6-10/000.00 Civil Subpoenas

6-10/100.00 Civil Subpoenas

6-10/100.10 Who May Issue Subpoenas

6-10/100.20 Arbitration Subpoena

6-10/100.30 Notice to Appear in Lieu of Subpoena

6-10/100.40 Witness Fees and Mileage

6-10/100.41 Designated Public Employee Witness

6-10/100.42 Other Witness

6-10/200.00 Confidential Records

6-10/200.10 Consumer Records

6-10/200.20 Consumer Notification

6-10/200.30 Service on Witness

6-10/200.40 Quash Subpoena

6-10/200.50 Telephone Records

6-10/200.60 Peace Officer Personnel Files

6-10/200.70 Public Employee Personnel Records

6-10/300.00 Time for Service

6-10/310.00 Manner of Service

6-10/310.10 Designated Public Employee Witness

6-10/310.20 CHP Witness

6-10/310.30 Other Witness

6-10/310.40 DMV Records

6-10/320.00 Certificate of Service

6-10/400.00 On-Call Witness

6-10/500.00 Disobedience to Subpoena

6-10/500.10 Contempt

6-10/500.20 Forfeit Damages

6-10/500.30 Warrant for Witness

6-10/600.00 Civil Subpoena Duces Tecum

6-10/610.00 Manner of Production Ordered

6-10/620.00 Affidavit in Support of Subpoena

6-10/630.00 Notice of Privacy Rights

6-10/640.00 Witness Fees

6-10/650.00 Service

6-10/650.10 Designated Public Employee Witness

6-10/650.20 CHP Witness

6-10/650.30 Other Witness

6-10/650.40 DMV Records

6-10/660.00 Attendance

6-10/670.00 Disobedience to Subpoena

6-10/700.00 Deposition Subpoena For Production of Business Records

6-10/710.00 Manner of Production Ordered

6-10/720.00 Affidavit in Support of Subpoena

6-10/730.00 Issuance

6-10/740.00 Service on Consumer or Employee

6-10/750.00 Service on Parties

6-10/760.00 Service on Witness

6-10/770.00 Deposition Officer (photocopier)

6-10/780.00 Witness Fees

6-10/780.10 Attendance by Custodian Not Required

6-10/780.20 Attendance by Custodian Is Required

6-10/800.00 Attendance

6-10/810.00 Disobedience to Subpoena

6-10/900.00 Deposition Subpoena for Personal Appearance for Production of Documents and Things

6-10/910.00 Manner of Production Ordered

6-10/920.00 Affidavit in Support of Subpoena

6-10/930.00 Notice of Privacy Rights

6-10/940.00 Witness Fees

6-10/950.00 Service

6-10/960.00 Attendance

6-10/970.00 Disobedience to Subpoena

6-10/980.00 CIVIL SUBPOENA For Personal Appearance at Trial or Hearing

6-10/980.10 Witness Fees

6-10/980.20 Service

6-10/980.21 Designated Public Employee

6-10/980.22 CHP Witness

6-10/980.23 Other Witness

6-10/990.00 Attendance

6-10/990.10 On-Call Witness

6-10/990.20 Disobedience to Subpoena

References

BPC – Business and Professions Code

CC – Civil Code

CCP – Code of Civil Procedure

CRC – California Rules of Court

ELEC – Elections Code

EVID – Evidence Code

FAM – Family Code

GC – Government Code

HNC – Harbors and Navigation Code

LAB – Labor Code

PC – Penal Code

PROB – Probate Code

RTC – Revenue and Taxation Code

UIC - Unemployment Insurance Code

VEH – Vehicle Code

WIC – Welfare and Institutions Code

WAT – Water Code

INS – Insurance Code

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• 6-10/100.00 Civil Subpoenas

Subpoenas are issued in non-criminal (civil or administrative) cases to compel the testimony of witnesses. Generic names for the different types of subpoenas include: “subpoena,” used to compel the attendance of a witness at a hearing; “subpoena duces tecum,” used to compel the production of records or things; and, “deposition subpoena,” used for depositions. The process by which the attendance of a witness is required is the subpoena. It is a writ or order directed to a person and requiring the person’s attendance at a particular time and place to testify as a witness. It may also require a witness to bring any books, documents, electronically stored information, or other things under the witness’s control which the witness is bound by law to produce in evidence. (CCP 1985)

