

SUBPOENA HANDBOOK



PREPARED BY

Office of General Counsel
The California State University

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I. INTRODUCTION

The California State University is often served with subpoenas in civil lawsuits, criminal cases, and other kinds of formal proceedings. CSU must comply with all valid subpoenas. This handbook is intended to provide general information about subpoenas and how to handle them when CSU is **not a party** to the proceeding. When CSU **is a party**, the lawyer assigned to the matter should handle complying with it.

Subpoenas are time-sensitive documents with court-imposed deadlines. Therefore, CSU campuses may wish to set up formal procedures for handling them specifically designating the location where they may be served and the persons who will handle them for each department and/or campus-wide.

This subpoena handbook is a guide and not a substitute for specific legal advice. Any questions that are not answered here should be addressed to the Office of General Counsel representative assigned to assist with more complex subpoena questions.

A. Matters Covered By This Handbook

This handbook covers California state court civil deposition and trial subpoenas, California criminal trial and grand jury proceedings subpoenas, and federal court civil deposition and trial subpoenas.

B. Matters Not Covered By This Handbook

This handbook does not cover subpoenas issued in matters where CSU is a party, federal criminal subpoenas, workers compensation, subpoenas for police officer personnel records¹, subpoenas for administrative proceedings, or other subpoenas that are not commonly received by CSU. All questions regarding subpoenas involving CSU outside the scope of this handbook should be directed to the Office of General Counsel representative assigned to assist with more complex subpoena questions.

II. WHAT IS A SUBPOENA?

A subpoena is a legal document that commands a person or entity to attend at a particular time and place to testify as a witness (at a deposition, trial, or other hearing), and/or to produce documents or other tangible objects in a legal proceeding. It is equivalent to a direct order from a court.

¹ Peace office records must be sought through a special motion referred to as a Pitchess Motion. The OGC Pitchess Motion Manual addresses those requests.

III. HANDLING SUBPOENAS: GENERAL CONSIDERATIONS

A. Who May Issue A Subpoena?

A civil subpoena may be issued by a judge, court clerk, or attorney. A civil subpoena may not be issued by a party appearing *in propria persona*, unless he/she is also a licensed attorney. A criminal subpoena may be issued by a judge, magistrate, court clerk, district attorney, public defender, investigator, or attorney of record for the defendant. All subpoenas must be signed. The use of “/s/” as a signature substitute is inappropriate. A faxed or photocopied signature is acceptable.

B. What Are The Different Types Of Subpoenas?

In general, there are three different types of subpoenas:

1. An “appearance only” subpoena, requiring only the personal attendance of a witness [*see* Tabs 1 and 4];
2. A “records only” subpoena, requiring only the production of documents, and not a witness [*see* Tab 2]; and
3. An “appearance and records” subpoena, requiring both the personal attendance of a witness and the production of documents [*see* Tabs 3, 5, and 8].

A subpoena seeking production of documents, with or without a witness, is sometimes referred to as a “subpoena duces tecum.”

C. To Whom Should The Subpoena Be Addressed?

A subpoena commanding a **person** to appear, testify, and/or produce documents must name that person on the subpoena.

A subpoena commanding an **entity**, such as CSU, to produce an employee to appear, testify, and/or produce documents must name that entity and reasonably describe the person whose testimony is desired.

A subpoena seeking records only should name the “custodian of records” or whoever else is authorized to respond to subpoenas.

D. Who May Accept Service Of A Subpoena?

A subpoena to CSU for records should be accepted by the actual custodian of those records. It may also be accepted by others in the campus administration that have authority over those records.

A subpoena to a particular **person** can only be accepted by that person. There are three important **exceptions** to this requirement:

1. If the subpoenaed **person** is a **peace officer** who is subpoenaed to testify about an event or transaction which he/she witnessed or investigated as a peace officer, the subpoena may be served by delivering two copies to his/her immediate superior or an agent designated to receive subpoenas, who must then deliver a copy to the peace officer.²
2. If the subpoenaed **person** is a **state employee** who is subpoenaed to testify about something he/she has gained expertise in during the course of his/her duties, a subpoena may be served by delivering two copies to the employee's immediate superior or an agent designated to receive subpoenas.³ State employees who are being subpoenaed for their everyday, percipient knowledge must be personally served.

For example, if a CSU employee in an employee relations department is subpoenaed to testify about specialized procedures for reporting, investigating, and resolving employment disputes, that employee may be served through his/her superior. On the other hand, if that same employee is subpoenaed to testify about a slip-and-fall accident that he/she witnessed on campus, he/she must be personally served.

3. A **criminal** subpoena may be served by mail if the person served is willing to tell the person who served the subpoena that he/she received the subpoena, and to identify him/herself by date of birth, driver's license number, or DMV identification card number.⁴ OGC, however, does not recommend giving out such personally identifiable information to third parties.

Except as noted above, the law requires personal service of every subpoena. Service in less formal ways, such as by fax or mail, should not be accepted, as the parties in litigation have the right to expect CSU to follow legal formalities.

² Gov't Code § 68097.1(a). In criminal cases, the superior or agent may refuse to accept service if he/she knows he/she is unable to deliver a copy to the peace officer in time to comply with the subpoena, or if service is made within 5 days of the hearing and he/she is not reasonably certain he/she can deliver it to the peace officer. Pen. Code § 1328(c), (d) and (e).

³ Gov't Code § 68097.1(b).

⁴ Pen. Code § 1328d.

