

# Subpoenas

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[Show Page Menu](#)

## What is a subpoena?

A subpoena can help a party investigate their case. It is a document a party to a lawsuit can use to require a person or company to:

- testify at a trial, hearing or deposition to answer questions under oath
- allow inspection of a place
- produce or bring documents or tangible things to a hearing
- copy documents or electronically stored information

A subpoena must be signed by a court clerk or a Utah attorney. An unrepresented party must have a court clerk sign a subpoena.

Subpoenas are governed by [Utah Rule of Civil Procedure 45](#). In criminal cases, subpoenas are governed by [Utah Rule of Criminal Procedure 14](#).

A party to a lawsuit has other tools available for investigating their case. See the [Disclosure and Discovery web page](#) for more information.

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[Return to Top](#)

## Steps for requesting a subpoena

1. Fill out the subpoena form, available in the [Forms section](#) below.

If the subpoena directs someone to appear at a trial, hearing or deposition they must be given a reasonable amount of time to plan to attend.

If the subpoena directs someone to copy documents, they must be given at least 14 days to do so.

The party asking for the subpoena must avoid making requests that would be very expensive or time consuming, unless there is a very good reason for the request.

2. Bring the form to the court for a court clerk to sign. If a party is represented by an attorney, the attorney can sign the subpoena.
3. Deliver a copy of the subpoena to the other parties in the case.

The subpoena must be delivered to the other parties **before** the subpoena is served on the person to whom it is directed unless the subpoena requires someone to appear in court as a witness.

[Utah Rule of Civil Procedure 45\(b\)\(3\)](#).

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[Return to Top](#)

## Serving the subpoena

Serve the following documents, available in the [Forms section](#) below, on the person who is the subject of the subpoena:

- **Subpoena**

This explains what the person served with the subpoena is required to do and is signed by a court clerk or a Utah attorney.

- **Notice to Persons Served with a Subpoena**

This explains the rights and responsibilities of the person who is served with the subpoena.

- **Objection to Subpoena**

This can be used by the person served with the subpoena if they wish to object to the subpoena.

- **Declaration of Compliance with Subpoena**

This is completed by the person served with the subpoena once they do what the subpoena requires.

- **Witness Fee**

If the subpoena requires a person to appear and testify at a trial, court hearing or deposition, the party must also provide one day's worth of the witness fee and mileage. How to calculate the witness fee and mileage is explained in [Utah Code section 78B-1-119](#).

Serve all of these documents by one of the methods described in [Utah Rule of Civil Procedure 4\(d\)](#).

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[Return to Top](#)

## What happens after the subpoena is issued

After a subpoena is properly served, the person served with the subpoena generally must do what the subpoena says. If the subpoena requires someone to:

- **Testify at a trial, court hearing or deposition to answer questions under oath**

A witness who has been subpoenaed to testify must attend the hearing or deposition. If they do not, the court may issue an arrest warrant, hold the person in contempt of court, or reschedule a hearing.

All witnesses should be subpoenaed, even friendly ones. The party might assume that their best friend will come to court to testify on their behalf. If the party does not subpoena their best friend and they don't show up, the court might not let the party reschedule the hearing.

- **Allow inspection of a place**

The person served with the subpoena must make their property available for inspection.

For example, if a case claims there was a problem with toxic mold in an apartment building, the subpoena could require the owner of the building to let people in to take samples of the mold for testing.

- **Produce documents or tangible things**

The person served with the subpoena must bring whatever documents or tangible things the subpoena asks for to a hearing.

For example, if the case is about a rare bird, the subpoena could require the person caring for the bird to bring it to a hearing.

- **Copy documents or electronically stored information**

The person served with the subpoena must copy whatever documents or electronically stored information is requested. The person who issued the subpoena must pay the reasonable cost of producing or copying those documents. [Utah Rule of Civil Procedure 45\(d\)](#).

The person served with the subpoena has at least 14 days to comply with the request, and must mail copies of the documents to the party who issued the subpoena along with a copy of the Declaration in Compliance with Subpoena form, available in the [Forms section](#) below.

[Utah Rule of Civil Procedure 45\(e\)\(2\)](#).

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[Return to Top](#)

## Utah resident or not?

There are different rules for Utah residents and non-residents.

If the person served with the subpoena is a **Utah resident**, the subpoena can require them to appear at a deposition or to produce documents, electronic records or tangible things or to permit inspection of premises in the county where the person:

- lives;
- is employed; or
- transacts business in person.