Testimony of witnesses is taken by:

1. By affidavit;

2. By deposition;

3. By oral examination. (CCP 2002)

Civil subpoenas differ from each other depending on the type of witness, the kind of record or thing subpoenaed, and the place of testimony (hearing or deposition). For instance, a subpoena for an ordinary citizen is served personally while service on a police officer can be made by leaving copies of the subpoena with the watch commander. Specific right to privacy rules apply to subpoenaing the personal records of a consumer or the personnel files of a peace officer or public employee. Compliance with a subpoena ranges from the witness actually appearing at a hearing to allowing an attorney to make copies of documents at the witness’ place of business. The Judicial Council mandates the use of the following subpoena forms:

Civil Subpoena (SUBP-001)

Civil Subpoena Duces Tecum (SUBP-002)

Deposition Subpoena - Personal Appearance (SUPBP-015)

Deposition Subpoena - Personal Appearance For Production of Documents and Things (SUBP-020) Deposition Subpoena – For Production of Business Records (SUBP-010)

In addition to the above Judicial Council subpoena forms, other subpoena forms are issued by various administrative bodies.

• • 6-10/100.10 Who May Issue Subpoenas

A subpoena in a civil case may be issued by the clerk of court, judge or attorney of record. (CCP 198~~6~~) (CCP 1985) The clerk or judge shall issue a blank signed and sealed subpoena which shall be filled out by the subpoenaing party. An attorney of record may issue and sign a subpoena without the court seal. (CCP 1985)

The following may also issue subpoenas:

Coroner (GC 27498)

County Retirement Board (GC 31535)

Industrial Accident Commission (LAB 130, 131, 132, 134)

Labor Commissioner (LAB 92, 93)

New Motor Vehicle Board (VEH 3050.1, 3050.3)

Political Subdivisions of the State during a state of war emergency, a state of emergency or a local emergency for the purpose of ascertaining the damage to its personnel and property (GC 8643)

Board of Supervisors of a county (GC 25170-25172)

Department of Fair Employment and Housing (GC 12930)

Water Resources Control Board (WAT 1080)

An original subpoena and a copy for each witness, or a ticket containing its substance is required. If the subpoena is issued through the court, the subpoena may be electronic and has the same legal force and effect, as paper documents signed, subscribed, or verified by a trial court or a judicial officer of the court. (GC 68150)

• • 6-10/100.20 Arbitration Subpoena

In the case of a subpoena issued for attendance at an arbitration hearing, the subpoenaing party must modify the form of the subpoena to show that the appearance is before an arbitrator at an arbitration hearing. (CRC 3.823 (1))

• • 6-10/100.30 Notice to Appear in Lieu of Subpoena

In lieu of a subpoena, a written notice to appear may be served on a party's attorney not less than 10 days before the hearing, unless shortened by the court. The production of books, documents and things may be compelled if the notice is served at least 20 days before the hearing. (CCP 1987(b),(c))

• • 6-10/100.40 Witness Fees and Mileage

Depending on the type of subpoena, a witness may be entitled to witness fees, mileage and/or actual costs. Written instructions to serve a subpoena in civil actions should state whether witness fees are to be paid if demanded. If the deposit is sufficient to cover sheriff's fees and witness fees but the instructions are silent as to witness fees, it shall be assumed that the attorney desires to pay witness fees if demanded. Some subpoenas require payment of witness fees whether or not demanded. The subpoena must inform the witness of the availability of witness fees. (CCP 2065) A party to the action who is subpoenaed may also receive witness fees. (Beale v. Stevens, 72 C 45 1 – reference not available) (Di Napoli v. Superior Court, **252 CA APP. 2d 203)**

• • • 6-10/100.41 Designated Public Employee Witness

The fee for subpoenaing a designated public employee to appear before any court or tribunal is $275, which shall be tendered to the person accepting the subpoena for each day that the witness is required to attend unless ordered waived by the court through a Fee Waiver. "Tribunal' means any person or body issuing the subpoena, including an arbitrator in arbitration proceedings. If the actual expenses should later prove to be less than the amount tendered, the excess of the amount tendered shall be refunded. If the actual expenses are more than the amount deposited, the difference shall be paid to the public entity by the subpoenaing party. If a court continues a proceeding on its own motion, no additional witness fee shall be required prior to the issuance of a subpoena or the making of an order directing the public employee to appear on the date to which the proceeding is continued. Designated public employees include: (GC 68097, 68097.2, 68097.4, 68097.5, 68097.55)

