

SUBPOENA, CIVIL – PRO SE REQUEST FORM

Pursuant to [SDCL 15-6-45\(a\)](#), clerks of court, judges, magistrates, notaries public, referees, active attorneys in good standing in South Dakota, and any other public officer or agency authorized by law to issue subpoenas in any matter pending before them, may issue subpoenas. Subpoenas are court orders issued on an application made by a party to the case commanding the appearance of a witness to testify.

The subpoena shall:

- State the name of the court;
- State the title of the action or proceeding;
- Command the person to whom it's directed to attend & give testimony at a specific time & place;
- Command the person to produce certain documents or tangible things (if applicable);
- State the name of the person or party seeking the person's testimony; and
- Have the seal of the Court affixed to the original and all copies.

The clerk collects the required \$2.00 fee pursuant to SDCL 16-2-29, makes certified copies of the subpoena for the requesting party, and files the original in the related case file.

The requesting party is responsible for having it served, which will require a service fee and mileage reimbursement collected by the sheriff or process server. Subpoenas are served in the same manner as a summons, except service by publication is NOT authorized. See SDCL 15- 6-45(c).

The subpoena must be served sufficiently in advance of the date the witness's appearance is required, to enable the witness to appear by any ordinary or usual method of transportation.

Each witness shall receive, from the requesting party, \$20 for the first day's attendance plus mileage at the rate established pursuant to SDCL 3-9-1 at the time of service. Mileage is limited to each mile necessarily traveled. The fact of such payment (or signed waiver by the witness) shall be stated in the return. If the fees and mileage are not paid or waived, the witness is not obligated to obey the subpoena. Further, at the commencement of each day after the first day, the witness may demand the fees for that day's attendance. If the fee is not paid, the witness is not required to remain.

Note: No fee is collected when the subpoena is issued on behalf of the State of South Dakota or its political subdivisions or an officer or agency thereof, SDCL 15-6-45(c). The county pays any court-appointed expert witness fee (vouchers are submitted to the county Auditor's Office), [SDCL 19-19-706](#); and

No person may receive witness fees if serving a period of incarceration in a state, county, or municipal facility at the time that person appears as a witness, SDCL 19-5-1.

Service of a subpoena on parties outside of South Dakota may, in order to compel compliance, require filing in the foreign state where the target of the subpoena is located, and require following the laws and procedure of that state.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<div>_____ Plaintiff</div> <div>vs</div> <div>_____ Defendant</div>	<div>FILE NO: _____</div> <div>CIVIL SUBPOENA REQUEST FORM</div>
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NAME OF PARTY REQUESTING SUBPOENA: _____

NAME AND ADDRESS OF PERSON TO SUBPOENA: _____

SUBPOENA FOR:

- ☐ **Testimony:** You seek to command the subpoenaed person to testify and give evidence as a witness on behalf of the Plaintiff / Defendant (circle one) in a civil case, and bring with you, at the time of hearing, the following documents (if applicable).

Dated: _____

**Pursuant to SDCL 16-2-29,
A \$2.00 fee is required.**

Signature

Printed Name

Address

Phone Number