

SUBPOENA AND
INSTRUCTIONS

IMPORTANT

**THIS PACKET IS IN NO WAY INTENDED TO SUBSTITUTE FOR THE
ADVICE OF A PRIVATE ATTORNEY**

Private Counsel Is Always Recommended For Legal Matters

The law allows any person to represent themselves in a legal action. However, filing an action with the court and representing yourself in the courtroom can be a complicated legal procedure and this packet does not attempt to address all the legal issues involved in bringing your matter before the court. This packet is created to help you access the legal system without the assistance of an attorney.

When representing yourself, you are responsible for understanding the law that governs your case and for filing the proper legal documents. The laws and rules are set out in the Nevada Revised Statutes, The Rules of Civil Procedure, and the local rules governing the jurisdiction in which you are filing your documents.

When you sign these documents and present them for filing with the court, it is assumed by the court that you have carefully read the documents, that you understand all the terms in the documents, that you agree with all the provisions in the documents, and that you are aware of all the consequences those provisions may produce.

Before filling in any portion of the following documents, read all the materials included in this packet regarding custody, visitation, child support and definitions of terms.

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SUBPOENA PACKET

The forms must be typewritten or legibly handwritten in black ink.

You may not file this document on your own behalf if an attorney is currently representing you. If you wish to represent yourself and you (a) presently have an attorney representing you in this case, or (b) the file shows that your previous attorney has not formally withdrawn from your case, you must file the required documents and follow the legal procedures that are necessary to have your attorney formally withdraw from your case and to substitute yourself in as representing yourself. .

The law allows any person to represent himself in a legal case. If you choose to represent yourself, you are responsible for understanding the law, using the proper format, filing the proper legal documents and properly serving the documents within the specified time frames as set out in the Rules of Civil Procedure.

There are facilities for copying your documents at the Court Clerk's office at the charge of **\$.25 per page**. Therefore, it is recommended that you make any copies of the documents you may want, or need, prior to going to the Court Clerk's office. You will need **two** copies of each document to be filed unless told otherwise.

Location of the Court Clerk's Office

The Court Clerk's Office for **Churchill County** is located at 73 N. Maine Street, Suite B, Fallon, NV, 89406, on the second floor. The phone number is (775) 423-6088.

If you are mailing the documents to the Court Clerk's office for filing, **it is strongly suggested that you provide a self-addressed, stamped envelope when you file your documents. A copy of the file-stamped documents will then be mailed to you.**

Getting a Witness to Attend the Trial

If you go to trial or a hearing before a judge, you may wish to have a witness attend the hearing to testify on your behalf or to bring information that is relevant to your case. There are two ways you can get a witness to attend your hearing or bring information that is important for your case to a hearing.

You may:

- Ask the witness to attend the hearing voluntarily and/or bring important information to Court; or
- Have a Subpoena issued and served on the witness ordering the witness to appear and testify.

Using a Subpoena

A Subpoena is used to secure a witness or obtain relevant information from someone other than the other party in the case when the witness will not voluntarily attend the hearing.

- A Subpoena is a written Court Order commanding a person to appear at a Court hearing. If the witness does not appear as ordered, he can be held in contempt for failing to obey the Order.
- A Subpoena *duces tecum* is an Order for a witness to appear and bring specified documents or records with them to a hearing or trial.

Please Note: Per Nevada Rule of Civil Procedure 45, you are required to pay fees for one day's attendance at a hearing plus mileage traveled to and from court to a witness who is subpoenaed. The fees and mileage must be paid *at the time the Subpoena is served on the witness*. However, if a witness attends a hearing voluntarily, you are not required to pay the fees or mileage.

INSTRUCTIONS FOR FILLING OUT AND SERVING A SUBPOENA

1. Filing Out the Heading

- a. Fill in the name of the Plaintiff just as it appears on all other documents filed with the Court in this case.
- b. Fill in the name of the Defendant just as it appears on all other documents filed with the Court in the case.
- c. Fill in the Case Number and Department Number as they appear on all other documents filed with the Court in this case.

2. Filing Out the Rest of the Subpoena

- a. Fill in the name of the witness who is required to appear at the hearing, either to testify or to bring documents or records.
 - i. Even if you are only requesting that certain documents be made available, you must fill in the name of the witness who is to bring the requested documents to court. If you request the production of certain official documents from a government agency, such as a police department, you should fill in "Custodian of Records" for the governmental agency that is involved.
- b. Fill in the following information regarding the hearing:
 - i. The Department Number in which the hearing is going to be held. The Department Number is usually the same Department Number that appears on all other documents filed with the Court in this case.
 - ii. The date and time for which the hearing is scheduled; and
 - iii. The name of the person on whose behalf the witness is to testify. If the witness is to bring specific documents or records to the hearing, the name of the requested documents should also be filled in.

