

FOREIGN SUBPOENA
(Subpoena from another State)

INSTRUCTIONS FOR FILING FOREIGN SUBPOENA

Requirements and information:

1. Delaware County Civil Subpoena two page form. The case caption and case number you use is from your case in your state.
2. Ohio Revised Code Section 2319.19.
3. Foreign subpoena prepared by the attorney that includes the complete name and address of the subpoenaed party and the complete name, address, email address, and phone number from the attorney requesting service of the subpoena.
4. No fee required. The Delaware County Sheriff will invoice you at the address listed on your subpoena.

If you have any further questions, please feel free to contact this office at (740) 833-2500.

COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO

_____, Plaintiff
vs.
_____, Defendant

Case No _____

SUBPOENA

Civil Domestic
 Duces Tecum

The State of Ohio
Delaware County, ss:

To the Sheriff of _____ County, Ohio, Greetings:

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

(Name) (Address)

Type of Service: (Personal) (Residential).

To the above name Person:

You are hereby required to be and appear before the Court of Common Pleas of Delaware County, Ohio, at the Delaware County Courthouse in Delaware, Ohio, on the _____ day of _____, at _____ o'clock _____ .M., to testify as a witness in the above entitled action, and not depart the Court without leave.

YOU ARE FURTHER ORDERED TO BRING WITH YOU:

Herein fail not, under penalty of the law. And, have you then and there this writ.

Witness fee of \$ _____ paid by _____ attached.

SHERIFF'S FEES:

Service _____ } Type of Service
Mileage _____ }
Total _____ } Date of Service

Deputy Sheriff or
Process Server

(Prosecuting Attorney) (Attorney for Defendant)

WITNESS my hand and Seal of Said
Court this _____ day of

_____ , _____

Clerk of this
Court of Common Pleas,
Delaware County, Ohio

By _____

Deputy Clerk

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), (iii), (iv), (v), or (vi) 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), (iii), (iv), (v), or (vi) 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)(5), 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 of 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 or electronically stored information 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) If a request does not specify the form or forms for producing electronically stored information, a person responding to a subpoena may produce the information in a form or forms in which the information is ordinarily maintained if that form is reasonably useable, or in any form that is reasonably useable. Unless ordered by the court or agreed to by the person subpoenaed, a person responding to a subpoena need not produce the same electronically stored information in more than one form.

(3) A person need not provide discovery of electronically stored information when the production imposes undue burden or expense. On motion to compel discovery or for a protective order, the person from whom electronically stored information is sought must show that the information is not reasonably accessible because of undue burden or expense. If a showing of undue burden or expense is made, the court may nonetheless order production of electronically stored information if the requesting party shows good cause. The court shall consider the factors in Civ. R. 26(B)(4) when determining if good cause exists. In ordering production of electronically stored information, the court may specify the format, extent, timing, allocation of expenses and other conditions for the discovery of the electronically stored information.

(4) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, 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.

(5) If information is produced in response to a subpoena that 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 receiving party must promptly return, sequester, or destroy the specified information and any copies within the party's possession, custody or control. A party may not sue or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim of privilege or of protection as trial-preparation material. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

2319.09 Uniform Interstate Depositions and Discovery Act.

(A) This section may be cited as the "Uniform Interstate Depositions and Discovery Act."

(B) As used in this section:

(1) "Foreign jurisdiction" means a state other than Ohio.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to do any of the following:

(a) Attend and give testimony at a deposition;

(b) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person;

(c) Permit inspection of premises under the control of the person.

(C)

(1) To request issuance of a subpoena under this section, a party shall submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena issued under division (C)(2) of this section shall do both of the following:

(a) Incorporate the terms used in the foreign subpoena;

(b) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(D) A subpoena issued by a clerk of court under division (C) of this section shall be served in compliance with any rule of court or statute relating to the service of a subpoena issued in this state.

(E) The Ohio Rules of Civil Procedure and any statutes relating to service of subpoenas and compliance with subpoenas to attend and give testimony, produce designated books, documents, records, electronically stored information, or other tangible things, or to allow inspection of premises shall apply to subpoenas issued under division (C) of this section.

(F) An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under division (C) of this section shall comply with the Ohio Rules of Civil Procedure and be submitted to the court in the county in which discovery is to be conducted.

(G) In applying and construing this section, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact a substantially similar statute or rule.

(H) This section applies to requests for discovery in cases pending on the effective date of this act.

Added by 131st General Assembly File No. TBD, SB 171, §1, eff. 9/14/2016.