E. Notification When Student or Employee Records Are Subpoenaed

If a student's educational records are sought, CSU must make a reasonable effort to notify that student, unless it is a law enforcement subpoena and states on its face that the student should not be notified.⁵ When an employee's records are subpoenaed, it is advisable to notify them of the demand, unless the subpoena indicates that the person is not to be notified. See Tab 10 for a sample letter notifying an individual that their records have been subpoenaed.

F. Notice Requirements When Subpoenaed Records Contain Third Party Information

On occasion the subpoenaed records contain confidential or personal information of third parties not named in the subpoena. When this is the case the subpoena process does not provide notice to those individuals that information about them is being released. For example, if student discipline records were requested about the accused student, those records might contain personal information about a student victim. Similarly, if campus financial records are sought they might include private donor information. In such circumstances, the student and donor would have no advance notice and no opportunity to object to the release of their information. Therefore, the campus should make a reasonable effort to inform the third party that the records contain such information and will be released pursuant to a valid subpoena. The letter should include a copy of the subpoena so that if they choose they can contact the issuing attorney or the court to object to the release. [See sample at Tab 10.] Thereafter, if an objection or notice of motion to quash is received, no records should be produced until the court informs the CSU how to proceed. If agreement between those involved is provided and explains how the subpoena is to be addressed, CSU can honor that agreement. However, if a court order quashing the subpoena is received CSU must comply with that order. If no objection, notice of motion to quash, court order or agreement between those involved is received by the date production is required, the records should be produced.

G. Who May Serve A Subpoena?

Anyone over the age of 18 may serve a civil subpoena. Anyone other than the defendant may serve a criminal subpoena.

A subpoena from another state is not valid in California absent a specific court order. If the order is not attached to the subpoena it should be requested from the issuing attorney.

⁵ Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. § 99.31(a)(9)(i)-(iii). For more information on FERPA, see the CSU RECORDS ACCESS MANUAL.

H. What Are The Required Contents Of A Subpoena?

Subpoenas come on court approved, preprinted forms. [See Tabs 1-8.] Upon receipt, make sure: (1) that all appropriate boxes are filled in; (2) it includes a detailed description of the records or things sought to be produced, if a production is required; and (3) that the subpoena is signed by an appropriate person. [See section III(A).]

If personal or employment records are sought, the subpoena must be served with the appropriate notice to the person whose records are being sought and proof of service. A trial subpoena must include an affidavit (statement of counsel under oath) stating the reasons why the records are sought, their relevance, and that the witness has them or access to them.

I. Witness Fees and Costs Associated with a Subpoena

1. State Court Civil Subpoenas

a. Witness Fees

In civil cases, subpoenaed witnesses are entitled to receive “ordinary witness fees” of \$35.00 per day and \$.20 per mile, round trip.⁶

There are two exceptions to this general rule.

1. **CSU peace officers** who are subpoenaed to testify about something they saw or investigated while on duty; and
2. **CSU employees** who are subpoenaed to testify about something they have gained expertise in during the course of their CSU employment.

If the exception applies, these witnesses are entitled to a \$150.00 fee for each day they are required to testify, plus reasonable and necessary travel costs. This fee is intended to cover their salary and is deposited with the CSU.⁷ For example:

A subpoena to a campus police officer that is expected to testify about the facts surrounding an arrest she made on campus would require the \$150.00 salary/expense deposit.

A subpoena to a bargaining unit designee who is expected to testify about the interpretation of a collective bargaining agreement would require the \$150.00 salary/expense deposit.

⁶ Gov't Code § 68093.

⁷ Gov't Code § 68097.2(b).

If the \$150.00 deposit does not cover the entire cost of the employee's salary and travel costs, the subpoenaing party must pay any additional amounts owed after the testimony is concluded. If too much was paid, CSU must refund the overpaid amounts.

For deposition subpoenas, payment (by cash or check) must be made whether or not demanded and can be made either at the time the subpoena is served or at the deposition.⁸ If not made before, payment should be demanded at the start of the deposition before testimony is given.

For trial subpoenas, payment (by cash or check) must be made before the date specified for testimony. A witness has no obligation to attend a civil trial if advance payment is not made.

CSU must pay normal wages to state employees who are subpoenaed to testify about work-related matters.⁹ However, state employees subpoenaed to testify about non work-related matters are not entitled to receive wages, but they are entitled to use vacation, personal leave, or compensatory time off to cover the time they must be away from work. They must be permitted to take time off to testify.¹⁰

b. Production of Documents and Recoverable Costs

The subpoena should clearly state which of the following three methods of production CSU should use to respond:

1. Copy the records in-house and mail them to a designated deposition officer;
2. Copy the records and mail or deliver them to the court; or
3. Make the originals available for inspection and photocopying on CSU premises or at another convenient location.

If CSU is required to produce copies of records by method 1 or 2, above, it can recover these costs:

- \$.10 per page for standard copies;
- \$.20 per page for microfilm copies;
- actual costs of reproduction of oversize documents or other documents requiring special handling;

⁸ Code Civ. Proc. § 2020.230 (a) and (b); Gov't Code § 68070.

⁹ Gov't Code § 68097.2(a).

¹⁰ Lab. Code § 230(b) and (g).

- reasonable clerical costs incurred in locating and making the records available (maximum of \$24 per hour, with quarter hour minimum increments);
- actual postage charges; and
- the actual cost, if any, charged by a third person for retrieval and return of records stored offsite.