Building Inspectors,
CHP Peace Officers and Vehicle Inspection Specialists,
City Police Officers,
Department of Justice Peace Officers and Analysts,
District Attorney Inspectors,
Firefighters, ~~and~~

Marshals, Deputy Marshalls
Probation Officers,
Sheriffs, Deputy Sheriffs
State Employees,
State Fire Marshal Peace Officers
Trial court employees

• • • 6-10/100.42 Other Witness

A witness, other than a designated public employee, may demand a $35 witness fee and mileage at $0.20 a mile, both ways, prior to attending. If not paid, the witness cannot be compelled to attend. If the fees are demanded but not available, the subpoena should be served and the facts noted in the proof of service. Mileage is not paid if the witness is not required to personally attend the hearing. (GC 68093, 68097)

• 6-10/200.00 Confidential Records

Procedures for subpoenaing the personal records of a consumer and the personnel records of a peace officer or other public employee are aimed at protecting the rights to privacy of those individuals. The following definitions are applicable to consumer, peace officer and public employee records. Not included is a subpoena which does not request the records of any particular consumer or consumers and which requires the custodian of records to delete all information which would identify any consumer. (CCP 1985.3)

“Consumer” means any individual, partnership of five or fewer persons, association, or trust which has used the services of the witness. “Consumer” also includes a non-peace officer public employee whose personnel records are subpoenaed.

“Deposition officer” means an impartial professional photocopier.

“Personal records” means records of a consumer maintained by any witness.

“Subpoenaing party” means the person causing a subpoena duces tecum to be issued or served, but does not include public agencies.

“Witness” includes:

acupuncturist
accountant
anyone authorized to make loans secured by real property attorney
chiropractor
clinic
clinical or diagnostic laboratory l

dentist
escrow agent hospital
insurance company
institution of the Farm Credit System
medical center
ophthalmologist,
optometrist
pharmacist
pharmacy
physical therapist
physician
podiatrist
private or public preschool, elementary, ~~or~~ secondary school, or postsecondary school
psychotherapist
radiaology or MRI center
security brokerage firm state or national
bank
state or federal association per FIN 102 state or federal credit union
telephone corporation which is a public utility title insurance
company
trust company
underwritten title company veterinarian
veterinary hospital veterinary clinic

• • 6-10/200.10 Consumer Records

• • 6-10/200.20 Consumer Notification

The date for the production of personal records shall not be less than 20days from the subpoena's issuance date. The subpoenaing party shall serve on the consumer a copy of the subpoena, an affidavit supporting the subpoena, a notice of privacy rights and, a notice of deposition, if a deposition is sought, and proof of service of notice.

Service on the consumer shall be by: personal delivery, leaving the documents at the consumer's residence with some person 18 years of age or older, between 8 a.m. and 8 p.m. If a person 18 years or older cannot be found at the party's residence, the notice may be served by mail. If the party's residence is not known, attempts may be made by delivering the notice to the clerk of the court, for that party. If the consumer is a party, service shall be made on the consumer's attorney between 9 a.m. and 5 p.m. If serving the party's attorney, please review CCP 1011 fully for a full description of the manner of service.

If the consumer is a minor, service shall be made on the minor's parent, guardian,

conservator, similar fiduciary, or on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is at least 12 years of age. Service shall be made not less than 10 days prior to the date specified in the subpoena duces tecum, plus mailing time (5,10 or 20 days) if service is by mail, and at least five days prior to service upon the witness custodian of the records, plus mailing time (5,10 or 20 days). (CCP 1985.3)

The notice of privacy rights shall inform the consumer that the consumer's records are being subpoenaed, that the consumer may make a motion to quash the subpoena or serve a written objection, and that the consumer may consult an attorney to protect the consumer's rights to privacy. (CCP 1985.3)

