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.