If CSU is required to make *originals* available for inspection and photocopying (3, above), it can only recover the following:

- \$15.00 witness fee;
- the actual cost, if any, charged by a third person for retrieval and return of records stored offsite; and
- \$.20 per page for microfilm copies.¹¹

The costs must be itemized in a statement of charges and provided to the subpoenaing party.¹² These costs do not have to be paid before the production date. However, CSU can and should demand payment at the time it produces the records. CSU is under no obligation to deliver the records until payment is made.¹³

2. State Court Criminal Subpoena

No witness fees and expenses are required for criminal subpoenas. Instead, if a person is subpoenaed in a criminal case, the court in its discretion may order payment of witness fees at \$12.00 per day, plus a reasonable sum for necessary expenses (such as mileage), or, if the witness is employed but not being paid by his employer while testifying, a sum not to exceed \$18.00 per day.

These witness fees are paid by the county, after the hearing or trial by making an application to the court where the case is pending.

3. Federal Court Civil Subpoena

All civil witness fees for deposition or trial in federal court are \$40.00 per day, plus travel expenses, including the actual expenses of public transportation or mileage at **\$0.55** cents per mile and toll and parking charges if private transportation is used.¹⁴ If CSU is not a

¹¹ Evid. Code § 1563.

¹² Evid. Code § 1563.

¹³ Evid. Code § 1563.

¹⁴ 28 U.S.C. § 1821; 5 U.S.C. § 5704; 41 C.F.R. § 301-10.

party in the federal civil action, it can recover its costs in responding to a federal civil subpoena. The federal rules do not specify which costs are recoverable, so questions should be referred to the Office of General Counsel representative assigned to deal with more complex subpoena questions.

J. The “Notice to Consumer” Requirements

A **CA civil** subpoena seeking production of personal or employment records must include a “notice to consumer.”¹⁵ A “consumer” is the person whose personal or employment records are being sought, and includes employees, students, health center patients, and some small business entities.¹⁶ This “notice to consumer” is intended to give the consumer time to get a court order to limit or prohibit the disclosure of personal or employment records before they are produced. **The Notice to Consumer requirement DOES NOT APPLY to Criminal or Workers Compensation Subpoenas.**

The most important requirements for a notice to consumer are:

1. It must be on the approved court form. [*See* Tab 6.]
2. It must be served on the consumer by either mail or personal service *before* it is served on CSU.
 - If personally served on the consumer, it must be delivered to him/her at least five days before it is served on CSU.
 - If mailed to the consumer, it must be mailed to him/her at least ten days before it is served on CSU.
3. It must give CSU enough time to produce the records.
 - The production of records must be set on the later of the following two dates:
 - 20 days after the date the subpoena is signed,
 - or,
 - 15 days after the subpoena is served on CSU.

¹⁵ No “notice to consumer” is required if the consumer has provided a signed, written authorization to release the records. Code Civ. Proc. §§ 1985.3 and 1985.6.

¹⁶ Code Civ. Proc. §§ 1985.3 and 1985.6.

- Example:
 - The subpoena for consumer records is dated: July 1, 2007
 - The notice to consumer is mailed to the consumer: July 1, 2007
 - The subpoena cannot be served on CSU until ten days after notice is mailed to the consumer (5 days + 5 more because it was mailed). July 11, 2007
 - The subpoena is served on CSU on: July 15, 2007
 - CSU cannot produce the records until July 30, 2004 (15 days after service on CSU), because that is later than 20 days after the subpoena is dated (which would be July 21). July 30, 2007
 - The subpoena lists the date for production as August 1, 2007 August 1.
 - This is a valid notice to consumer. Had the production been scheduled before July 30, it would be invalid.

1. What Happens If The Consumer Objects To Having The Records Produced?

If the consumer does not want his/her records produced, he/she must take specific action to avoid production.

- If the consumer **is not a party** to the litigation, then prior to the production date he/she may serve CSU, the person who subpoenaed the records, and the deposition officer, with a specific written objection.¹⁷
- If the consumer **is a party** to the litigation, he/she must file a motion to quash or modify the subpoena with the court, and must give CSU notice of the motion at least 5 days before the production date.¹⁸

If CSU receives an objection from a non-party or motion to quash from a party, CSU must **not** release the records to the subpoenaing party absent a subsequent order from the court, or upon written agreement of the parties affected.

¹⁷ Code Civ. Proc. § 1985(g).

¹⁸ Code Civ. Proc. §§ 1985.6(g) and 1985.6(f).

2. What Happens If CSU Receives An Objection To A Subpoena Duces Tecum?

- If an **objection** is received from a **party** to the case, a letter should be sent to all counsel advising that: (a) an objection has been received, and (b) CSU intends to comply with the subpoena unless a motion is filed.
- If an **objection** is received from a **non-party** to the case, a letter should be sent to all counsel advising of the objection and stating that no documents will be produced without a court order or a stipulation signed by the non-party agreeing to the production.
- If a **motion to quash** or **motion for protective order** is received from either a **party or non-party**, no documents should be produced without a court order, or a stipulation signed by the objecting party agreeing to the production.

K. What Does CSU Have To Do In Response To A Subpoena?

Subpoenas are the equivalent of a court order and a response is therefore required by law. If a subpoena for records is directed to a specified department, it is necessary to produce only records from that department. If the subpoena is directed to CSU, however, it may be necessary to search for records beyond the department in which the subpoena is served in order to appropriately respond.

Each campus is encouraged to consider having one person designated to receive all subpoenas for the campus who can do a preliminary screening for the issues discussed in this handbook, instruct other campus personnel on what needs to be done to respond, and coordinate with the Office of General Counsel if additional questions remain.

