
FLORIDA, MIDDLE DISTRICT DISCOVERY HANDBOOK (2015)
SECTION V: SUBPOENAS
[ALL-IN-ONE DOCUMENT]

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FLORIDA, MIDDLE DISTRICT DISCOVERY HANDBOOK | FEDERAL

SECTION V SUBPOENAS

RULES: A-C

V.A | GENERAL

1 - A subpoena is necessary in discovery to obtain deposition testimony or other information, including documents, from a non-party.

2 - Rule 45, Federal Rules of Civil Procedure, governs subpoenas for discovery as well as for trial or hearings. The rule was significantly amended on December 1, 2013.

3 - A subpoena to obtain deposition testimony or other information from a non-party must issue from the court in the district where the action is pending. Rule 45(a)(2), Federal Rules of Civil Procedure. This is a change from the former rule which required a subpoena to issue from the court in the district where the deposition is to be taken or where the production or inspection of documents is to be made.

4 - A motion to quash or a motion to enforce a discovery subpoena must be filed with the court in the district where the discovery is to be obtained. Rule 45(c), Federal Rules of Civil Procedure. However, that court may transfer a subpoena-related motion to the court in the district where the action is pending if the person subject to the subpoena consents or if there are exceptional circumstances. Rule 45(f), Federal Rules of Civil Procedure.

V.B | CONTENTS OF SUBPOENA

1 - The subpoena must identify the court from which it is issued, the title of the action and the court case number, the specified time and place for the testimony or document production, and a description of the documents, electronically-stored information, or tangible things to be produced. For a deposition, the subpoena must state the method for recording the testimony. For ESI the subpoena may specify the form or forms in which ESI is to be produced. The subpoena must also set out the text of Rule 45(d) and (e). Rule 45(a)(1), Federal Rules of Civil Procedure.

2 - If the subpoena commands the production of documents, ESI, or tangible things or the inspection of premises prior to trial, before it is served on the person to whom it is directed, a notice and copy of the subpoena must be served on each party. Rule 45(a)(4), Federal Rules of Civil Procedure.

V.C | OTHER REQUIREMENTS FOR SERVICE OF SUBPOENA

1 - Rule 45 has other requirements for issuing and serving a subpoena. Only an attorney authorized to practice in the court where the subpoena is issued may issue and sign a subpoena. Otherwise, the clerk of court must issue the subpoena. Rule 45(a)(3), Federal Rules of Civil Procedure. Any person who is at least 18 years old and not a party may serve a subpoena by delivering a copy to the named person. If the person's attendance is required, the fee for 1 day's attendance and the mileage allowed by law, those amounts must be provided when the subpoena is served, unless the subpoena is issued on behalf of the United States or any of its officers or agencies. Rule 45(b), Federal Rules of Civil Procedure.

2 - A subpoena may be served at any place within the United States. Rule 45(b)(2), Federal Rules of Civil Procedure. Generally, however, a subpoena may command a person to provide deposition testimony or other information only within 100 miles of where the person resides, is employed, or regularly transacts business in person. Rule 45(c), Federal Rules of Civil Procedure.

APPENDIX

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