• • 6-10/200.30 Service on Witness

Prior to the production of the records, the subpoenaing party shall either: serve upon the witness a proof of service of the subpoena, affidavit and notice of privacy rights, or furnish the witness a written authorization to release the records signed by the consumer or by the consumer's attorney. (CCP 1985.3)

• • 6-10/200.40 Quash Subpoena

A consumer who is a party may make a motion to quash or modify the subpoena duces tecum. Notice of motion shall be given to the witness and deposition officer prior to production. Any other consumer may serve on the subpoenaing party and the witness a written objection specifying grounds for prohibiting production of the records. No witness or deposition officer shall be required to produce personal records after receipt of a motion to quash the subpoena or an objection except upon court order or by agreement of the affected parties, witnesses and consumers. The subpoenaing party may make a motion to enforce the subpoena within 20 days of service of the written objection. The motion shall be accompanied by a declaration showing a reasonable and good faith attempt at informal resolution of the dispute between the subpoenaing party and the consumer. (CCP 1985.3 (g))

• • 6-10/200.50 Telephone Records

A subpoena duces tecum for telephone company records must include the consumer's consent to release the records signed by the consumer whose records are requested, as required by Section 2891 of the Public Utilities Code. (CCP 1985.3 (f))

• • 6-10/200.60 Peace Officer Personnel Files

Immediately notify and mail to Discovery Unit ,Risk Management Bureau, a copy of any subpoena received for the personnel records of a peace officer member of this Department. (MPP 5-07/240.00)

Peace officer personnel records concerning citizen complaints are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to a Pitchess Motion (PC 832.7, Evidence Code 1043, 1046). Confidentiality does not apply to investigations or proceedings concerning the conduct of police officers conducted by a grand jury, district attorney, or the Attorney General. A police agency may release factual information concerning a disciplinary investigation if the peace officer knowingly makes a false statement concerning the investigation or disciplinary action. The false statement must have been published by an established medium of communication, such as television, radio, or a newspaper.

In any case in which disclosure is sought of peace officer personnel records, the party seeking discovery shall file a motion with the court or administrative body and give notice to the officer's agency, which shall immediately notify the officer. The discovery motion shall identify: the proceeding in which discovery is sought; the party seeking discovery; the officer; the agency; the time and place of the discovery hearing; the type of records sought; and, shall include affidavits showing good cause for the discovery and setting forth the materiality of the information. Notice of the discovery hearing may be waived for good cause or by the police agency.

• • 6-10/200.70 Public Employee Personnel Records

The procedures to produce personnel records of a state or local agency employees, except peace officers, are governed by those required to produce personal records of a consumer. (CCP 1985.4)

• 6-10/300.00 Time for Service

A subpoena duces tecum for the production of personal records shall be served in sufficient time to allow the witness a reasonable time to locate and produce the records or copies thereof. Except for records subpoenaed during trial, the subpoena shall be served no less than 10 days prior to the hearing if the records are located in more than one place. (CCP 1985.3 (d))

If the subpoena is for a CHP peace officer who resides within this state, the subpoena may be personally served on the officer or the officer's immediate superior or by delivering, during usual office hours and at least five days prior to the hearing, to the person in charge of the CHP office where the officer's report was filed. (GC 68097.3)

• 6-10/310.00 Manner of Service

• • 6-10/310.10 Designated Public Employee Witness

A designated public employee may be served personally or by leaving two copies of the subpoena with the employee's immediate superior or an agent designated to accept service. Designated public employees include (GC 68097.1):

Building inspector
California Highway Patrol peace officer
City police officer
Department of Justice peace officer or analyst
District attorney inspector
Firefighter
Marshal, deputy marshal
Probation officer
Sheriff, deputy sheriff
State Fire Marshal peace officer

• • 6-10/310.20 CHP Witness

If the subpoena is for a CHP peace officer who resides within this state, the subpoena may be personally served on the officer or the officer's immediate superior or by delivering, during usual office hours and at least five days prior to the hearing, to the person in charge of the CHP office where the officer's report was filed. (GC 68097.3)

• • 6-10/310.30 Other Witness

A subpoena must be served personally on the witness, except for designated public employees. (CCP 1987(a))

