



## Maricopa County Justice Courts

### INSTRUCTIONS FOR ISSUING AND SERVING A CIVIL SUBPOENA

1. Complete a Subpoena form (a form can be obtained from the clerk).
2. Pay a \$28.00 issue fee to the Court.
3. Select a process server:  
Rule 45(b) and Justice Court Rules Civil Procedure 137b  
(1) "A subpoena may be served by any person who is not a party and is not less than eighteen years of age."
4. Give the process server the original Subpoena and a copy, along with service instructions. See information below for attaching necessary witness fees to the served subpoena.

#### **If you are requiring the personal appearance of a witness:**

Attach a money order or cashier's check for witness fees in the sum of \$12.00, plus \$.20 per mile from the witness' place of residence to the court. Make the check payable to the witness.

ARS 12-303 Witness fees and mileage:

"A material witness attending the trial of a civil action shall be paid twelve dollars for each day's attendance to and including the time it was necessary for him to leave his residence and go to the place of trial and his discharge as a witness. The witness shall also be paid mileage at the rate of twenty cents for each mile actually and necessarily traveled from his place of residence in the state of Arizona to the place of trial, to be computed one way only."

#### **If you are requiring the production of documents only:**

You must pay a reasonable fee (generally \$.10 per copy). You and the other party must make arrangements for payment of any copying costs.

ARS 12-351. Costs of compliance with subpoena for production of documentary evidence; payment by requesting party; definitions:

- A. "All reasonable costs incurred in a civil action by a witness who is not a party to the action with respect to the production of documents pursuant to a subpoena for the production of documentary evidence shall be charged against the party requesting the subpoena if the witness submits an itemized statement to the requesting party stating the reproduction and clerical costs incurred by the witness.
- B. If a subpoena is served to compel the production of documents and is subsequently withdrawn, quashed, modified or limited other than by the witness, the witness is entitled to reimbursement pursuant to subsection A for all reasonable costs incurred in compliance with the subpoena to the time that the requesting party has notified the witness that the subpoena has been withdrawn, quashed, modified or limited.
- C. The requesting party is not required to pay the reasonable costs before the documents are available for delivery pursuant to the subpoena. The witness may demand payment of the reasonable costs simultaneously with actual delivery of the subpoenaed documents.
- D. The requesting party may petition the court in which the action is pending to recover from the witness all or a part of the costs paid to the witness or to reduce all or a part of the costs charged by the witness pursuant to this section if these costs were excessive.
- E. If the personal attendance of the witness is not required, the witness may only receive payment pursuant to this section.
- F. In this section unless the context otherwise requires:
  1. "Reasonable costs" means ten cents (\$.10) for each page of standard reproduction of documents and the actual costs for reproduction of documents which require special processing plus the reasonable clerical costs incurred in locating and making the documents available billed at the rate of ten dollars (\$10.00) per hour per person.
  2. "Requesting party" means a party requesting issuance of a subpoena for production of documentary evidence.
  3. "Witness" means a person who is directed to produce documents by a subpoena for the production of documentary evidence.



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name / Address / Email / Phone

Defendant(s) Name / Address / Email / Phone

### SUBPOENA

Appearance of a Person     Duces Tecum    JCRCP Rule 137b

**If you fail to appear or fail to produce said documents as ordered, a Civil Arrest Warrant may be issued to bring you before the Court to answer why your failure to appear should not be treated as contempt.**

**APPEARANCE OF A PERSON** for Attendance of Witness(es) at Hearing or Trial

To: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

**YOU ARE COMMANDED** to appear in the above named Justice Court at the time specified below to testify at:

- A Trial in the above cause on behalf of the  Plaintiff  Defendant
- A Hearing

Date: \_\_\_\_\_ Time: \_\_\_\_\_

### YOU ARE TO REMAIN UNTIL EXCUSED BY THE JUDGE

Be in court at least 15 minutes before the scheduled hearing.  
**YOU MUST CHECK IN AT THE FRONT COUNTER BEFORE ENTERING THE COURT ROOM.**  
*(Esté en el tribunal por lo menos 15 minutos antes de la audiencia programada.)*  
*(DEBE REGISTRARSE EN EL MOSTRADOR DELANTERO ANTES DE ENTRAR EN LA SALA DEL TRIBUNAL)*

REQUESTS FOR REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES SHOULD BE MADE TO THE COURT AS SOON AS POSSIBLE.

