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(Dependable & Responsible Since 1985)

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Discovery in Out-of-State Cases - Foreign Subpoenas Served in California

Note: This does NOT apply to Federal Subpoenas

Effective January 1, 2010, there are new laws and new mandatory forms relating to service of Subpoenas in California for cases pending in states other than California.

On page 2 is a chart of the applicable filing fees and a list of the **MANDATORY FORMS** with a link to the California Judicial Council web site where the forms may be found and filled in online. **Note: The client must fill out the forms.**

Please note that also on page 2 is the California service rules and completion dates that will apply to the service of these subpoenas and are likely different from your states requirements, so please take them into account when setting your deposition dates.

In most cases your subpoenas will be issued by the appropriate court within a few days but this procedure is not a common occurrence for many court systems and may take several weeks to educate the clerks and their superiors to ensure the proper filing fees and procedures are followed. We hope to make these types of filings common place to insure immediate issuance of the subpoenas.

On page 3-7 are copies of the laws in case you need them.

To issue and serve a subpoena we need the following FOR EACH SUBPOENA:

1. \$30.00 filing fee, payable to "Superior Court."
2. A copy of the foreign subpoena from the other state.
3. A completed Application on the Mandatory Form, SUBP-030.
4. A completed Mandatory California Subpoena, SUBP-035, SUBP-040, SUBP-045 or SUBP-050

If you have lots of foreign subpoenas you may want to consider hiring local counsel and avoid the \$30.00 each filing fee. A member of the California Bar Association may issue the subpoena as they would a normal California subpoena. Otherwise the court clerk will issue the subpoena when it is filed.

For your convenience we have linked the Superior Courts "[Locate Your Court.](#)"

We no longer need a Commission or Letters Rogatory from the other state.

NO CIVIL CASE COVER SHEET IS REQUIRED per CCP 2020.300(b)(1).

Court Filing Fees for Discovery in out-of-state case

Document Name	Code Section	Filing Fee
Application for Subpoena for Discovery in Out-of-State Case (CCP 2029.300)	GC 70626(b)(5)	\$30.00
First Petition by Party for Relief in Discovery Dispute Relates to Out-of-State Case (CCP 2029.610(a), CCP 2029.620(c)(1))	GC 70611	\$395.00*
First Petition by Non-Party for Relief in Discovery Dispute Related to Out-of-State Case (CCP 2029.610(a), CCP 2029.620(c)(2))	GC 70626(c)	\$80.00
Subsequent Petition by Party for Relief in Discovery Dispute Related to Out-of-State Case (where first appearance fee was previously paid) (CCP 2029.620(c)(1))	GC 70617(a)	\$40.00
Subsequent Petition by Non-Party for Relief in Discovery Dispute Related to Out-of-State Case (where fee under GC 70626(c) was previously paid) (CCP 2029.620(c)(2))	GC 70617(a)	\$40.00
Response by Party to Petition for Relief in Discovery Dispute Related to Out-of-State Case (where first appearance fee was NOT previously paid) (CCP 2029.610(c))	GC 70612	\$395.00*
Response by Party to Petition for Relief in Discovery Dispute Related to Out-of-State Case (where first appearance fee was previously paid)	CCP 2029.620(d)	No Fee
Response by Non-Party to Petition for Relief in Discovery Dispute Related to Out-of-State Case	CCP 2029.610(c) CCP 2029.620(d)	No Fee

***San Francisco & Riverside Counties Filing Fee is \$410.00**

Fillable Forms	Date Form Revised	Document Name	Service Requirement	Completion Date
SUBP-030*	1/1/2010	Application for Discovery Subpoena in Action Pending Outside California		
SUBP-035*	1/1/2012	Subpoena for Production of Business Records in Action Pending Outside California	Personal Service or Authorized to Accept	15 calendar days prior to the hearing or deposition date
SUBP-040*	1/1/2010	Deposition Subpoena for Personal Appearance in Action Pending Outside California	Personal Service Only!	Reasonable notice, generally agreed upon as 10 calendar days prior to the deposition date
SUBP-045*	1/1/2012	Deposition Subpoena for Personal Appearance and Production of Documents And Things in Action Pending Outside California	Personal Service Only!	Reasonable notice, generally agreed upon as 10 calendar days prior to the deposition date
SUBP-050*	1/1/2010	Subpoena for Inspection of Premises in Action Pending Outside California	Personal Service or Authorized to Accept	15 calendar days prior to the hearing or deposition date

Witness Fees of \$35.00 per day + \$0.20 per mile from the subjects home to the deposition may be requested at the time of service or paid at the time of appearance. When subpoenaing a government employee, a \$150.00 witness fee made out to the agency is required at the time of service. Production of Business Records Subpoenas require a \$15.00 witness fee at the time of service.

[Return to the D&R Legal Process Service, LLC. Website Here!](#)

CODE OF CIVIL PROCEDURE
SECTION 2029.100-2029.900

2029.100. This article may be cited as the Interstate and International Depositions and Discovery Act.

2029.200. In this article:

(a) "Foreign jurisdiction" means either of the following:

(1) A state other than this state.

