

6.10 | REQUEST FOR SUBPOENAS IN PRO SE ACTION

Occasionally, parties may need to obtain information, documents or testimony from other witnesses who are not parties. Some information may be sought by subpoena. Pursuant to Rule 45 of the Federal Rules of Civil Procedure, "[t]he clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service." F. R. Civ. Pro. 45(a)(3). Thus, pro se litigants may request subpoenas in writing from the Clerk's Office for production of documents or for the deposition or trial testimony of witnesses.

Rule 45 of the Federal Rules of Civil Procedure does not require a motion for issuing a subpoena. Local practice, however, does require that a request for subpoena be in writing, including the name and address of the person/entity to whom the subpoena is directed and what is being sought. Where one is granted permission to proceed in forma pauperis, he or she may be granted service of subpoenas by the United States Marshal without paying the fee. If service by the United States Marshal is sought, that request must be in writing as well.

Pro Se litigants should bear in mind that subpoenas do have costs, which they will be required to pay. Also, the Court may impose appropriate sanctions on the party for violations of Rule 45. "A party... responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden, or expense on a person subject to that subpoena." F. R. Civ. Pro. 45(c)(1).

Additionally, to secure the production of a witness who is incarcerated, the pro se litigant must make written application to the Court to issue a writ to produce the incarcerated witness. Upon consideration of the application, the Court, if it agrees, will direct that the arrangements for the witness's testimony be made.

*(US District Court, New York, Western District // Buffalo, NY 14202
Pro Se Litigation Guidelines)*

