

INSTRUCTIONS FOR ISSUING A SUBPOENA

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ A Subpoena must be served no later than 48 hours prior to the appearance date.
- ◆ A Subpoena to Appear is a document issued by the clerk at the request of one of the parties to require the appearance of a witness at a deposition, hearing or trial.
- ◆ A Subpoena to Produce (Subpoena Duces Tecum) is a document issued by the clerk at the request of one of the parties to require the witness to bring certain documents or evidence in their possession with them to a deposition, hearing or trial.
- ◆ A Court hearing or trial must be set prior to requesting the clerk to issue a Subpoena.
- ◆ For additional information, please review C.R.C.P 345.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

FEES

There is no filing fee for this process. However, you are required to compensate the witness for mileage. **See Step 4.** Other fees that a party to the case may encounter are as follows:

- | | |
|--|---|
| <input type="checkbox"/> Copies of Documents (Documents on File) | \$.75 per page or \$1.50 if double-sided |
| <input type="checkbox"/> Copies of Documents (Documents not on File) | \$.25 per page or \$.50 if double-sided |
| <input type="checkbox"/> Service Fees | Varies (payable to process server) |

FORMS

To access a form online go to www.courts.state.co.us and click on the “Forms” tab. The packet/forms are available in PDF or WORD by selecting **Miscellaneous – Issuing a Subpoena**. You may complete a form online and print or you may print it and type or print legibly in black ink.

- | | |
|-----------------------------------|--|
| <input type="checkbox"/> JDF 80 | District Court Subpoena to Appear or Produce |
| <input type="checkbox"/> JDF 80.1 | Notice to District Court Subpoena Recipients |
| <input type="checkbox"/> JDF 80.2 | County Court Subpoena to Appear and Produce |
| <input type="checkbox"/> JDF 85 | Motion and Affidavit to Issue Subpoena per Crim. P.17(b) |

STEPS TO ISSUING A SUBPOENA

- If you plan to have the Court issue a Subpoena in a Criminal case, **go to Step 1.**
- If you plan to have the Court issue a Subpoena in a Civil Case, **go directly to Step 2.**

Step 1: Complete Motion and Affidavit to Issue Subpoena per Crim. P. 17(b) (JDF 85)

- Complete all appropriate sections of this form.
- The Motion must be signed in the presence of a Court Clerk or Notary Public.
- If the Court approves the Motion, the Clerk will issue the subpoena(s) as requested. **Go to Step 2.**
- If the Court does not approve the Motion, the Clerk will not be able to issue the subpoena(s) as requested.

Step 2: Complete upper portion of the Subpoena (JDF 80 or JDF 80.2).

Each witness must be served a Subpoena, so prepare as many as necessary.

- When requesting a witness to bring certain items, be specific and clear when identifying the items.
- You will need two copies in order to complete personal service.
- You can make your own copies or the Court can make the copies and charge you for each copy.
- JDF 80.1 Notice to Subpoena Recipients must be served along with JDF 80 when production of records or tangible things is sought (required by Colorado Rule of Civil Procedure 45(c)).

Step 3: Submit the Subpoena(s) to the clerk.

The clerk will verify that the name of the court, case number, date and time are accurate and then return them to you for personal service on the witness.

Step 4: Prepare a check for each witness.

Pursuant to §13-33-103, C.R.S., mileage shall be compensated for each witness.

- The current in-state rate is \$.51 per mile.
- Pursuant to §16-9-203, C.R.S., \$.10 per mile (out-of-state rate) or in the alternative and at the discretion of the court an airplane ticket for each way of travel from the place of residence to the place named in the Subpoena.

Step 5: Complete Personal Service.

Helpful Hints to complete personal service:

- Service must be completed no later than 48 hours prior to the appearance date identified on the Subpoena.
- Take both copies to the sheriff, a private process server, or anyone 18 years or older and not a party to the action.
- Attach the mileage check to the copy of the Subpoena to be served on the witness.
- The process server must follow the Service of Process requirements stated in Rule 304.
- Be sure to direct the sheriff, private process server, or person serving the Subpoena to return the completed copy of the Subpoena/Return of Service to you as soon as possible after service has been completed. Bring the completed Subpoenas when you come to the deposition, hearing or trial.