Even if a subpoena is not valid, it cannot be ignored. CSU must contact the issuing attorney, preferably in writing, to address any issues in connection with the subpoena. *See* Tab 9 for a sample letter.

1. How Soon Must CSU Comply With a Valid Subpoena?

Both “records only” and “appearance and records” subpoenas must specify a production date that is no earlier than 20 days after the subpoena was issued or 15 days after the subpoena was served on CSU, whichever date is later. **No records should be produced prior to the date and time on the subpoena, or prior to the end of the statutory consumer notice period, where applicable.** An “appearance only” subpoena must provide reasonable notice, which generally means at least 10 days before the production date.

2. Which Records Should Be Made Available For Copying?

A deposition subpoena duces tecum must designate the things sought either by specifically describing each individual item (i.e., “letter dated May 1, 2007, from John Doe to Susan

Jones”) or by reasonably specifying each category of item (i.e., “all collective bargaining agreements entered into by CSU between 1990 and 2000,” or even more generally, “all documents relating to the slip-and-fall accident involving Jack Smith”). For trial subpoenas, the documents requested must be identified with precision (i.e., “Contract No. CSU12345, dated May 10, 2000, between CSU and Best Construction Co.”), and general categories of documents cannot be requested (i.e., “all documents reflecting the construction project by Best Construction”).

3. How Does CSU Produce The Records For Inspection And Copying?

a. Civil Subpoenas

1) Making Records Available

If the subpoena requires making records available for inspection and/or copying, the inspection can only be scheduled during normal business hours and must be on the campus. The records should be produced in a place suitable for setting up a portable photocopying machine. If the records are originals, a campus representative should oversee the production to ensure that the originals are not lost, damaged, misplaced, or removed. If privileged, confidential or private third party information is supposed to be redacted from the records this must already have been done. When redacting, it is best to make a copy of the originals and redact the appropriate information from the copies only and only the copied, redacted documents are produced for photocopying.

2) Delivering Copies

If the subpoena requires copies to be delivered or mailed to the subpoenaing party, they should be placed in an envelope or wrapper, sealed, with the title and number of the case, name of witness or custodian of records, and date of subpoena clearly typed on the envelope. That envelope must then be placed in another envelope or wrapper, sealed and addressed to either the deposition officer at the place designated in the subpoena, or, for a trial subpoena, to the clerk of the court or the judge. As stated in Section 1 above, if redaction is necessary, only redacted copies should be produced.

The records must also be accompanied by an affidavit or declaration (sworn statement) containing certain representations about the documents and their mode of preparation.¹⁹ Sometimes a copy service or deposition officer will provide a preprinted form that contains the required representations *plus* others that are not mandated by the law. These extra statements are often promises that should not be made. Therefore, the following language should be used in the affidavit/declaration:

¹⁹ Evid. Code §§ 1560-1561.

DECLARATION OF CUSTODIAN OF RECORDS
PURSUANT TO EVID. CODE §§ 1560-1561

1. I, [your name], am the duly authorized custodian of the records of [identify your department], and have the authority to certify the records sought in the subpoena duces tecum issued on behalf of [identify party issuing subpoena] on [date].
2. **[Either]** The copies of the records accompanying this declaration are true copies of all the records described in the subpoena duces tecum.

[Or] The copies of the records that were delivered to the subpoenaing party's attorney, the attorney's representative, or the deposition officer for copying [at the custodian's place of business] [or] [at my place of business] are true copies of all the records described in the subpoena duces tecum.
3. The records were prepared by the personnel of the California State University in the ordinary course of business at or near the time of the act, condition, or event.
4. The identity of the records is as follows: [Describe the records with specificity.]
5. The records were prepared as follows: [Describe the mode of preparation of the records.]
6. [If you have none of the records requested, or only part of them, state that here.]

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ___ day of _____, 200_, at _____, California.

[Your name here]

b. Criminal Subpoenas

In response to a criminal subpoena the subpoenaed records must be sent directly to the judge or clerk of the court or other tribunal. The same procedures for copying, certifying, and sealing the records (see above) must be followed.

4. What If CSU Has None Of The Requested Records?

Sometimes the campus will not have any of the records requested by the subpoena in its possession or under its control. In that case, a formal response is still required. It is not sufficient simply to telephone the issuing attorney to explain that no records are available. The formal certification (see box above) must be signed, and a brief explanation under oath

must be provided (i.e., no such documents are in the campus' possession; no such documents exist; the records were previously purged; etc.).

5. Objecting To Subpoenas

CSU may object to a subpoena where, for example, it requests documents falling within the attorney-client privilege, or it does not specify the date for production or to whom the production should be made, etc. See Tab 11 for a checklist to determine if the subpoena is valid. Tab 9 provides a sample letter that can be used for objecting to an invalid subpoena. If there are additional concerns the Office of General Counsel representative on subpoena issues can help determine if an objection is appropriate and how it should be made.

IV. DISOBEYANCE OF SUBPOENA

Disobeyance of a subpoena is a contempt of court and can be punished with a fine, or, in extreme cases, imprisonment.

V. ADDITIONAL QUESTIONS OR CONCERNS

This handbook is a guide, and is not a substitute for legal advice. Please contact the Office of General Counsel to assist with more complex subpoena issues if any additional questions or concerns arise.

