

## 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, electronically stored information, records or objects, or
  2. making available for inspection: documents, electronically stored information, records, objects, or a physical location.

(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 (who is NOT a party to the case) you want to appear as a witness in court or at a deposition, or who is in charge of the documents, electronically stored information, records, objects, or place you want to examine.

**INSTRUCTIONS: PRINT CLEARLY. USE BLACK INK.** If you have access to the Internet and a printer, you may also fill out the subpoena form online.

- 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 Superior Court has your valid contact information on file.)
- Fill in the “Party names ” 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.

Check one or more of the boxes for sections “1”, “2”, and/or “3” to indicate whether the subpoena is being sent:

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, electronically stored information, records, objects, or of a specified location.

**Fill in the information requested for each section you indicated.** Then refer to the “**Procedures**” document in this packet for information about getting the subpoena, including the “Your Duties in Responding” section, delivered or “served” as required by law.

**Be sure to clearly identify in writing** the information, document, record, object, or electronically stored information, or specific location, in a way that will enable the subpoenaed party to understand exactly what you want from them. If you are not specific in your request for the information, document, object, electronically stored information, or location, the other party may object to your request for the reason that you lack specificity.

For Clerk's Use Only

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_

Representing  Self, without a Lawyer or  Attorney for  Petitioner/Plaintiff OR  Respondent/Defendant

### SUPERIOR COURT OF ARIZONA IN MOHAVE COUNTY

In the Matter of: \_\_\_\_\_ Case No. \_\_\_\_\_

\_\_\_\_\_  
Petitioner(s) /Plaintiff(s)  
  
\_\_\_\_\_  
Respondent(s) /Defendant(s)

**SUBPOENA**  
Arizona Rules of Civil Procedure, Rules 45, 84  
Arizona Rules of Family Law Procedure, Rule 52

**TO: Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City, State, Zip Code:** \_\_\_\_\_

(Check the box(es) to indicate one **or more** of "1", "2", and/or "3", below.)

**1.  For Attendance of Witnesses at Hearing or Trial:**

**YOU ARE ORDERED TO APPEAR** in the Superior Court of Arizona in Mohave County, at the time and place specified below to testify at a  Hearing  Trial in the case named above, before:

**Judicial Officer:** \_\_\_\_\_

**(at) Address:** \_\_\_\_\_  
\_\_\_\_\_  

<b>Floor:</b>	_____	<b>Room #</b>	_____
<b>Date:</b>	_____	<b>Time:</b>	_____

**YOUR RIGHTS AND DUTIES CONCERNING THIS SUBPOENA FOLLOW.**

**2.  For Taking of Depositions:**

**YOU ARE ORDERED TO APPEAR** at the place, date and time specified below to testify at the taking of a deposition in the case named above:

**Place of Deposition:** \_\_\_\_\_

**(at) Address:** \_\_\_\_\_  
\_\_\_\_\_  

<b>Floor:</b>	_____	<b>Room #</b>	_____
<b>Date:</b>	_____	<b>Time:</b>	_____

**Method of Recording:** \_\_\_\_\_

**SUBPOENA DUCES TECUM**

**3.  For Production of Documentary Evidence or Objects or Inspection of Premises:**

**YOU ARE ORDERED** to produce and permit inspection, copying, testing, or sampling of the following designated documents, electronically stored information or tangible things, or to permit inspection of the premises at the place, date, and time specified below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional documents listed on attached page(s)

**TO BRING WITH YOU** to the court proceeding or deposition listed above, **OR**

**Place of Production or Inspection:** \_\_\_\_\_

**(at) Address:**

<b>Floor:</b>		<b>Room #</b>	
<b>Date:</b>		<b>Time:</b>	

**YOUR APPEARANCE IS NOT REQUIRED** *if* the items ordered to be produced are delivered to the requesting party within the time allowed **AND** you are not otherwise ordered to appear.

Issued this date: \_\_\_\_\_ **CHRISTINA SPURLOCK**  
Clerk of Superior Court

By: \_\_\_\_\_  
Deputy Clerk

**Your Duties In Responding To This Subpoena\***

\*See Arizona Rules of Civil Procedure (A.R.C.P.), Rules 45(b), (c), and (e), and Arizona Rules of Family Law Procedure (A.R.F.L.P.) Rule 52, and the "Your Right to Object to this Subpoena" section below.

**ATTENDANCE AT A TRIAL:** If this subpoena commands you to appear at a trial, you must appear at the place, date and time designated in the subpoena unless you file a timely motion with the court and the court quashes or modifies the subpoena. Unless a court orders otherwise, you are required to travel to any part of the state to attend and give testimony at a trial.