*(LAS SOLICITUDES PARA ARREGLOS O ADAPTACIONES RAZONABLES PARA PERSONAS CON DISCAPACIDADES SE DEBEN PRESENTAR ANTE EL TRIBUNAL LO MAS ANTES POSIBLE.)*

If an interpreter is needed, please contact the court listed above to request an interpreter be provided.  
*(En caso de necesitarse un intérprete, favor de comunicarse con el Tribunal antes mencionado para solicitar que se brinden los servicios de un intérprete.)*

**DUCES TECUM** for Production of Documents (Not allowed in Small Claims)

To: \_\_\_\_\_  
*Custodian of Records*

**YOU ARE COMMANDED** to produce and/or permit inspection, copying, testing, or sampling of the following designated documents listed below (or attached) which may include electronically stored information or tangible things; or to permit the inspection of the premises.

**YOU ARE ORDERED TO PROVIDE** copies of the documents listed below (or attached); to the requesting party on or before the date and time, at the address specified below or as other arrangements as agreed upon.

Place, date, and time of production or inspection:

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**YOUR APPEARANCE IS NOT REQUIRED** if the documents ordered to be produced are delivered to the requesting party within the time allowed.

Date: \_\_\_\_\_  
Justice of the Peace

### AFFIDAVIT OF SERVICE

Date served: \_\_\_\_\_ Who served: \_\_\_\_\_  
Time served: \_\_\_\_\_ Address of service: \_\_\_\_\_

I certify and declare under penalty of perjury that I served this subpoena, that I am not a party to this matter and, that I am not less than 18 years of age.

\_\_\_\_\_  
Signature of person serving process



## Maricopa County Justice Courts

(YOUR DUTIES IN RESPONDING AND YOUR RIGHT TO OBJECT TO THIS SUBPOENA)

### **YOUR DUTIES IN RESPONDING TO THIS SUBPOENA**

**Attendance at a Trial:** If this subpoena commands you to appear at a trial, you must appear at the place, date and time designated in the subpoena unless you file a timely motion with the court and the court quashes or modifies the subpoena. See Rule 137 of the Justice Court Rules of Civil Procedure (*JCRCP*). See also "Your Right To Object To This Subpoena" section below. Unless a court orders otherwise, you are required to travel to any part of the state to attend and give testimony at a trial. See *Rule 137 of the JCRCP*.

**Attendance at a Hearing or Deposition:** If this subpoena commands you to appear at a hearing or deposition, you must appear at the place, date and time designated in this subpoena unless either:

- (1) you file a timely motion with the court and the court quashes or modifies the subpoena; or
- (2) you are not a party or a party's officer and this subpoena commands you to travel to a place other than:
  - (a) the county in which you reside or you transact business in person; or
  - (b) the county in which you were served with the subpoena or within forty (40) miles from the place of service; or
  - (c) such other convenient place fixed by a court order.

See *Rule 137 of the JCRCP*. See also "Your Right To Object To This Subpoena" section below.

**Production of Documentary Evidence or Inspection of Premises:** If this subpoena commands you to produce and permit inspection, copying, testing or sampling of designated documents, electronically stored information, or tangible things, you must make the items available at the place, date and time designated in this subpoena, and in the case of electronically stored information, in the form or forms requested, unless you provide a good faith written objection to the party or attorney who served the subpoena. See Rule 137 of the *JCRCP*. See also "Your Right To Object To This Subpoena" section below. Similarly, if this subpoena commands you to make certain premises available for inspection, you must make the designated premises available for inspection on the date and time designated in this subpoena unless you provide a good faith written objection to the party or attorney who served the subpoena. See *Rule 137 of the JCRCP*. See also "Your Right to Object to This Subpoena" section below.

You should note that a command to produce certain designated materials, or to permit the inspection of premises, may be combined with a command to appear at a trial, hearing or deposition. See Rule 137 of the *JCRCP*. You do not, however, need to appear in person at the place of production or inspection unless the subpoena also states that you must appear for and give testimony at a hearing, trial or deposition. See *Rule 137 of the JCRCP*.

If the subpoena commands you to produce documents, you have the duty to produce the designated documents as they are kept by you in the usual course of business, or you may organize the documents and label them to correspond with the categories set forth in the subpoena. See *Rule 137 of the JCRCP*.

### **YOUR RIGHT TO OBJECT TO THIS SUBPOENA**

**Generally:** If you have concerns or questions about this subpoena, you should first contact the party or attorney who served the subpoena. The party or attorney serving the subpoena has a duty to take reasonable steps to avoid imposing an undue burden or expense on you. The superior court enforces this duty and may impose sanctions upon the party or attorney serving the subpoena if this duty is breached. See *Rule 137 of the JCRCP*.

**Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition:** If you wish to object to a subpoena commanding your appearance at a hearing, trial or deposition, you must file a motion to quash or modify the subpoena with the court to obtain a court order excusing you from complying with this subpoena. See Rules 137 of the *JCRCP*. The motion must be filed in the Justice Court precinct in which the case is pending or from which the subpoena was issued. See Rule 137 of the *JCRCP*. The motion must be filed before the time specified for compliance or within 14 days after the subpoena is served, whichever is earlier. See Rule 137 of the *JCRCP*. You must send a copy of any motion to quash or modify the subpoena to the party or attorney who served the subpoena.

See *Rules 137 of the JCRCP*.

#### **The court must quash or modify a subpoena:**

- (1) if the subpoena does not provide a reasonable time for compliance;
- (2) unless the subpoena commands your attendance at a trial, if you are not a party or a party's officer and if the subpoena commands you to travel to a place other than:
  - (a) the county in which you reside or transact business in person;
  - (b) the county in which you were served with a subpoena, or within forty (40) miles from the place of service; or
  - (c) such other convenient place fixed by a court order; or
- (3) if the subpoena requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (4) if the subpoena subjects you to undue burden.

See *Rule 137 of the JCRCP*.

#### **The court may quash or modify a subpoena:**

- (1) if the subpoena requires you to disclose a trade secret or other confidential research, development or commercial information;
- (2) if you are an unretained expert and the subpoena requires you to disclose your opinion or information resulting from your study that you have not been requested by any party to give on matters that are specific to the dispute;
- (3) if you are not a party or a party's officer and the subpoena would require you to incur substantial travel expense; or
- (4) if the court determines that justice requires the subpoena to be quashed or modified. See *Rule 137 of the JCRCP*.

In these last four circumstances, a court may, instead of quashing or modifying a subpoena, order your appearance or order the production of material under specified conditions if:

- (1) the serving party or attorney shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(2) if your travel expenses or the expenses resulting from the production are at issue, the court ensures that you will be reasonably compensated. *See Rule 137 of the JCRCP.*

**Procedure for Objecting to Subpoena For Production of Documentary Evidence:** If you wish to object to a subpoena commanding you to produce documents, electronically stored information or tangible items, or to permit the inspection of premises, you may send a good faith written objection to the party or attorney serving the subpoena that objects to:

- (1) producing, inspecting, copying, testing or sampling any or all of the materials designated in the subpoena;
- (2) inspecting the premises; or
- (3) producing electronically stored information in the form or forms requested.

You must send your written objection to the party or attorney who served the subpoena before the time specified for compliance or within 14 days after the subpoena is served, whichever is earlier. *See Rule 137 of the JCRCP.*

If you object because you claim the information requested is privileged, protected, or subject to protection as trial preparation material, you must express the objection clearly, and support each objection with a description of the nature of the document, communication, or item not produced so that the demanding party can contest the claim. *See Rule 137 of the JCRCP.*

If you object to the subpoena in writing, you do not need to comply with the subpoena until a court orders you to do so. It will be up to the party or attorney serving the subpoena to first personally consult with you and engage in good faith efforts to resolve your objection and, if the objection cannot be resolved, to seek an order from the court to compel you to provide the documents or inspection requested, after providing notice to you. *See Rule 137 of the JCRCP.*

If you are not a party to the litigation, or a party's officer, the court will issue an order to protect you from any significant expense resulting from the inspection and copying commanded. *See Rule 137 of the JCRCP.*

Instead of sending a written objection to the party or attorney who served the subpoena, you also have the option of raising your objections in a motion to quash or modify the subpoena. *See Rule 137 of the JCRCP.* The procedure and grounds for doing so are described in the section above entitled "Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition."

If the subpoena also commands your attendance at a hearing, trial or deposition, sending a written objection to the party or attorney who served the subpoena does not suspend or modify your obligation to attend and give testimony at the date, time and place specified in the subpoena. *See Rule 137 of the JCRCP.*

If you wish to object to the portion of this subpoena requiring your attendance at a hearing, trial or deposition, you must file a motion to quash or modify the subpoena as described in the section above entitled "Procedure for Objecting to a Subpoena for Attendance at a Hearing, Trial or Deposition." *See Rule 137 of the JCRCP.*