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)