**ATTENDANCE AT A HEARING OR DEPOSITION:** If this subpoena commands you to appear at a hearing or deposition, you must appear at the place, date and time designated in this subpoena unless either:

- (1) you file a timely motion with the court and the court quashes or modifies the subpoena; or
- (2) you are not a party or a party's officer and this subpoena commands you to travel to a place other than:
  - (a) the county in which you reside or you transact business in person; or
  - (b) the county in which you were served with the subpoena or within forty (40) miles from the place of service; or
  - (c) such other convenient place fixed by a court order.

**PRODUCTION OF DOCUMENTARY EVIDENCE, TANGIBLE OBJECT, OR INSPECTION OF PREMISES:** If this subpoena commands you to produce and permit inspection, copying, testing or sampling of designated documents, electronically stored information, or tangible things, you must make the items available at the place, date and time designated in this subpoena, and in the case of electronically stored information, in the form or forms requested, unless you provide a good faith written objection to the party or attorney who served the subpoena. Similarly, if this subpoena commands you to make certain premises available for inspection, you must make the designated premises available for inspection on the date and time designated in this subpoena unless you provide a good faith written objection to the party or attorney who served the subpoena.

You should note that a command to produce certain designated materials, or to permit the inspection of premises, may be combined with a command to appear at a trial, hearing or deposition. You do not, however, need to appear in person at the place of production or inspection unless the subpoena also states that you must appear for and give testimony at a hearing, trial or deposition.

If the subpoena commands you to produce documents, you have the duty to produce the designated documents as they are kept by you in the usual course of business, or you may organize the documents and label them to correspond with the categories set forth in the subpoena.

### **YOUR RIGHT TO OBJECT TO THIS SUBPOENA**

**Generally**, if you have concerns or questions about this subpoena, you should first contact the party or attorney who served the subpoena. The party or attorney serving the subpoena has a duty to take reasonable steps to avoid imposing an undue burden or expense on you. The superior court enforces this duty and may impose sanctions upon the party or attorney serving the subpoena if this duty is breached.

### **PROCEDURE FOR OBJECTING TO A SUBPOENA FOR ATTENDANCE AT A HEARING, TRIAL OR DEPOSITION:**

- You must file a motion to quash or modify the subpoena with the court to obtain a court order excusing you from complying with this subpoena.\*
- The motion must be filed in the superior court of the county in which the case is pending or in the superior court of the county from which the subpoena was issued.\*
- The motion must be filed **before the time specified for compliance or within 14 days after the subpoena is served**, whichever is earlier.\*
- You must send a copy of any motion to quash or modify the subpoena to the party or attorney who served the subpoena.

The court **must** quash or modify a subpoena *if* . . .

- (1) the subpoena does not provide a reasonable time for compliance;
- (2) the subpoena commands your attendance at a trial **and** if the subpoena commands you to travel to a place ***other than:***
  - (a) the county in which you reside or transact business in person;
  - (b) the county in which you were served with a subpoena, or within forty (40) miles from the place of service; or
  - (c) such other convenient place fixed by a court order; or

- (3) **the subpoena requires disclosure of privileged or other protected matter**, if no exception or waiver applies; or
- (4) **the subpoena subjects you to undue burden.**

The Court **MAY** quash or modify a subpoena ***if*** . . .

- (1) **the subpoena requires you to disclose a trade secret or other confidential research, development or commercial information;**
- (2) **you are an unretained expert and** the subpoena requires you to disclose your opinion or information resulting from your study that you have not been requested by any party to give on matters that are specific to the dispute;
- (3) **you are not a party or a party's officer and the subpoena would require you to incur substantial travel expense;** or
- (4) **the court determines that justice requires the subpoena to be quashed or modified.**

**In these last four circumstances, a court may, instead of quashing or modifying a subpoena, order your appearance or order the production of material under specified conditions if:**

- (1) the serving party or attorney shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; **and**
- (2) if your travel expenses or the expenses resulting from the production are at issue, the court ensures that you will be reasonably compensated.

**PROCEDURE FOR OBJECTING TO SUBPOENA FOR PRODUCTION OF DOCUMENTARY EVIDENCE, RECORD, TANGIBLE OBJECT OR INSPECTION OF PREMISES:**

**If you wish to object to a subpoena commanding you to produce documents, electronically stored information or tangible items, or to permit the inspection of premises, you may send a good faith written objection to the party or attorney serving the subpoena that objects to:**

- (1) producing, inspecting, copying, testing or sampling any or all of the materials designated in the subpoena;
- (2) inspecting the premises; or producing electronically stored information in the form or forms requested.