• • 6-10/310.40 Department of Motor Vehicles (DMV) Records

All civil process in actions brought against the director and the Department of Motor Vehicles and all subpoenas for the production of department records shall be served upon the director or his appointed representatives at the department's headquarters. (VEH 24.5)

• 6-10/320.00 Certificate of Service

The certificate of service shall indicate whether witness fees and/or mileage were paid. The certificate shall reflect all documents served including any affidavit, notice of privacy rights and/or consumer's consent to release records. The original subpoena shall be returned to the subpoenaing party unless otherwise requested. Court rules prohibit filing subpoenas with the court. (CRC 3.250)

• 6-10/400.00 On-Call Witness

Any person who is subpoenaed to appear at a session of court, or at the trial of an issue therein, may, in lieu of appearance at the time specified in the subpoena, agree with the party at whose request the subpoena was issued to appear at another time or upon such notice as may be agreed upon. Any failure to appear pursuant to such agreement may be punished as a contempt by the court issuing the subpoena. The facts establishing or disproving such agreement and the failure to appear may be proved by an affidavit of any person having personal knowledge of the facts. (CCP 1985.1)

• 6-10/500.00 Disobedience to Subpoena

• • 6-10/500.10 Contempt

A witness failing to comply with a subpoena may be held in contempt. (CCP 1991)

• • 6-10/500.20 Forfeit Damages

A person failing to appear pursuant to a subpoena or a court order also forfeits to the party aggrieved the sum of five hundred dollars ($500), and all damages that he or she may sustain by the failure of the person to appear pursuant to the subpoena or court order, which forfeiture and damages may be recovered in a civil action. (CCP 1992)

• • 6-10/500.30 Warrant for Witness

The court may issue a warrant for the arrest of a witness who failed to appear pursuant to a subpoena or a person who failed to appear pursuant to a court order. (CCP 1993) However, a witness, other than a designated public employee, who has demanded witness fees and has not been paid is under no duty to appear. (GC 68097)

• 6-10/600.00 Civil Subpoena Duces Tecum

• 6-10/610.00 Manner of Production Ordered

The Civil Subpoena (Duces Tecum) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and Declaration (SUBP-002) is a subpoena duces tecum wherein the witness is ordered to produce the records by mailing copies to the clerk of court or by personally appearing in court with the records. (CCP 1985, 1986, 1987) Either box 3(a) or 3(b) must be marked.

Example:

3. **YOU ARE** *(item a or b must be checked)*:
   a. ☐ Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of th original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 156 1562 will not be deemed sufficient compliance with this subpoena.
   b. ☐ Not required to appear in person if you produce (i) the records described in the declaration on page two or the attac declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code se 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope write on the envelope the case name and number; your name; and the date, time, and place from item 1 in the box (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

• 6-10/620.00 Affidavit in Support of Subpoena

The subpoena duces tecum must be served together with a copy of an affidavit which sets forth the materiality of the subpoenaed records. (CCP 1985(b), 1987.5) If an affidavit is not provided, a declaration may be made in support of the subpoena duces tecum. The declaration is part of the form on page 2.

The production of the documents, electronically stored information, or other things sought by the subpoena on page one is sup by *(check one)*:

☐ the attached affidavit or ☐ the following declaration:

The subpoenaing party shall retain the original affidavit until the conclusion of the proceeding and shall file it with the court only upon request by any party or witness affected by the subpoena duces tecum. (CCP 1987.5)

• 6-10/630.00 Notice of Privacy Rights

If the subpoena is for personal records of a consumer, the subpoena must be accompanied by a notice of privacy rights or a copy of a release from the consumer. (CCP 1985.3)

• 6-10/640.00 Witness Fees

If the witness is a designated public employee, a $275 witness fee must be paid at the time of service of the subpoena unless ordered waived by the court through a Fee Waiver. Designated public employees include: (GC 68097, 68097.2, 68097.4, 68097.5, 68097.55).

If demanded, a witness, other than a designated public employee, is entitled to be paid a $35 witness fee and $0.20 a mile, both ways, prior to attending. (GC 68093, 68097)

Mileage fees are not required if the custodian of record is not required to personally appear.

• 6-10/650.00 Service

• • 6-10/650.10 Designated Public Employee Witness

A designated public employee may be served personally or by leaving two copies of the subpoena with the employee's immediate superior or an agent designated to accept service. See 6-10/310.10 Designated Public Employee Witness or GC 68097.1 for a list of Designated Public Employees.

