

Subpoenaing a Witness to Court

Civil Case – domestic or juvenile

Sometimes you will need to force a witness to appear in Court because the witness has information that you believe the Court should hear but the witness will not come to court without a subpoena. If you want to make sure the person comes to Court, you should file your subpoena request as early as possible, at least 5 days before the hearing, so there is enough time for the subpoena to be served.

To issue a subpoena in a civil matter, you will need to use a form called a Subpoena. Attached to this sheet is a sample subpoena which shows you how to fill it out and a blank form you can use to fill in the names and dates and all of the required information you need to have the witness subpoenaed to Court.

Once you have completed the subpoena, you should first make 3 copies of the subpoena form and the back side form. Take these Subpoena forms to the Clerk of Courts office where the court case is. You should have a money order or cash to give the Clerk for the witness fee - \$6.00 if your case is scheduled for a half day, \$12 if the case is scheduled for more than a half day. The clerk will keep the original and one copy and you should be given a copy back. Save your copy in case the person does not come to Court so you have proof that you requested the person to appear. The clerk will send the subpoena to the sheriff's office who will serve the original and return the copy to the clerk for filing.

COURT OF COMMON PLEAS Fill in the Name of the County COUNTY, OHIO

Fill in the Name of the Plaintiff Plaintiff

vs.

Fill in the Name of the Defendant Defendant

Case No. Fill in the Case Number

SUBPOENA

[X] Civil [] Criminal

[X] Duces Tecum (check this if you want someone to bring something with them)

The State of Ohio

Fill in the Name of the County County, ss:

To the Sheriff of Fill in the Name of the County County, Ohio, Greetings:

YOU ARE HEREBY COMMANDED TO SUBPOENA THE FOLLOWING NAMED PERSON, to-wit:

Fill in the Name of the Person you want to subpoena

Fill in the street address of person to subpoena

(Name)

City, state and zipcode of person to subpoena

(Address)

To be and appear before the Court of Common Pleas of the County of Fill in the Name of the County

City where Court is Ohio on the date of day of Month of hearing A.D. 20 year

at time o'clock AM or PM M., to testify as a witness in a certain case pending in said court on behalf

of the You - the Plaintiff or Defendant Plaintiff/Defendant

YOU ARE FURTHER ORDERED TO BRING WITH YOU:

Put in here any paperwork, pictures or other physical items you want the person to bring and make sure and check the "duces tecum" box

and not depart the Court without leave. And therein to fail not, under penalty of the law, and to have then and there this writ. Present this subpoena to the Clerk of Court upon your arrival and before you leave. You may be held in contempt of Court for failure to appear.

[] Person being subpoenaed resides outside the county in which court is located. 1 day witness fee and mileage in amount of \$ is attached.

Sign your name here

See the back of this form for your rights and duties under subpoena.

Attorney for (Defendant - Plaintiff)

RETURN OF SERVICE and DATE OF SERVICE form with fields for Leave, Service \$, Mileage \$, Total \$, Type of Service (Personal, Residential), and By leaving copy with.

WITNESS my hand and Seal of said

Court this day of

LEAVE THIS BLANK, 20

Clerk

Court

By Leave this Blank

Deputy Clerk

Fee paid to witness by clerk \$

NOTE: PRESENT THIS SUBPOENA TO THE CLERK OF COURTS FOR PAYMENT

WHITE-To be returned after Service completed by Sheriff or Process Server with Proof of Service; YELLOW-To be served on Witness; PINK-Clerk's Copy; GOLDENROD-Attorney's Copy;

COURT OF COMMON PLEAS

COUNTY, OHIO

Domestic Relations/Juvenile Division

_____, Plaintiff
vs.
_____, Defendant

Case No. _____

SUBPOENA

- Civil Criminal
Duces Tecum

The State of Ohio

County, ss:

To the Sheriff of _____ County, Ohio, Greetings:

YOU ARE HEREBY COMMANDED TO SUBPOENA THE FOLLOWING NAMED PERSON, to-wit:

(Name) (Address)

To be and appear before the Court of Common Pleas of the County of _____, Ohio on the _____ day of _____, A.D. 20 _____, at _____ o'clock _____ M., to testify as a witness in a certain case pending in said court on behalf of the _____ Plaintiff/Defendant

YOU ARE FURTHER ORDERED TO BRING WITH YOU:

and not depart the Court without leave. And therein to fail not, under penalty of the law, and to have then and there this writ. Present this subpoena to the Clerk of Court upon your arrival and before you leave. You may be held in contempt of Court for failure to appear.

Person being subpoenaed resides outside the county in which court is located. 1 day witness fee and mileage in amount of \$ _____ is attached.

See the back of this form for your rights and duties under subpoena.

Attorney for (Defendant - Plaintiff)

RETURN OF SERVICE DATE OF SERVICE
Service \$
Mileage \$
Total \$
Type of Service
Personal Residential
By leaving copy with

WITNESS my hand and Seal of said Court this _____ day of _____, 20 _____, Clerk _____, Court

By _____ Deputy Clerk

Fee paid to witness by clerk \$ _____

Sheriff - Baliff - Process Server

NOTE: PRESENT THIS SUBPOENA TO THE CLERK OF COURTS FOR PAYMENT

RULES OF CIVIL PROCEDURE

RULE 45. Subpoena

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.

(2) (a) A person commanded to produce under Divisions (A)(1)(b)(ii), (iii), (iv), or (v) of this rule need not appear in person at the place of production or inspection unless commanded to attend and give testimony at a deposition, hearing, or trial.

(b) Subject to division (D)(2) of this rule, a person commanded to produce under Divisions (A)(1)(b)(ii), (iii), (iv), or (v) of this rule may, within fourteen days after service of the subpoena or before the time specified for compliance if such time is less than fourteen days after service, serve upon the party or attorney designated in the subpoena written objections to production. If objection is made, the party serving the subpoena shall not be entitled to production except pursuant to an order of the Court by which the subpoena was issued. If objection has been made, the party serving the subpoena, upon notice to the person commanded to produce, may move at any time for an order to compel the production. An order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the production commanded.

(3) On timely motion, the Court from which the subpoena was issued shall quash or modify the subpoena, or order appearance or production only under specified conditions, if the subpoena does any of the following:

(a) Fails to allow reasonable time to comply;

(b) Requires disclosure of privileged or otherwise protected matter and no exception or waiver applies;

(c) Requires disclosure of a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial as described by Civ. R. 26(B)(4), if the fact or opinion does not describe specific events or occurrences in dispute and results from study by that expert that was not made at the request of any party;

(d) Subjects a person to undue burden.

(4) Before filing a motion pursuant to Division (C)(3)(d) of this rule, a person resisting discovery under this rule shall attempt to resolve any claim of undue burden through discussions with the issuing attorney. A motion filed pursuant to Division (C)(3)(d) of this rule shall be supported by an affidavit of the subpoenaed person or a certificate of that person's attorney of the efforts made to resolve any claim of undue burden.

(5) If a motion is made under Division (C)(3)(c) or (C)(3)(d) of this rule, the Court shall quash or modify the subpoena unless the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated.

(D) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall, at the person's option, produce them as they are kept in the usual course of business or organized and labeled to correspond with the categories in the subpoena. A person producing documents pursuant to a subpoena for them shall permit their inspection and copying by all parties present at the time and place set in the subpoena for inspection and copying.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials under Civ. R. 26(B)(3) or (4), the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.