(2) A foreign nation.

(b) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(c) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(d) "State" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the Jurisdiction of the United States.

(e) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to do any of the following:

(1) Attend and give testimony at a deposition.

(2) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person.

(3) Permit inspection of premises under the control of the person.

2029.300. (a) To request issuance of a subpoena under this section, a party shall submit the original or a true and correct copy of a foreign subpoena to the clerk of the superior court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute making an appearance in the courts of this state.

(b) In addition to submitting a foreign subpoena under subdivision (a), a party seeking discovery shall do both of the following:

(1) Submit an application requesting that the superior court issue a subpoena with the same terms as the foreign subpoena. The application shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390. No civil case cover sheet is required.

(2) Pay the fee specified in Section 70626 of the Government Code.

Fee is \$30.00

(c) When a party submits a foreign subpoena to the clerk of the superior court in accordance with subdivision (a), and satisfies the requirements of subdivision (b), the clerk shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(d) A subpoena issued under this section shall satisfy all of the following conditions:

(1) It shall incorporate the terms used in the foreign subpoena.

(2) It shall contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(3) It shall bear the caption and case number of the out-of-state case to which it relates.

(4) It shall state the name of the court that issues it.

(5) It shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390.

2029.350. (a) Notwithstanding Sections 1986 and 2029.300, if a party to a proceeding pending in a foreign jurisdiction retains an attorney licensed to practice in this state, who is an active member of the State Bar, and that attorney receives the original or a true and correct copy of a foreign subpoena, the attorney may issue a subpoena under this article.

(b) A subpoena issued under this section shall satisfy all of the following conditions:

(1) It shall incorporate the terms used in the foreign subpoena.

(2) It shall contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(3) It shall bear the caption and case number of the out-of-state case to which it relates.

(4) It shall state the name of the superior court of the county in which the discovery is to be conducted.

(5) It shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390.

2029.390. On or before January 1, 2010, the Judicial Council shall do all of the following:

(a) Prepare an application form to be used for purposes of Section 2029.300.

(b) Prepare one or more new subpoena forms that include clear instructions for use in issuance of a subpoena under Section 2029.300 or 2029.350. Alternatively, the Judicial Council may modify one or more existing subpoena forms to include clear instructions for use in issuance of a subpoena under Section 2029.300 or 2029.350.

2029.400. A subpoena issued under this article shall be personally served in compliance with the law of this state, including, without limitation, Section 1985.

2029.500. Titles 3 (commencing with Section 1985) and 4 (commencing with Section 2016.010) of Part 4, and any other law or court rule of this state governing a deposition, a production of documents or other tangible items, or an inspection of premises, including any law or court rule governing payment of court costs or sanctions, apply to discovery under this article.

2029.600. (a) If a dispute arises relating to discovery under this article, any request for a protective order or to enforce, quash, or modify a subpoena, or for other relief may be filed in the superior court in the county in which discovery is to be conducted and, if so filed, shall comply with the applicable rules or statutes of this state.

(b) A request for relief pursuant to this section shall be referred to as a petition notwithstanding any statute under which a request for the same relief would be referred to as a motion or by another term if it was brought in a proceeding pending in this state.

(c) A petition for relief pursuant to this section shall be accompanied by a civil case cover sheet.

2029.610. (a) On filing a petition under Section 2029.600, a petitioner who is a party to the out-of-state proceeding shall pay a first appearance fee as specified in Section 70611 of the Government Code. A petitioner who is not a party to the out-of-state proceeding shall pay the fee specified in subdivision (c) of Section 70626 of the Government Code.

(b) The court in which the petition is filed shall assign it a case number.

(c) On responding to a petition under Section 2029.600, a party to the out-of-state proceeding shall pay a first appearance fee as specified in Section 70612 of the Government Code. A person who is not a party to the out-of-state proceeding may file a response without paying a fee.

(d) Any petition, response, or other document filed under this section shall satisfy all of the following conditions:

(1) It shall bear the caption and case number of the out-of-state case to which it relates.

(2) The first page shall state the name of the court in which the document is filed.

(3) The first page shall state the case number assigned by the court under subdivision (b).

2029.620. (a) If a petition has been filed under Section 2029.600 and another dispute later arises relating to discovery being conducted in the same county for purposes of the same out-of-state proceeding, the deponent or other disputant may file a petition for appropriate relief in the same superior court as the previous petition.

(b) The first page of the petition shall clearly indicate that it is not the first petition filed in that court that relates to the out-of-state case.

(c) (1) If the petitioner in the new dispute is a party to the out-of-state case who previously paid a first appearance fee under this article, the petitioner shall pay a motion fee as specified in subdivision (a) of Section 70617 of the Government Code. If the petitioner in the new dispute is a party to the out-of-state case but has not previously paid a first appearance fee under this article, the petitioner shall pay a first appearance fee as specified in Section 70611 of the Government Code.