APPENDIX OF SUBPOENA FORMS

State Forms—Civil Cases

Depositions

Deposition Subpoena for Personal Appearance (SUBP-015) Tab 1

Deposition Subpoena for Production of Business Records (SUBP-010) Tab 2

Deposition Subpoena for Personal Appearance and Production of Documents
and Things (SUBP-020) Tab 3

Trials or Hearings

Civil Subpoena for Personal Appearance at Trial or Hearing (SUBP-001) Tab 4

Civil Subpoena (Duces Tecum) for Personal Appearance and Production of
Documents and Things at Trial or Hearing and Declaration (SUBP-002) Tab 5

Notice to Consumer

Notice to Consumer or Employee and Objection (SUBP-025) Tab 6

State Forms—Criminal Cases

Depositions, Trials, or Hearings

Subpoena (Criminal or Juvenile)/Duces Tecum (CR-125/JV-525)..... Tab 7

Federal Forms—Civil Cases

Depositions, Trials, or Hearings

Subpoena to Appear and Testify at a Hearing or Trial in a Civil
Action (AO 88) Tab 8

CSU Specific Forms

Objection – Letter to Issuing Entity Regarding Defects in Subpoena or
Service Tab 9

Notice to Third Party – Letter Advising Student/Employee of Potential
Records Release Tab 10

Subpoena Checklist Tab 11

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<div style="border: 2px solid red; padding: 5px; color: red; font-weight: bold;"> To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished. </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/ PETITIONER: DEFENDANT/ RESPONDENT:	
DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE	CASE NUMBER:

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:

Date:	Time:	Address:
-------	-------	----------

- a. As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in item 2. (Code Civ. Proc., § 2025.230.)
- b. This deposition will be recorded stenographically through the instant visual display of testimony and by audiotape videotape.
- c. This videotape deposition is intended for possible use at trial under Code of Civil Procedure section 2025.620(d).

2. If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are as follows:

3. *At the deposition, you will be asked questions under oath. Questions and answers are recorded stenographically at the deposition; later they are transcribed for possible use at trial. You may read the written record and change any incorrect answers before you sign the deposition. You are entitled to receive witness fees and mileage actually traveled both ways. The money must be paid, at the option of the party giving notice of the deposition, either with service of this subpoena or at the time of the deposition. Unless the court orders or you agree otherwise, if you are being deposed as an individual, the deposition must take place within 75 miles of your residence or within 150 miles of your residence if the deposition will be taken within the county of the court where the action is pending. The location of the deposition for all deponents is governed by Code of Civil Procedure section 2025.250.*

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF \$500 AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF PERSON ISSUING SUBPOENA)
		_____ (TITLE)

TAB 1

SUBP-015

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE

1. I served this Deposition Subpoena for Personal Appearance by personally delivering a copy to the person served as follows:

- a. Person served (name):
- b. Address where served:
- c. Date of delivery:
- d. Time of delivery:
- e. Witness fees and mileage both ways (check one):
 - (1) were paid. Amount: \$ _____
 - (2) were not paid.
 - (3) were tendered to the witness's public entity employer as required by Government Code section 68097.2. The amount tendered was (specify): \$ _____
- f. Fee for service: \$ _____

2. I received this subpoena for service on (date):

3. Person serving:

- a. Not a registered California process server
- b. California sheriff or marshal
- c. Registered California process server
- d. Employee or independent contractor of a registered California process server
- e. Exempt from registration under Business and Professions Code section 22350(b)
- f. Registered professional photocopier
- g. Exempt from registration under Business and Professions Code section 22451
- h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only) I certify that the foregoing is true and correct.

Date:

Date:

(SIGNATURE)

(SIGNATURE)

TAB 2

SUBP-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS	CASE NUMBER: _____

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in item 3, as follows:

To (name of deposition officer): _____ On (date): _____ At (time): _____ Location (address): _____
Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows:

Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: _____

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF PERSON ISSUING SUBPOENA)
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(Proof of service on reverse)

(TITLE)

Page 1 of 2

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS

1. I served this *Deposition Subpoena for Production of Business Records* by personally delivering a copy to the person served as follows:
 - a. Person served (name):
 - b. Address where served:
 - c. Date of delivery:
 - d. Time of delivery:
 - e. (1) Witness fees were paid.
Amount: \$ _____
 - (2) Copying fees were paid.
Amount: \$ _____
 - f. Fee for service: \$ _____

2. I received this subpoena for service on (date):

3. Person serving:

- a. Not a registered California process server.
- b. California sheriff or marshal.
- c. Registered California process server.
- d. Employee or independent contractor of a registered California process server.
- e. Exempt from registration under Business and Professions Code section 22350(b).
- f. Registered professional photocopier.
- g. Exempt from registration under Business and Professions Code section 22451.
- h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

Date:

(SIGNATURE)

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<div style="border: 2px solid red; padding: 5px; color: red; font-weight: bold;"> To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished. </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS	CASE NUMBER: _____

THE PEOPLE OF THE STATE OF CALIFORNIA, TO *(name, address, and telephone number of deponent, if known):*

1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:

Date: _____	Time: _____	Address: _____
-------------	-------------	----------------

- a. As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in item 4. (Code Civ. Proc., § 2025.230.)
 - b. You are ordered to produce the documents and things described in item 3.
 - c. This deposition will be recorded stenographically through the instant visual display of testimony and by audiotape videotape.
 - d. This videotape deposition is intended for possible use at trial under Code of Civil Procedure section 2025.620(d).
2. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
3. The documents and things to be produced and any testing or sampling being sought are described as follows:
- Continued on Attachment 3.
4. If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are described as follows:

Continued on Attachment 4.

5. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**
6. *At the deposition, you will be asked questions under oath. Questions and answers are recorded stenographically at the deposition; later they are transcribed for possible use at trial. You may read the written record and change any incorrect answers before you sign the deposition. You are entitled to receive witness fees and mileage actually traveled both ways. The money must be paid, at the option of the party giving notice of the deposition, either with service of this subpoena or at the time of the deposition. Unless the court orders or you agree otherwise, if you are being deposed as an individual, the deposition must take place within 75 miles of your residence or within 150 miles of your residence if the deposition will be taken within the county of the court where the action is pending. The location of the deposition for all deponents is governed by Code of Civil Procedure section 2025.250.*

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF \$500 AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: _____ ▶ _____
(SIGNATURE OF PERSON ISSUING SUBPOENA)

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

PROOF OF SERVICE OF DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS

1. I served this *Deposition Subpoena for Personal Appearance and Production of Documents and Things* by personally delivering a copy to the person served as follows:

a. Person served (*name*):

b. Address where served:

c. Date of delivery:

d. Time of delivery:

e. Witness fees and mileage both ways (*check one*):

(1) were paid. Amount: \$ _____

(2) were not paid.

(3) were tendered to the witness's public entity employer as required by Government Code section 68097.2. The amount tendered was (*specify*): \$ _____

f. Fee for service: \$ _____

2. I received this subpoena for service on (*date*):

3. Person serving:

a. Not a registered California process server

b. California sheriff or marshal

c. Registered California process server

d. Employee or independent contractor of a registered California process server

e. Exempt from registration under Business and Professions Code section 22350(b)

f. Registered professional photocopier

g. Exempt from registration under Business and Professions Code section 22451

h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

Date:

(SIGNATURE)

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/ PETITIONER: DEFENDANT/ RESPONDENT:	
CIVIL SUBPOENA For Personal Appearance at Trial or Hearing	CASE NUMBER:

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS you make an agreement with the person named in item 2:

a. Date: _____ Time: _____ <input type="checkbox"/> Dept.: _____ <input type="checkbox"/> Div.: _____ <input type="checkbox"/> Room: _____
b. Address: _____

2. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name of subpoenaing party or attorney: _____ b. Telephone number: _____

3. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 2.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.


Date issued:

.....
 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF PERSON ISSUING SUBPOENA)

 (TITLE)

Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the date on which you are to appear. Contact the clerk's office or go to www.courtinfo.ca.gov/forms for Request for Accommodations by Persons With Disabilities and Order (form MC-410). (Civil Code, § 54.8.)



(Proof of service on reverse)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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PROOF OF SERVICE OF CIVIL SUBPOENA FOR PERSONAL APPEARANCE AT TRIAL OR HEARING

1. I served this Civil Subpoena for Personal Appearance at Trial or Hearing by personally delivering a copy to the person served as follows:

a. Person served (name):

b. Address where served:

c. Date of delivery:

d. Time of delivery:

e. Witness fees (check one):

- (1) were offered or demanded and paid. Amount: \$ _____
- (2) were not demanded or paid.

f. Fee for service: \$ _____

2. I received this subpoena for service on (date):

3. Person serving:

- a. Not a registered California process server.
- b. California sheriff or marshal.
- c. Registered California process server.
- d. Employee or independent contractor of a registered California process server.
- e. Exempt from registration under Business and Professions Code section 22350(b).
- f. Registered professional photocopier.
- g. Exempt from registration under Business and Professions Code section 22451.
- h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only) I certify that the foregoing is true and correct.

Date:

Date:

(SIGNATURE)

(SIGNATURE)

TAB 5

SUBP-002

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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The production of the documents or the other things sought by the subpoena on page one is supported by (check one):

- the attached affidavit or declaration the following declaration:

DECLARATION IN SUPPORT OF CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS AT TRIAL OR HEARING
(Code Civ. Proc., §§ 1985,1987.5)

1. I, the undersigned, declare I am the plaintiff defendant petitioner respondent
 attorney for (specify): _____ other (specify): _____
in the above-entitled action.
2. The witness has possession or control of the following documents or other things and shall produce them at the time and place specified in the *Civil Subpoena for Personal Appearance and Production of Documents and Things at Trial or Hearing* on page one of this form (specify the exact documents or other things to be produced):

Continued on Attachment 2.

3. Good cause exists for the production of the documents or other things described in paragraph 2 for the following reasons:

Continued on Attachment 3.

4. These documents or other things described in paragraph 2 are material to the issues involved in this case for the following reasons:

Continued on Attachment 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

..... (TYPE OR PRINT NAME) (SIGNATURE OF SUBPOENAING PARTY ATTORNEY FOR SUBPOENAING PARTY)

<p>Request for Accommodations</p> <p>Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five court days before the date on which you are to appear. Contact the clerk's office or go to www.courtinfo.ca.gov/forms for Request for Accommodations by Persons With Disabilities and Response (form MC-410). (Civil Code, § 54.8.)</p>	
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(Proof of service on page 3)

TAB 5

SUBP-002

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

PROOF OF SERVICE OF CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS AT TRIAL OR HEARING AND DECLARATION

1. I served this Civil Subpoena (Duces Tecum) for Personal Appearance and Production of Documents and Things at Trial or Hearing and Declaration by personally delivering a copy to the person served as follows:

- a. Person served (name):
- b. Address where served:
- c. Date of delivery:
- d. Time of delivery:
- e. Witness fees (check one):
 - (1) were offered or demanded and paid. Amount: \$ _____
 - (2) were not demanded or paid.
- f. Fee for service: \$ _____

2. I received this subpoena for service on (date):

3. Person serving:

- a. Not a registered California process server.
- b. California sheriff or marshal.
- c. Registered California process server.
- d. Employee or independent contractor of a registered California process server.
- e. Exempt from registration under Business and Professions Code section 22350(b).
- f. Registered professional photocopier.
- g. Exempt from registration under Business and Professions Code section 22451.
- h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only) I certify that the foregoing is true and correct.