• • 6-10/650.20 CHP Witness

If the subpoena is for a CHP peace officer who resides within this state, the subpoena may be personally served on the officer or the officer's immediate superior or by delivering, during usual office hours and at least five days prior to the hearing, to the person in charge of the CHP office where the officer's report was filed. (GC 68097.3)

• • 6-10/650.30 Other Witness

A subpoena must be served personally on the witness, except for designated public employees. (CCP 1987(a))

• • 6-10/650.40 Department of Motor Vehicles (DMV) Records

All civil process in actions brought against the director and the Department of Motor Vehicles and all subpoenas for the production of department records shall be served upon the director or his appointed representatives at the department's headquarters. (VEH 24.5)

• 6-10/660.00 Attendance

The witness does not have to appear unless the witness is a resident of the state. However, compliance is required if the witness is a custodian of records and the subpoena does not require personal appearance. (CCP 1989, 1987.3)

• 6-10/670.00 Disobedience to Subpoena

A witness disobeying a subpoena also forfeits to the party aggrieved $500 and damages which may be recovered in a civil action. (CCP 1992) If a witness fails to appear in court, the court may issue a warrant for the witness's arrest. (CCP 1993) However, a witness, other than excepted employees, who has demanded witness fees and has not been paid is under no duty to appear. (GC 68097)

• 6-10/700.00 Deposition Subpoena For Production of Business Records

The Deposition Subpoena For Production of Business Records (SUBP-010) commands only the production of copies of business records or permitting copying by an attorney's representative at the business.

The subpoena requires production of the business records not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever is later.

Business records include every kind of record maintained by every kind of business, governmental activity, profession or occupation, whether carried on for business or not, and means journals, account books, reports, etc. (Evidence Code 1270, 1560(a); (Urban Pacific Equities Corp. v. Sup. Ct. 59 CA 4th 688; CCP 2020(b)) The business records must be designated either by specifically describing each one or by reasonably particularizing each category. (CCP 2020.410 (a))

• 6-10/710.00 Manner of Production Ordered

The subpoena must have (a), (b), or (c) marked.

a. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.

b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at th witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).

c. ☐ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.

• 6-10/720.00 Affidavit in Support of Subpoena

No affidavit or declaration showing cause for the production is required. (CCP 2020.410) (CCP 1987.5, 2020(d)(1))

• 6-10/730.00 Issuance

A subpoena in a civil case may be issued by the clerk of court, judge or attorney of record. (CCP 1986) (CCP 1985) The clerk or judge shall issue a blank signed and sealed subpoena which shall be filled out by the subpoenaing party. An attorney of record may issue and sign a subpoena without the court seal. (CCP 1985)

The subpoena must be directed to the "custodian of records" or some other person qualified to authenticate the records. (CCP 2020.410 – 2020.440)

The subpoena requires production of the business records not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever is later.

• 6-10/740.00 Service on Consumer or Employee

The subpoena cannot be served on the witness custodian of records until at least 5 days after copies of the subpoena and a notice of privacy rights have been served on the consumer or employee. (CCP 1985.3 (b) (3))

• 6-10/750.00 Service on Parties

The Deposition Subpoena - Business Records must be served on all other parties who have appeared in the action. (CCP 2025.240)

• 6-10/760.00 Service on Witness

Personal service is required. (CCP 2020.220)

If the subpoena is for personal records of a consumer, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the Notice of Privacy Rights or by the consumer's written authorization to release personal records. (CCP 1985.3, 2020.030)

Service of a deposition subpoena shall be effected a sufficient time in advance of the deposition to provide the deponent a reasonable opportunity to locate and produce any designated business records, documents, and tangible things. Any person may serve the subpoena by personal delivery to a natural person witness or to any officer, director, custodian of records, agent or employee authorized by the organization to accept service of a subpoena. (CCP 2020.220)

• 6-10/770.00 Deposition Officer (photocopier)

The subpoenaing attorney may either engage a registered professional photocopier to serve as the deposition officer or may assume responsibility for making copies. (CCP 2020.420; EVID 1560(e))