If the person served with the subpoena is a **non-resident of Utah**, the subpoena can require them to appear at a deposition or to produce documents, electronic records or tangible things or to permit inspection of premises in only the county in which they are served with the subpoena.

For both residents and non-residents, the person served with the subpoena can be required to appear at a trial or hearing in the county where the case is pending, even if they were not served in that county and do not live in that county.

The court can also order something different than above. This can be complicated. See the [Finding Legal Help web page](#) for information about ways to get legal help.

[Utah Rule of Civil Procedure 45\(c\)](#).

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[Return to Top](#)

## Requirements of the person served with the subpoena

The person served with a subpoena must do what the subpoena says unless they have objections.

If the person served with the subpoena has

**If the subpoena requires the person to ...**

**The person must...**

testify at a trial, hearing or deposition

appear at the trial, hearing or deposition.

allow inspection of a place

allow inspection of a place.

produce documents or other tangible things to a hearing

go to the hearing and produce the documents or things.

copy documents or electronically stored information

send the copies and a Declaration of Compliance with Subpoena form to the party issuing the subpoena.

objections, they can instead send the party issuing the subpoena the completed Objection to Subpoena form.

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[↑ Return to Top](#)

## If the person does not comply with the subpoena

If a person served with a subpoena does not comply with the subpoena without a good reason, there can be serious consequences.

The party who requested or issued the subpoena can file a [motion to compel](#) with the court. The court could then take the following actions against the person who received the subpoena:

- issue a warrant for their arrest (if they are evading service of the subpoena or do not attend a hearing or deposition after being served),
- hold them in contempt of court,
- fine them, and
- require them pay for any damages that result from their failure to attend a hearing.

[Utah Rule of Civil Procedure 45\(g\) and \(h\)](#) and [Utah Code Section 78B-1-131](#) .

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[↑ Return to Top](#)

## Objecting to a subpoena

A person served with a subpoena or the other party in the case can object to all or part of the subpoena. Some possible reasons to object include the subpoena:

- does not allow a reasonable time to comply. A person must be given at least 14 days to produce documents or tangible things.
- requires a Utah resident to appear at a deposition, produce documents, electronic records or tangible things; or permit inspection of premises in a county in which they do not live, are not employed, or do not transact business in person – unless the judge orders otherwise.
- requires a non-Utah resident to appear at a deposition; produce documents, electronic records or tangible things; or permit inspection of premises in a county other than the county in which it was served – unless the judge orders otherwise.
- requires the person to disclose privileged or other protected matter and no exception or waiver applies.
- requires the person to disclose a trade secret or other confidential research, development, or commercial information.
- subjects the person to an undue burden.
- requires the person to disclose an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study that was not made at the request of a party.

The Objection must be made before the date for compliance, and must be served on all parties in the case. The Objection must be served following the requirements of [Utah Rule of Civil Procedure 5](#).

[Utah Rule of Civil Procedure 45\(e\)\(4\)\(A\)](#).

After an objection is served the person served with the subpoena does not have to comply with the subpoena.

The party issuing the subpoena can then ask the court for an order to compel compliance by filing a [motion to compel](#) with the court. [Utah Rule of Civil Procedure 37\(a\)](#) The court can quash (dismiss) or modify the subpoena, or the court can order the party to comply.

The party who received the subpoena can also file for an order protecting them from the requirements of the subpoena. This can be complicated. See the [Finding Legal Help web page](#) for information about ways to get legal help.

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[↑ Return to Top](#)

## **Application for a Utah subpoena based on a subpoena from another state**

A Utah court can issue a subpoena based on a subpoena that was first issued in another state. There are two processes to request this from a Utah court. It depends on whether the state that issued the initial subpoena has passed the Interstate Depositions and Discovery Act (UIDDA).

### **States that have passed the Interstate Depositions and Discovery Act**

More than 30 states have enacted the [Uniform Interstate Depositions and Discovery Act](#), or something similar to it. If a subpoena is issued in a case in one of those states, and the subpoena is directed to a person in Utah, UIDDA has a process to ask a Utah court to issue a Utah subpoena based on the subpoena from that state. The non-Utah subpoena is called a "foreign subpoena."