- c. **DO NOT DATE OR SIGN THIS DOCUMENT.** Take the Subpoena to the filing Court Clerk's office which is located at 73 N. Maine Street Suite B on the 2nd floor Fallon, NV. The Clerk of the Court will complete the Subpoena and then the Clerk will issue the Subpoena by imprinting it with a raised seal and return it to you so you may serve it to the witness.

PLEASE NOTE: THE FILING OFFICE MUST COMPLETE AND ISSUE A SUBPOENA BEFORE A WITNESS CAN BE SERVED.

3. Serving the Subpoena

- a. Once the Clerk has issued the Subpoena, you should make a copy of the imprinted original and have the COPY of the Subpoena personally served on the witness. A Subpoena may be personally served by:
 - i. The Sheriff's Office
 - ii. A private process server; or
 - iii. A friend or relative over the age of 18 years of age.

PLEASE NOTE: The person who requested the issuance of the subpoena **MAY NOT** serve it on the witness.
- b. When the copy of the Subpoena is served, you are also required to pay to the witness the witness fees established by law for one day's attendance at the hearing, plus mileage traveled by the witness to and from court.
- c. After a copy of the Subpoena has been served on the witness, the person who served the copy of the Subpoena to the witness must complete the attached Proof of Service.
- d. Make a copy of the imprinted original Subpoena and a copy of the completed Proof of Service for your records. Then, staple the originals together and staple your set of copies together and take the two sets of documents to the filing office to be filed in. The filing office is located at 73 N. Maine Street, Suite B 2nd Floor, Fallon, NV.

If you need guidance in filling out the forms or in the procedure of the case, seek the advice of a private attorney.

NOTE: YOU MAY NOT USE THESE FORMS IF YOU ARE PRESENTLY REPRESENTED BY AN ATTORNEY IN THIS MATTER.

1 Case No.

2 Dept. No.

3
4 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
5 IN AND FOR THE COUNTY OF CHURCHILL

6
7 _____,

8 Plaintiff,

9 v.

SUBPOENA

10 _____,

11 Defendant.

12 _____/

13 THE STATE OF NEVADA SENDS GREETINGS TO:

14 _____
15 _____

16 WE COMMAND YOU, that all and singular business and excuses being laid aside, you appear
17 and attend before our TENTH JUDICIAL DISTRICT COURT of the STATE OF NEVADA, in
18 and for the COUNTY OF CHURCHILL, at a session of said COURT to be held at the Court
19 Room of said Court, in the City of Fallon, in said County of CHURCHILL, on the _____ day
20 of _____, 20__, at _____ o'clock ____m. them and there to testify in
21 the above entitled action now pending in said DISTRICT COURT on the part of the
_____ and for a failure to attend you will be deemed
GUILTY OF CONTEMPT OF COURT, and liable to pay all losses and damages sustained
thereby to the parties aggrieved, and forfeit one hundred dollars in addition thereto.

22 WITNESS, Honorable _____ JUDGE of the TENTH
23 JUDICIAL DISTRICT COURT, in and for the County of Churchill, and the SEAL of said Court,
24 this _____ day of _____, 20____.

25 ATTEST: My hand and seal of the said COURT the day and year last above-written.

26 SUE SEVON, Clerk of the Court

27 By: _____
28 Deputy Clerk

NEVADA RULES OF CIVIL PROCEDURE, RULE 45(c) AND 45(d)

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENA.

(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 on behalf of 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 and a reasonable attorney's fee.

(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 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 the court by 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 by which a subpoena was issued shall quash or modify the subpoena if it:
(i) fails to allow reasonable time for compliance;
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
(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, 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 be otherwise 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.

(d) DUTIES IN RESPONDING TO 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.

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PROOF OF SERVICE

STATE OF _____)
) ss.
COUNTY OF _____)

I, _____, being first duly sworn, deposes and says:
That affiant is a citizen of the United States, over 18 years of age, and that affiant received the
within Subpoena on the ____ day of _____, 20 ____, and personally
served a copy of the same upon _____
on the _____ day of _____, 20 ____.

DECLARATION

This document does not contain the Social Security Number of any person.

I declare, under penalty of perjury under the Law of the State of Nevada, that the foregoing is
true and correct.

Signature of Person Making Service

Date