**You must send your written objection to the party or attorney who served the subpoena before the time specified for compliance or within 14 days after the subpoena is served, whichever is earlier.**

If you object because you claim the information requested is privileged, protected, or subject to protection as trial preparation material, you must express the objection clearly, and support each objection with a description of the nature of the document, communication or item not produced so that the demanding party can contest the claim.

If you object to the subpoena in writing, you do not need to comply with the subpoena until a court orders you to do so. It will be up to the party or attorney serving the subpoena to first personally consult with you and engage in good faith efforts to resolve your objection and, if the objection cannot be resolved, to seek an order from the court to compel you to provide the documents or inspection requested, after providing notice to you.

If you are not a party to the litigation, or a party's officer, the court will issue an order to protect you from any significant expense resulting from the inspection and copying commanded. See Rule 45(c)(6)(B) of the Arizona Rules of Civil Procedure.

Instead of sending a written objection to the party or attorney who served the subpoena, you also have the option of raising your objections in a motion to quash or modify the subpoena. See Rule 45(e)(2) of the Arizona Rules for Civil Procedure. The procedure and grounds for doing so are described in the section above entitled "Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition."

If the subpoena *also* commands your attendance at a hearing, trial or deposition, sending a written objection to the party or attorney who served the subpoena does not suspend or modify your obligation to attend and give testimony at the date, time and place specified in the subpoena. See Rule 45(c)(5)(A)(iii) of the Arizona Rules of Civil Procedure. If you wish to object to the portion of this subpoena requiring your attendance at a hearing, trial or deposition, you must file a motion to quash or modify the subpoena as described in the section above entitled "Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition." See Rule 45(b)(5) and 45(c)(5)(iii) of the Arizona Rules of Civil Procedure.

#### **ADA Notification**

**Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case by the parties at least ten (10) judicial days in advance of a scheduled court proceeding.**

#### **Interpreter Notification**

**Requests for an interpreter for persons with limited English proficiency must be made to the office of the judge or commissioner assigned to the case by the parties at least ten (10) judicial days in advance of a scheduled court proceeding.**

## COSTS TO PERSON SENDING THE SUBPOENA

**WARNING:** You are responsible for the other person's reasonable costs of compliance with the subpoena. The amount of reimbursement that person is entitled to for his or her costs is governed by Arizona Revised Statutes (A.R.S.) §12-351 and §12-303 as well as Arizona Rules of Family Law Procedure 52 (e). The full text of the statutes and rule are available online or at the Court's Law Library Resource Center.

A.R.S. §12-351 describes costs of compliance with a subpoena for production of documents. A.R.S. §12-351 says in part:

1. The witness submits an itemized statement to the requesting party stating the reproduction and clerical costs incurred by the witness.
2. If a subpoena is subsequently withdrawn, quashed, modified or limited other than by the witness, the witness is entitled to reimbursement for all reasonable costs incurred in compliance with the subpoena to the time that the requesting party has notified the witness that the subpoena has been withdrawn, quashed, modified or limited.
3. The requesting party is not required to pay the reasonable costs before the documents are available for delivery as required by the subpoena. **The witness may demand payment of the costs at the time of the actual delivery of the subpoenaed documents.**
4. The requesting party may petition the court in which the case is pending to recover from the witness all or part of the costs paid or to reduce the costs charged by the witness if these costs were excessive.
5. **"Reasonable costs" means** twenty-five cents for each page of standard reproduction of documents and the actual costs for reproduction of documents which require special processing **plus** the reasonable clerical costs incurred in locating and making the documents available billed at the rate of twenty-five dollars per hour per person.

**WARNING:** A.R.S. §12-303 describes the costs of compliance with a subpoena for witness testimony. Persons subject to subpoenas to appear as witnesses in a civil law suit must be paid **\$12 for each day's attendance as well as mileage at 20 cents per mile** from the witness's residence to the place of trial, hearing, or deposition. The mileage reimbursement is one way only from their home to the place of trial or hearing and does not include reimbursement for travel home.

**WARNING:** Persons subject to subpoenas are protected. Rule 52(e) of the Arizona Rules of Family Law Procedure protects a person subject to a subpoena from undue burden or expense. Rule 52(e)(1) says in part:

1. **Avoiding Undue Burden or Expense; Sanctions.** A party or an attorney responsible for 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 may impose an appropriate sanction—which may include lost earnings and reasonable attorney fees—on a party or attorney who fails to comply.