

Invitation to Comment

Title	Civil Discovery: Deposition Subpoenas (revise forms SUBP-015 and SUBP-020)
Summary	Judicial Council forms <i>Deposition Subpoena for Personal Appearance</i> (form SUBP-015) and <i>Deposition Subpoena for Personal Appearance and Production of Documents and Things</i> (form SUBP-020) would be revised to explain where a deponent may be required to appear for deposition.
Source	Civil and Small Claims Advisory Committee Hon. Lee Smalley Edmon, Chair
Staff	Anne M. Ronan, Discovery Subcommittee Counsel 415-865-8933, anne.ronan@jud.ca.gov
Discussion	<p>The proposed form revisions add information to <i>Deposition Subpoena for Personal Appearance</i> (form SUBP-015) and <i>Deposition Subpoena for Personal Appearance and Production of Documents and Things</i> (form SUBP-020) explaining where a deponent may be required by subpoena to appear.</p> <p>The discovery statutes limit the distance that a person can be compelled by subpoena to travel to a deposition. There is currently nothing on the face of the subpoena that describes this geographic limitation on the subpoena’s reach. Thus, an individual or organization that receives a subpoena for a deposition set at a greater distance than allowed by statute has no way of knowing from the face of the subpoena that it is not effective. The revisions provide an individual deponent with information about what distance he or she may be required to travel, and identify for all deponents, including organizations and business entities, the statute where such information may be found.</p> <p>The revisions to forms SUBP-015 and SUBP-020 consist of adding the following statement to the information provided to the deponent (at the end of item 3 in SUBP-015 and item 6 in SUBP-020):</p> <p style="padding-left: 40px;">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 within the county of the court where the action is pending. The location of the deposition of individuals and of all other deponents is governed by Code of Civil Procedure section</p>

2025.250.

In addition, the statutory reference in item 1a on both forms, currently Code of Civil Procedure section 2025.220(a)(6) would be changed to Code of Civil Procedure section 2025.230, to reflect the renumbering of the pertinent statute.

Form SUBP-020 would also be revised to include the words “Plaintiff” and “Defendant” in the party box on the top left, which terms had previously been inadvertently omitted.

Attachments

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 DRAFT v.4 03/24/08 NOT APPROVED BY JUDICIAL COUNCIL
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. 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 within the county of the court where the action is pending. The location of the deposition of individuals and of all other 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 FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued:

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

(Proof of service on reverse)

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)

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> _____	FOR COURT USE ONLY DRAFT V. 4 03/25/08 NOT APPROVED BY JUDICIAL COUNCIL
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. 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 within the county of the court where the action is pending. The location of the deposition of individuals and all other 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 FIVE HUNDRED DOLLARS 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)

Item SPR08-18 Response Form

Title: **Discovery: Geographic Limitations on Deposition Subpoenas** (revise forms SUBP-015 and SUBP-020)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

Internet: www.courtinfo.ca.gov/invitationstocomment

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*