(2) If the petitioner in the new dispute is not a party to the out-of-state case, the petitioner shall pay the fee specified in subdivision (c) of Section 70626 of the Government Code, unless the petitioner previously paid that fee. If the petitioner previously paid the fee specified in subdivision (c) of Section 70626 of the Government Code, the petitioner shall pay a motion fee as specified in subdivision (a) of Section 70617 of the Government Code.

(d) If a person responding to the new petition is not a party to the out-of-state case, or is a party who previously paid a first appearance fee under this article, that person does not have to pay a fee for responding. If a person responding to the new petition is a party to the out-of-state case but has not previously paid a first appearance fee under this article, that person shall pay a first appearance fee as specified in Section 70612 of the Government Code.

(e) Any petition, response, or other document filed under this section shall satisfy all of the following conditions:

(1) It shall bear the caption and case number of the out-of-state case to which it relates.

(2) The first page shall state the name of the court in which the document is filed.

(3) The first page shall state the same case number that the court assigned to the first petition relating to the out-of-state case.

(f) A petition for relief pursuant to this section shall be accompanied by a civil case cover sheet.

2029.630. A petition under Section 2029.600 or Section 2029.620 is subject to the requirements of Section 1005 relating to notice and to filing and service of papers.

2029.640. If a party to a proceeding pending in a foreign jurisdiction seeks discovery from a witness in this state by properly issued notice or by agreement, it is not necessary for that party to obtain a subpoena under this article to be able to seek relief under Section 2029.600 or 2029.620. The deponent or any other party may also seek relief under Section 2029.600 or 2029.620 in those circumstances, regardless of whether the deponent was subpoenaed under this article.

2029.650. (a) If a superior court issues an order granting, denying, or otherwise resolving a petition under Section 2029.600 or 2029.620, a person aggrieved by the order may petition the appropriate court of appeal for an extraordinary writ. No order or other action of a court under this article is appealable in this state.

(b) Pending its decision on the writ petition, the court of appeal may stay the order of the superior court, the discovery that is the subject of that order, or both.

2029.700. (a) Sections 2029.100, 2029.200, 2029.300, 2029.400, 2029.500, 2029.600, 2029.800, 2029.900, and this section, collectively, constitute and may be referred to as the "California version of the Uniform Interstate Depositions and Discovery Act."

(b) In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

2029.800. This article applies to requests for discovery in cases pending on or after the operative date of this section.

2029.900. Section 2029.390 is operative on January 1, 2009. The remainder of this article is operative on January 1, 2010.

Government Code Section 70626

70626. (a) The fee for each of the following services is twenty-five dollars (\$25). Amounts collected shall be distributed to the Trial Court Trust Fund under Section 68085.1.

(1) Issuing a writ of attachment, a writ of mandate, a writ of execution, a writ of sale, a writ of possession, a writ of prohibition, or any other writ for the enforcement of any order or judgment.

(2) Issuing an abstract of judgment.

(3) Issuing a certificate of satisfaction of judgment under Section 724.100 of the Code of Civil Procedure.

(4) Certifying a copy of any paper, record, or proceeding on file in the office of the clerk of any court.

(5) Taking an affidavit, except in criminal cases or adoption proceedings.

(6) Acknowledgment of any deed or other instrument, including the certificate.

(7) Recording or registering any license or certificate, or issuing any certificate in connection with a license, required by law, for which a charge is not otherwise prescribed.

(8) Issuing any certificate for which the fee is not otherwise fixed.

(b) The fee for each of the following services is thirty dollars (\$30). Amounts collected shall be distributed to the Trial Court Trust Fund under Section 68085.1.

(1) Issuing an order of sale.

(2) Receiving and filing an abstract of judgment rendered by a judge of another court and subsequent services based on it, unless the abstract of judgment is filed under Section 704.750 or 708.160 of the Code of Civil Procedure.

(3) Filing a confession of judgment under Section 1134 of the Code of Civil Procedure.

(4) Filing an application for renewal of judgment under Section 683.150 of the Code of Civil Procedure.

(5) Issuing a commission to take a deposition in another state or place under Section 2026.010 of the Code of Civil Procedure, or issuing a subpoena under Section 2029.300 to take a deposition in this state for purposes of a proceeding pending in another jurisdiction.

(6) Filing and entering an award under the Workers' Compensation Law (Division 4 (commencing with Section 3200) of the Labor Code).

(7) Filing an affidavit of publication of notice of dissolution of partnership.

(8) Filing an appeal of a determination whether a dog is potentially dangerous or vicious under Section 31622 of the Food and Agricultural Code.

(9) Filing an affidavit under Section 13200 of the Probate Code, together with the issuance of one certified copy of the affidavit under Section 13202 of the Probate Code.

(10) Filing and indexing all papers for which a charge is not elsewhere provided, other than papers filed in actions or special proceedings, official bonds, or certificates of appointment.

(c) The fee for filing a first petition under Section 2029.600 or 2029.620 of the Code of Civil Procedure, if the petitioner is not a party to the out-of-state case, is eighty dollars (\$80). Amounts collected shall be distributed to the Trial Court Trust Fund pursuant to Section 68085.1.