• 6-10/780.00 Witness Fees

• • 6-10/780.10 Attendance by Custodian Not Required

Service of a deposition subpoena for business records not requiring personal attendance by the custodian of records shall be accompanied by payment of a witness fee not exceeding $15 whether or not demanded by the deponent witness. (CCP 2020.430(c)(2); EVID 1563((b)(6))

• • 6-10/780.20 Attendance by Custodian Is Required

If attendance of the custodian is required, the $35 witness and $0.20 per mile mileage fee may be paid when demanded by the witness at the time of service of the subpoena or at the time of attendance, at the option of the subpoenaing party (CCP 2020.230); GC 68093)

• 6-10/800.00 Attendance

A deponent witness who is a California resident is required to attend and/or produce records as directed by the deposition subpoena. (CCP 2020.220(c))

• 6-10/810.00 Disobedience to Subpoena

A witness failing to comply with the subpoena may be held in contempt of court and may be imposed sanctions. (CCP 1991.1, 2023.030, 2025.480(k))

A witness disobeying a subpoena also forfeits to the party aggrieved $500 and damages which may be recovered in a civil action. (CCP 1992) If a witness fails to appear in court, the court may issue a warrant for the witness's arrest. (CCP 1993) However, a witness, other than excepted employees, who has demanded witness fees and has not been paid is under no duty to appear. (GC 68097)

• 6-10/900.00 Deposition Subpoena for Personal Appearance for Production of Documents and Things

The Deposition Subpoena For Personal Appearance and Production of Documents and Things (SUBP-020) compels the personal attendance of the witness deponent and the production of records and things.

• 6-10/910.00 Manner of Production Ordered

The named witness may designate another person to testify on behalf of the named witness. The witness must produce the original records at the deposition.

1. **YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, 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 b 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 b subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient cor 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 des as follows:

• 6-10/920.00 Affidavit in Support of Subpoena

A copy of the affidavit upon which the subpoena is based is not required.

• 6-10/930.00 Notice of Privacy Rights

If the subpoena is for personal records of a consumer employee records, the service of the deposition subpoena shall be accompanied either by the written authorization to release the records of the consumer or employee or by a copy of the proof of service on the consumer or employee of a copy of the subpoena and notice of privacy rights. Service may have been made personally or by mail. (CCP 1012,1985.3(b)) If served by mail, the time is extended under CCP 1013(a). Service must be completed at least 10 days before the date set for production of the records; and at least 5 days before service on the witness records custodian. (CCP 1985.3(b)(2),(3),1985.6(b)(2), (3))

If the subpoena is for personal records of a consumer employee records, the service of the deposition subpoena shall be accompanied either by the written authorization to release the records of the consumer or employee or by a copy of the proof of service on the consumer or

employee of a copy of the subpoena and notice of privacy rights. Service may have been made personally or by mail. (CCP 1012,1985.3(b)) If served by mail, the time is extended under CCP 1013(a). Service must be completed at least 10 days before the date set for production of the records; and at least 5 days before service on the witness records custodian. (CCP 1985.3(b)(2),(3),1985.6(b)(2), (3))

Failure to comply with any of the foregoing requirements by itself invalidates the service and the witness custodian is under no duty to produce the records subpoenaed. (CCP 1985.3(k))

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• 6-10/940.00 Witness Fees

If attendance of the custodian is required, the $35 witness and $0.20 per mile mileage fee may be paid when demanded by the witness at the time of service of the subpoena or at the time of attendance, at the option of the subpoenaing party (CCP 2020.230); GC 68093)

• 6-10/950.00 Service

Personal service is required. Service on a business entity may be made by delivering the subpoena to any officer, director or custodian of records (or any agent or employee authorized to accept service). (CCP 2020.220) Service on a law enforcement officer may be made either by serving the officer personally or by delivering two copies to his or her immediate supervisor. (GC 68097.1) If personal attendance is required, service must be made in sufficient time to allow the witness a reasonable time to locate and produce the records or copies thereof. (CCP 1985.6(d);2020.220(a))

Service shall be effected a sufficient time in advance of the deposition to provide the deponent a reasonable opportunity to locate and produce any designated business records, documents, and tangible things. Any person may serve the subpoena by personal delivery to a natural person witness or to any officer, director, custodian of records, agent or employee authorized by the organization to accept service of a subpoena. If the records are maintained at more than one location, the subpoena must be served at least 10 days before the deposition. (CCP 1985.6(d))

