

PROCEDURES HOW TO OBTAIN AND SERVE A SUBPOENA

NOTES

The subpoena is used to obtain testimony or the production of documents, records or objects, or the inspection of premises from persons or companies, organizations, etc., who are NOT parties to the case. You are responsible for the receiving party's costs of complying with the subpoena. You must already have an open case in the Duncan Justice Court for the Clerk to issue a subpoena, or have already registered the order of a foreign (out of state) court for a deposition. You must be able to serve the subpoena within the state of Arizona.

WARNING: There are additional requirements for a subpoena of MEDICAL RECORDS. Those requirements and additional forms that may be needed for that purpose are NOT included in this packet. Refer to A.R.S. § 12-2294.01 or consult an attorney for additional information.

STEP 1: COMPLETE THE SUBPOENA (Instructions on page 2.)

STEP 2: Take the original subpoena to the Clerk of the Court. **Pay Filing Fee of \$33.00** per subpoena and have the form signed and dated by the Clerk. Credit Card or Money Order only.

If you cannot afford the filing fee and/or the fee for having the papers served by the Sheriff, you may request a deferral (payment plan) when you file your papers with the Clerk of the Court. Deferral Applications are available at the Clerk's Office.

STEP 3: MAKE COPIES: Make (1) copy for your records, plus (1) for every party in the case.

STEP 4: MAIL ONE COPY to every party in the case.

STEP 5: SERVE THE SUBPOENA

Have the original subpoena served on (personally delivered to) the person you want to appear in court or for a deposition or who is in control of the documents, objects or location you want to examine.

Certified Mail - for delivery to addressee only. Returned receipt signed by addressee (Return letter to sender if not delivered in 5 days)

First Class Mail (certificate of service and return card is returned by addressee)

The person serving the subpoena must file an Affidavit of Service with the Court as proof of delivery. If you choose to have the paper served by a licensed process server or the Sheriff's

Department, they will have their own Affidavit of Service form, if not, use the one included in these instructions.

FREQUENTLY ASKED QUESTION (FAQ):

WHEN MUST THE SUBPOENA BE SERVED?

HOW FAR IN ADVANCE OF WHEN I WANT THE PERSON TO APPEAR OR THE DOCUMENTS, RECORDS, OBJECTS OR PLACE MADE AVAILABLE FOR INSPECTION MUST THE SUBPOENA BE DELIVERED?

ANSWER: The rules of court known as the Arizona Rules of Civil Procedure (A.R.C.P.) do

not specify any particular number of days that the subpoena must be delivered before the person is to appear or the documents or objects delivered or place made available for inspection.

The Rules do say that if the person receiving the subpoena feels that the length of time is unreasonable or otherwise objects, he or she must file an objection with the Court within 14 days of receiving the subpoena or before the date listed on the subpoena for the person to appear or to produce or provide access to the documents, records, objects, or location list

STEP 6: WAIT and be prepared to respond to any objection from the party being served with the subpoena, or for the date and time the items are to be produced or for the scheduled appearance.

INSTRUCTIONS

HOW TO COMPLETE THE SUBPOENA

A subpoena is a legal order summoning a witness to testify or submit evidence. A subpoena duces tecum is a legal order requiring:

1. The production of documents, records or objects, or
2. Making documents, records or objects, or a physical location available for inspection.

(This packet may be used for either or both types of subpoena.)

TO COMPLETE THIS FORM YOU WILL NEED:

Your case number.

The name and address of the person you want to appear as a witness in court or at a deposition, or who is in charge of the documents, records, or place you want to examine (who is NOT a party to the case).

INSTRUCTIONS: PRINT CLEARLY. USE BLACK INK.

Fill in the information requested at top left for the person who is sending the subpoena. If there is a current court order declaring your address is protected, write “protected” on the line provided for your address. Make sure the Clerk of Court has valid contact information on file.

Fill in the “case caption” where it says “In the Matter of” and “Case Number” exactly as it appears on your original court papers.

Fill in the name and address of the person (or company, organization, etc.) to receive the subpoena.

Complete the following as applicable:

1. To order someone to appear to testify at a court trial or hearing.
2. To order someone to appear for a deposition at an attorney’s office (or other location) to answer questions or give testimony that will be recorded for possible use at trial, and/or
3. As a subpoena duces tecum to order someone to produce or allow inspection of documents, objects, or of a specified location.