Date:

Date:

▶ _____ (SIGNATURE)

▶ _____ (SIGNATURE)

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

PROOF OF SERVICE OF NOTICE TO CONSUMER OR EMPLOYEE AND OBJECTION
(Code Civ. Proc., §§ 1985.3, 1985.6)

Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
 2. I served a copy of the *Notice to Consumer or Employee and Objection* as follows (check either a or b):
 - a. **Personal service.** I personally delivered the *Notice to Consumer or Employee and Objection* as follows:

(1) Name of person served:	(3) Date served:
(2) Address where served:	(4) Time served:
 - b. **Mail.** I deposited the *Notice to Consumer or Employee and Objection* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(1) Name of person served:	(3) Date of mailing:
(2) Address:	(4) Place of mailing (city and state):
- (5) I am a resident of or employed in the county where the *Notice to Consumer or Employee and Objection* was mailed.
- c. My residence or business address is (specify):
 - d. My phone number is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)	(SIGNATURE OF PERSON WHO SERVED)
---	----------------------------------

PROOF OF SERVICE OF OBJECTION TO PRODUCTION OF RECORDS
(Code Civ. Proc., §§ 1985.3, 1985.6)

Personal Service Mail

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
 2. I served a copy of the *Objection to Production of Records* as follows (complete either a or b):
 - a. ON THE REQUESTING PARTY
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:

(i) Name of person served:	(iii) Date served:
(ii) Address where served:	(iv) Time served:
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:	(iii) Date of mailing:
(ii) Address:	(iv) Place of mailing (city and state):
 - b. ON THE WITNESS
 - (1) **Personal service.** I personally delivered the *Objection to Production of Records* as follows:

(i) Name of person served:	(iii) Date served:
(ii) Address where served:	(iv) Time served:
 - (2) **Mail.** I deposited the *Objection to Production of Records* in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed as follows:

(i) Name of person served:	(iii) Date of mailing:
(ii) Address:	(iv) Place of mailing (city and state):
- (v) I am a resident of or employed in the county where the *Objection to Production of Records* was mailed.
3. My residence or business address is (specify):
 4. My phone number is (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON WHO SERVED)	(SIGNATURE OF PERSON WHO SERVED)
---	----------------------------------

TAB 7

CR-125/JV-525

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): _____ TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<div style="border: 2px solid red; padding: 5px; color: red; font-weight: bold;"> To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished. </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
ORDER TO ATTEND COURT OR PROVIDE DOCUMENTS: Subpoena/Subpoena Duces Tecum	CASE NUMBER: _____

You must attend court or provide to the court the documents listed below. Follow the orders checked in item 2 below. If you do not, the judge can fine you, send you to jail, or issue a warrant for your arrest.

1. To: (name or business) _____
2. You must follow the court order(s) checked below:
 - a. Attend the hearing.
 - b. Attend the hearing *and* bring all items checked in c. below.
 - c. Provide a copy of these items to the court (Do not use this form to obtain Juvenile Court records):
 - (1) _____
 - (2) _____
 - (3) _____
 - If this box is checked, provide all items listed on the attached sheet labeled "Provide These Items."
 - d. If someone else is responsible for maintaining the items checked in c. above, that person (the Custodian of Records) must also attend the hearing.
 - e. If this box is checked and you deliver all items listed above to the court **within 5 days of service of this order**, you do not have to attend court if you follow the instructions in item 5.

3. **Court Hearing Date:** _____ **The court hearing will be at (name and address of court):** _____

Date: _____ Time: _____
 Dept.: _____ Rm.: _____

Call the person listed in item 4 below to make sure the hearing date has not changed. If you cannot go to court on this date, you must get permission from the person in item 4. You may be entitled to witness fees, mileage, or both, in the discretion of the court. Ask the person in item 4 after your appearance.

4. The person who has required you to attend court or provide documents is:

Name: _____ Phone No.: _____
 Address: _____
 Number, Street, Apt. No. _____
 City _____ State _____ Zip _____

Date: _____ Signature _____
Name and Title

FOR COURT USE ONLY

TAB 7

CR-125/JV-525

CASE NAME: _____	CASE NUMBER: _____
---------------------	-----------------------

- 5 a. Put all items checked in item 2c and your completed *Declaration of Custodian of Records* form in an envelope. (You can ask the person in item 4 where to get this form.) Attach a copy of page 1 of this order to the envelope.
- b. Put the envelope inside another envelope. Then, attach a copy of page 1 of this form to the outer envelope or write this information on the outer envelope:
 - (1) Case name
 - (2) Case number
 - (3) Your name
 - (4) Hearing date, time, and department
- c. Seal and mail the envelope to the Court Clerk at the address listed in item 3 or The court address in the caption on page 1. You must mail these documents to the court within five days of service of this order.
- d. If you are the Custodian of Records, you must also mail the person in item 4 a copy of your completed *Declaration of Custodian of Records*. Do not include a copy of the documents.