The subpoena cannot be served on the employer until at least 5 days after the employee has been served with a copy of the subpoena and a Notice of Privacy Rights. (CCP 1985.6(b)(3))

The date specified in the subpoena for production of personal records of a consumer must be at least

15 days after the subpoena is issued. (CCP 1985.3(b), 1985.6)

The subpoenaing party retains the original subpoena and Notice of Privacy Rights. It is not filed with the court unless it becomes relevant on a motion to compel. (CRC 3.250)

• 6-10/960.00 Attendance

A deponent witness who is a California resident is required to attend and/or produce records as directed by the deposition subpoena. (CCP 2020.220(c))

• 6-10/970.00 Disobedience to Subpoena

A witness failing to comply with the subpoena may be held in contempt of court and may be imposed sanctions. (CCP 1991.1, 2023.030, 2025.480(k))

A witness disobeying a subpoena also forfeits to the party aggrieved $500 and damages which may be recovered in a civil action. (CCP 1992) If a witness fails to appear in court, the court may issue a warrant for the witness's arrest. (CCP 1993) However, a witness, other than excepted employees, who has demanded witness fees and has not been paid is under no duty to appear. (GC 68097)

• 6-10/980.00 Civil Subpoena For Personal Appearance at Trial or Hearing

The Civil Subpoena For Personal Appearance at Trial or Hearing (SUBP-001) is used to compel the attendance of a witness or to be placed "on call."

• • 6-10/980.10 Witness Fees

If demanded, a witness, other than a designated public employee, is entitled to be paid a $35 witness fee and $0.20 a mile, both ways, prior to attending. Mileage fees are not required if the witness custodian of record is not required to personally appear. (CCP 1986.5; GC 68093)

If the witness is a designated public employee, a $275 witness fee must be paid at the time of service of the subpoena unless ordered waived by the court through a Fee Waiver. Designated public employees include: (GC 68097, 68097.2, 68097.4, 68097.5, 68097.55).

• • 6-10/980.20 Service

• • • 6-10/980.21 Designated Public Employee

A designated public employee may be served personally or by leaving two copies of the subpoena with the employee's immediate superior or an agent designated to accept service. See 6-10/310.10 Designated Public Employee Witness or GC 68097.1 for a list of Designated Public Employees.

• • • 6-10/980.22 CHP Witness

If the subpoena is for a CHP peace officer who resides within this state, the subpoena may be personally served on the officer or the officer's immediate superior or by delivering, during usual office hours and at least five days prior to the hearing, to the person in charge of the CHP office where the officer's report was filed. (GC 68097.3)

• • • 6-10/980.23 Other Witness

The service of a subpoena is made by delivering a copy, or a ticket containing its substance, to the witness personally. (CCP 1987(a))

• 6-10/990.00 Attendance

The witness does not have to appear unless the witness is a resident of the state. However, a non- resident witness must produce the subpoenaed records if the witness is a custodian of records and the subpoena does not require personal appearance. (CCP 1989, 1987.3)

• • 6-10/990.10 On-Call Witness

Any person who is subpoenaed to appear at a session of court, or at the trial of an issue therein, may, in lieu of appearance at the time specified in the subpoena, agree with the party at whose request the subpoena was issued to appear at another time or upon such notice as may be agreed upon. Any failure to appear pursuant to such agreement may be punished as a contempt by the court issuing the subpoena. The facts establishing or disproving such agreement and the failure to appear may be proved by an affidavit of any person having personal knowledge of the facts. (CCP 1985.1; 1985.2)

• • 6-10/990.20 Disobedience to Subpoena

A witness failing to comply with the subpoena may be held in contempt of court and may be imposed sanctions. (CCP 1991.1, 2023.030, 2025.480(k))

A witness disobeying a subpoena also forfeits to the party aggrieved $500 and damages which may be recovered in a civil action. (CCP 1992) If a witness fails to appear in court, the court may issue a warrant for the witness's arrest. (CCP 1993) However, a witness, other than excepted employees, who has demanded witness fees and has not been paid is under no duty to appear. (GC 68097)