganogen, Inc.

You are hereby commanded to be and appear before the

Committee on Energy and Commerce

Select Investigative Panel on Infant Lives

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 316 Ford House Office Building, Washington, DC 20515

Date: April 11, 2016 Time: 5:00 pm

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To United States Marshals or any authorized staff member

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 29th day of March, 2016.

Martha Blackburn

Chairman or Authorized Member

Attest: Karen L. Haas

Clerk

PROOF OF SERVICE

Subpoena for

Ganogen, Inc.

Address c/o [redacted]

1271 Washington Ave, #309, San Leandro, CA 94577

before the Committee on Energy and Commerce

Select Investigative Panel on Infant Lives

U.S. House of Representatives
114th Congress

Served by (print name) _____

Title _____

Manner of service _____

_____

Date _____

Signature of Server _____

Address _____

_____

Ganogen, Inc.

In accordance with the attached schedule, instructions, and definitions, you, Ganogen, Inc. ("Ganogen"), are required to produce all documents in unredacted form described below:

1) Documents sufficient to show all entities and/or persons from which Ganogen purchased or otherwise received fetal tissue or fetal body parts. (See definition (8) relating to fetal tissue.) Should Ganogen wish to produce a list identifying such entities and/or persons in lieu of documents, it may do so.

2) Documents sufficient to show all fetal tissue or fetal body parts that Ganogen received, purchased, or procured. Should Ganogen wish to produce a list identifying each and every fetal tissue or body part it received, purchased, or procured, it may do so.

3) Documents sufficient to show all entities and/or persons to which Ganogen transferred fetal tissue. Should Ganogen wish to produce a list identifying such entities and/or persons in lieu of documents, it may do so.

4) Documents sufficient to show (a) all Ganogen studies that used fetal tissue or fetal body parts and a description of each study's methods, purposes, and results, and (b) the identity, by name, of persons who participated in each study and the source of funding of the study. Should Ganogen wish to produce a list or chart reflecting the information requested in (a) and (b) in lieu of documents, it may do so.

5) All communications and documents referring or relating to any compensation or valuable consideration exchanged between Ganogen and entities from which Ganogen has received fetal tissue or fetal body parts.

6) All communications and documents referring or relating to any federal, state, or local government funds received by Ganogen that were used, in whole or in part, for any procedures, research, or training involving fetal tissue or fetal body parts.

7) All communications between Ganogen and any federal, state, or local government officials or employees, referring or relating to fetal tissue or fetal body parts.

8) All communications and documents directing personnel of Ganogen with respect to procurement or disposal of fetal tissue or fetal body parts.

9) All communications and documents Ganogen utilizes to obtain patient consent for abortion procedures and donation of fetal tissue or fetal body parts. (See instruction below regarding HIPAA.)

10) All communications and documents referring or relating to the purchase, ownership, or rental by Ganogen of equipment for fetal tissue research, fetal tissue modification, or any other actions taken by Ganogen related to fetal tissue.

11) Documents sufficient to show Institutional Review Board (IRB), as defined by Title 45 Code of Federal Regulations, Part 46, approval assurances and compliance for any fetal tissue received and utilized in any research by Ganogen.

12) Documents sufficient to show any litigation to which Ganogen is, or has been, a party, including any threatened or anticipated litigation, involving research using fetal tissue or fetal body parts, or related referral services. Should Ganogen wish to produce a list of such litigation, including appropriate docket information, in lieu of documents, it may do so.

Instructions

1) The relevant time period for above-referenced documents is January 1, 2011, to the present.

2) In complying with this subpoena, you are directed that no document may be redacted in any way except that that all patient information protected by the American Health Portability and Accountability Act of 1998 (HIPAA) shall be redacted.

3) In complying with the subpoena, be apprised that the U.S. House of Representatives and the Committee on Energy and Commerce, Select Investigative Panel on Infant Lives ("Select Panel") do not recognize any of the non-disclosure privileges associated with the common law, with the Freedom of Information Act, with attorney-client privilege, or contractual privileges such as non-disclosure agreements.

4) In complying with this subpoena, you are directed to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You are also directed to produce records that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as records that you have placed in the temporary possession, custody, or control of any third party.

5) No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Select Panel.

6) In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.

7) Each document produced shall be produced in a form that renders the document capable of being copied.

8) Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was served. To the extent that documents were not stored with file labels, dividers, or identifying markers, they shall be organized into separate folders by subject matter prior to production.

9) All documents or groups of documents, produced shall be identified by the paragraph number in the Attachment to the subpoena to which the documents, or groups of documents, are responsive.

10) It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same document.

11) If any of the subpoenaed information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), you shall consult with Select Panel staff to determine the appropriate format in which to produce the information. Documents produced in electronic format shall be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in Paragraphs 8 and 9 above. Documents produced in an electronic format shall also be produced in searchable format.

12) If compliance with the subpoena cannot be made in full, compliance shall be made to the extent possible, and your production shall be accompanied by a written explanation of why full compliance is not possible.

13) In the event that a document is withheld on any basis, provide the following information concerning each and every such document withheld from production: (a) the reason the document is not being produced; (b) type of document; (c) general subject matter; (d) date, author and addressee; and (e) relationship of author and addressee to each other.

14) If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipient(s)) and explain the circumstances by which the document ceased to be in your possession, custody, or control.

15) If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

16) This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

17) All documents shall be Bates-stamped sequentially and produced sequentially.

18) Two sets of responsive records shall be produced, one set to the Majority staff and one set to the Minority staff. The Majority set shall be delivered to Majority staff in Room 316 of the Ford House Office Building and the Minority set shall be delivered to the Minority staff at 361 Ford House Office Building. You shall consult with the Select Panel staff regarding the method of delivery prior to sending any material.

19) Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Select Panel since the date of receiving the Select Panel's request or in anticipation of receiving the Select Panel's request, and (3) all documents identified during the search that are responsive have been produced to the Select Panel, identified in a log provided to the Select Panel, as described in Paragraph 13 above.

Definitions

1) The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, text messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2) The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, officers, directors, contractors, consultants, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

3) The term "communication" means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, text message, discussion, release, personal delivery, or otherwise.

4) The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5) The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6) The term "Ganogen, Inc." includes Ganogen and any affiliates or related entities, all referred to herein, both individually and collectively, as "Ganogen".

7) The term "procure" includes fetal tissue procurement, which means to get, acquire, purchase, appropriate, aggregate, gather, compile, accumulate, collect, or obtain possession or control of fetal tissue by any means, whether solicited or unsolicited, and whether with or without consideration. This includes but is not limited to gaining consent to acquire, physically identifying, separating, dissecting, cultivating, handling, processing, and shipping fetal tissue by any methods or means.

8) The term "fetal tissue" means tissue, organs, body parts, and cell lines.

9) The term "study" means any work or regime of biomedical research that led to a report or memoranda, whether published or not.

10) The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

11) The terms "you" and "your" refer to Ganogen, Inc., as defined herein, whether known by this name or a different name, its past and present officers, directors, employees, consultants, contractors, agents, representatives, subsidiaries, and/or parents.