

STATE OF MAINE

_____ COUNTY PROBATE COURT

DOCKET NO. _____

IN RE: _____

WITNESS SUBPOENA FOR:

- TRIAL DEPOSITION
 HEARING INSPECTION

TO: _____ of _____:

YOU ARE COMMANDED in the name of the State of Maine to appear for the purpose of testifying at the Probate Court located at _____ on _____, 20____, at _____ and to remain until discharged for the purpose of testifying.

YOU ARE COMMANDED in the name of the State of Maine to appear before _____ a _____, at the offices of _____ at _____, _____, Maine, on _____, _____, at _____ to testify and give evidence by deposition pursuant to the Maine Rules of Civil Procedure, an application having been filed for this deposition in this court.

YOU ARE COMMANDED to produce and permit inspection and copying of the following designated things or premises on _____, _____, at _____, at _____.

YOU ARE COMMANDED to permit inspection and copying of the following designated things or premises: _____

Time and place of inspection: _____

This subpoena is issued on behalf of _____ whose attorney is _____.

If you object to the subpoena, you must file a timely motion in court to quash or modify it. If you object to the inspection or copying of any of the materials or premises designated above, you must serve notice of that objection in writing upon the party or attorney, _____, before _____.

WARNING AND NOTICE.
FAILURE TO COMPLY WITH THIS SUBPOENA MAY SUBJECT YOU TO
ARREST AND BEING HELD IN CONTEMPT OF COURT.
SEE THE REVERSE SIDE OF THIS SUBPOENA FOR A STATEMENT OF YOUR RIGHTS AND
DUTIES PURSUANT TO THIS SUBPOENA AS SET OUT IN M.R.PROB.P. RULE 45 AS GOVENED BY
M.R.CIV.P. RULE 45(c) AND (d)

Date: _____

Register/Attorney

_____ COUNTY

On _____, I subpoenaed the above-named _____ by delivering a copy of this subpoena. (At the same time I tendered and paid to _____ the sum of \$ _____ as fees for travel and one days attendance).

Fees: Travel
Service
Copy
Witness Fee

Signature

Agency

Rule 45(c): Protection of Persons Subject to Subpoenas.

(1) A party or an attorney 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. The court for which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings, a reasonable attorney fee, and other reasonable expenses incurred in seeking the sanction.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents, or tangible things, or inspection of premises, need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing, or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena a written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of any justice or judge of the court for which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court for which a subpoena was issued shall quash or modify the subpoena if it (i) fails to allow a reasonable time for compliance; (ii) requires a resident of this state who is not a party or an officer of a party to travel to attend a deposition outside the county wherein that person resides or is employed or transacts business in person or a distance of more than 100 miles one way, whichever is greater, unless the court otherwise orders; requires a nonresident of the state who is not a party or an officer of a party to attend outside the county wherein that person is served with a subpoena, or farther than 100 miles from the place of service, unless some other convenient place is fixed by an order of court; (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or (iv) subjects a person to undue burden.

(B) If a subpoena (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles one way to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

Rule 45(d) Duties in Responding to a Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

MARP