The requesting party must file the following documents in the court in the [judicial district](#) in which discovery is sought to be conducted, along with the required filing fee:

- Civil coversheet - [PDF](#) | [Word](#)
- Foreign subpoena (include all attachments)
- Application for Subpoena under the Utah Uniform Interstate Depositions and Discovery Act - [PDF](#) | [Word](#)
- Subpoena (include all attachments) - [PDF](#) | [Word](#)

Only the clerk of court may issue a Utah subpoena based on a foreign subpoena.

[Utah Code Section 78B-17-201](#) .

The court will assign a case number and judge. Once this process is completed, the subpoena should be served as described in the [Serving the subpoena section](#) above.

- If the person served with the subpoena **is a Utah resident**, a special court order is necessary if the subpoena requires the person to attend a deposition, to produce documents, electronic records or tangible things or to permit inspection of premises in any county other than the one in which the person resides, is employed, or transact business personally.
- If the person served with the subpoena **is not a Utah resident**, a special court order is necessary if the subpoena requires the person to attend a deposition, or to produce documents, electronic records or tangible things or to permit inspection of premises in any county other than the one in which the person is served.

[Utah Rule of Civil Procedure 45\(c\)](#) and UIDDA, [Utah Code 78B-17-101 et seq.](#)

## States that have not passed the Interstate Depositions and Discovery Act

Information for states that have not enacted Uniform Interstate Depositions and Discovery Act is limited. The [Utah Rules of Civil Procedure](#) govern all issues.

If a state has not enacted UIDDA or something similar, the person asking for a Utah subpoena must file the following documents in the court in the [judicial district](#) in which the person to be subpoenaed lives or is to be served, along with the required filing fee:

- Civil coversheet - [PDF](#) | [Word](#)
- Notice of Deposition and Request for Subpoena in Case Pending Out of State - [PDF](#) | [Word](#)
- Subpoena - [PDF](#) | [Word](#)

A member of the Utah State Bar representing a party in a case may prepare and sign a subpoena in that case. If the lawyer requesting the subpoena is not a member of the Utah State Bar and is not admitted pro hac vice under [Code of Judicial Administration 14-806](#), then the clerk must issue the subpoena.

The court will assign a case number and judge. Once this process is completed, the subpoena should be served as described in the [Serving the subpoena section](#) above.

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[Return to Top](#)

## Forms

## Issue and serve a subpoena

### Required forms

- Subpoena - [PDF](#) | [Word](#)
- Notice to Persons Served with a Subpoena - [PDF](#) | [Word](#)
- Objection to Subpoena - [PDF](#) | [Word](#)
- Declaration of Compliance with Subpoena - [PDF](#) | [Word](#)
- [Proof of service](#)

## Apply for a Utah subpoena under the Utah Uniform Interstate Depositions and Discovery Act

### Required forms

- Civil coversheet - [PDF](#) | [Word](#)
- Application for Subpoena under the Utah Uniform Interstate Depositions and Discovery Act - [PDF](#) | [Word](#)
- Subpoena - [PDF](#) | [Word](#)
- Foreign subpoena
- Notice to Persons Served with a Subpoena - [PDF](#) | [Word](#)
- Objection to Subpoena - [PDF](#) | [Word](#)
- Declaration of Compliance with Subpoena - [PDF](#) | [Word](#)

## Apply for a subpoena for a case from a state that has not passed the Uniform Interstate Depositions and Discovery Act

### Required forms

- Civil coversheet - [PDF](#) | [Word](#)
- Notice of Deposition and Request for Subpoena in Case Pending Out of State - [PDF](#) | [Word](#)
- Subpoena - [PDF](#) | [Word](#)
- Notice to Persons Served with a Subpoena - [PDF](#) | [Word](#)
- Objection to Subpoena - [PDF](#) | [Word](#)
- Declaration of Compliance with Subpoena - [PDF](#) | [Word](#)

## All Subpoena Forms

This is a list of all subpoena forms. Not all are needed for every situation.

- Subpoena - [PDF](#) | [Word](#)
- Notice to Persons Served with a Subpoena - [PDF](#) | [Word](#)
- Objection to Subpoena - [PDF](#) | [Word](#)
- Declaration of Compliance with Subpoena - [PDF](#) | [Word](#)
- Application for Subpoena under the Utah Uniform Interstate Depositions and Discovery Act - [PDF](#) | [Word](#)
- Notice of Deposition and Request for Subpoena in Case Pending Out of State - [PDF](#) | [Word](#)