— The server fills out the section below. —

Proof of Service of CR-125/JV-525

- 1. I personally served a copy of this subpoena on:
 Date: _____ Time: _____ a.m. p.m.
 Name of the person served: _____
 At this address: _____
 After I served this person, I mailed or delivered a copy of this Proof of Service to the person in item 4 on (date): _____
 Mailed from (city): _____
- 2. I received this order for service on (date): _____ and was not able to serve (name of person) _____ after (number of attempts) _____ attempts because:
 - a. The person is not known at this address.
 - b. The person moved and the forwarding address is not known.
 - c. There is no such address.
 - d. The address is in a different county.
 - e. I was not able to serve by the hearing date.
 - f. Other (explain): _____
- 3. Server's name: _____ Phone no. _____
- 4. The server (check one)
 - a. is a registered process server.
 - b. is not a registered process server.
 - c. is a sheriff, marshal, or constable.
 - d. works for a registered process server.
 - e. is exempt from registration under Business and Professional Code section 22350(b).
- 5. Server's address: _____
 If server is a registered process server:
 County of registration: _____ Registration no.: _____

I declare under penalty of perjury under the laws of the State of California that I am at least 18 years old and not involved in this case and the information above is true and correct.

Date: _____

▶ _____
TYPE OR PRINT NAME OF SERVER

▶ _____
SIGNATURE OF SERVER

TAB 8

AO 85 (Rev. 01/09) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

UNITED STATES DISTRICT COURT

for the
Central District of California

Plaintiff
v.
Defendant
Civil Action No.
Select District from a Drop-Down Menu

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION

To:

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action.

Place: Courtroom No.:
Date and Time:

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Fed. R. Civ. P. 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date:

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

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

TAB 8

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the subpoena on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the subpoena at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the subpoena on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because _____; or

Other *(specify)*: _____

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 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 \$ _____.

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), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(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 issuing court 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 issuing court 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 issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party’s officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(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 issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(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; or

(iii) a person who is neither a party nor a party’s officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(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.

(d) 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 to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty’s failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of

TAB 9

[Campus letterhead]

Re: Subpoena in [case name and court number]

Dear [XX]:

We have received your subpoena in the matter of __[case name and number]__ that was delivered to campus on [date.] Unfortunately, we are unable to comply with the production request for the following reason(s):

Not personally served

Consumer notice provision was not complied with;

Insufficient notice given to consumer (e.g. not addressed to correct party)

Insufficient time frame between service on consumer and custodian

Other _____

Proof of services improper or non-existent

No signature of issuing attorney

Insufficient court information (e.g. case name, number, contact information)

Insufficient or non-existent witness fees or costs submitted

An objection to the release of records has been received

If you have questions regarding the above, please contact me at [number or e-mail].

[Signature of campus representative]

TAB 10

[Campus letterhead]

Re: Subpoena in [case name and court number]

Dear [XX]:

We have received the attached subpoena in the matter of __[case name and number]__ that was delivered to our campus on [date.] We believe that the records in question contain information about you. We believe this is a valid subpoena. Therefore we are obligated to produce the requested documents unless you file an objection (if you are not a party to the lawsuit) or are able to provide us with proof that you have obtained a court order prohibiting release of these records (if you are a party to the lawsuit).

We do not intend to produce the records until [date].

If you have questions regarding the above, please contact me at [number or e-mail].

[Signature of campus representative]

TAB 11

CALIFORNIA SUPERIOR COURT SUBPOENA CHECK LIST

- | Yes | No | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Was the subpoena personally served (not faxed or mailed) at campus? (Handbook, pg. 2) |
| <input type="checkbox"/> | <input type="checkbox"/> | Is all the required information on the subpoena (and notice to consumer, if applicable)? (pg. 4)
__Case title __Case number __Court __Attorney name and contact info |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the subpoena require Consumer Notice? (pg. 8) |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| | | <input type="checkbox"/> <input type="checkbox"/> If yes, were Consumer Notice requirements met? Both boxes below must be checked. |
| | | <input type="checkbox"/> <input type="checkbox"/> Was the person whose records are sought named on the consumer notice? |
| | | <input type="checkbox"/> <input type="checkbox"/> Did the issuing party wait 10 days <u>after</u> mailing the Consumer Notice before personally serving the subpoena on campus? Or at least 5 days <u>after</u> personally serving the person whose records are sought? (pg. 8) |
| <input type="checkbox"/> | <input type="checkbox"/> | Is production date set at least 15 days after date subpoena was personally served on campus? (pg. 8) |
| <input type="checkbox"/> | <input type="checkbox"/> | Are witness fees provided for this subpoena? (pg. 5) |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the campus received an objection or notice of a motion to quash? (pg. 9) |

If any of the above conditions have not been met, the subpoena is not valid. Your choices are:

- ___ Call to negotiate proper service and confirm any agreement in a letter, or
- ___ Send a letter declining to produce the records until defects are fixed, or
- ___ If complicated, consult with OGC paralegal assigned to assist with subpoenas.

If all of the above has been done properly the subpoena is valid. Do you need to object?

- ✓ Yes, if the documents contain attorney-client protected or privileged information.
- ✓ Yes, if the requested info is overbroad, vague, not limited in scope, time, etc.

If records are to be produced, determine if privacy notices must be sent:

- ✓ Notice to student or employee whose records are sought. (pg. 3).
- ✓ Notice to a person whose records are sought but who isn't named in subpoena (pg. 4)

Is redaction of information in the documents necessary? Consult with OGC if any of these items are involved.

- ✓ Confidential or personal info about a person not named in the subpoena.
- ✓ Info about a student that is not named in the subpoena. (FERPA protected)
- ✓ Attorney/client privileged information