

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 1525 Sherman Street, 4 th Floor Denver, Colorado 80203	
_____ , _____ , VS. _____ , _____ .	▲ COURT USE ONLY ▲
Attorney or Party Without Attorney Name and Address): First Name _____ Last Name: _____ MI: ____ Suffix ____ Company _____ Address _____ City _____ State ____ Zip _____ Phone #: _____ Email: _____ Fax #: _____ Attny Reg: _____	CASE NUMBER: _____
SUBPOENA TO ATTEND ATTEND and PRODUCE PRODUCE	

To: _____

You are ordered to:

Attend and give testimony at a deposition, hearing at the Office of Administrative Courts at _____ (address) on _____ (date) at _____ (time), as a witness for _____ (name of party) in this action. If for a deposition, the means of recording will be by shorthand reporter, video, audio.

OR

Attend, Produce, and give testimony at a deposition, hearing at the Office of Administrative Courts, at _____ (address), on _____ (date) at _____ (time), as a witness for _____ (name of party) in this action; If for a deposition, the means of recording will be by shorthand reporter, video, audio; and **PRODUCE** the following books, papers and documents, whether in physical or electronic form, or tangible things now in your possession, custody or control:

_____ Date and time of production: Unless otherwise agreed to in writing by all parties and privilege holder or holders and the person subpoenaed, production must be made no sooner than 14 days from the date of service of this subpoena and no later than _____ (date and time).

OR

Produce the following books, papers and documents, whether in physical or electronic form, or tangible things now in your possession, custody or control (attach a separate sheet if necessary):

Place of production:

Date and time of production: Unless otherwise agreed to in writing by all parties and privilege holder or holders and the person subpoenaed, production must be made no sooner than 14 days from the date of service of this subpoena and no later than _____.
(date and time)

Notice form:

If this subpoena is served for production of records or a tangible thing, see the attached important notice which sets out portions of Colorado Rule of Civil Procedure 45 concerning protections for subpoenaed persons and the requirements for production of records and tangible things.

Identity of parties:

The following are the names of the parties in this action and the names, addresses, phone numbers and e-mail addresses of the attorneys for the parties and of any parties who have entered appearances without an attorney:

Name:	Address	Phone number:	Email Address

The party and the party's attorney who are serving this subpoena:

Dated: _____

Attorney/Administrative Law Judge

AFFIDAVIT OF SERVICE

I declare under oath that, I am 18 years or older and not a party to the action and that I served the attached Subpoena on _____ (Person named in this Subpoena or name of agent served) in _____ (County) _____ (State) on _____ (date) at the following location:

Check one:

- By handing it to a person identified to me as _____ or by leaving it with the named person who refused service.
- I attempted to serve the person named in this subpoena on _____ occasions but have not been able to locate the named person.

Check one:

- Private process server
- Sheriff, _____ County

Fee \$ _____ Mileage \$ _____

Signature of Process Server

Name (Print or type)

My Commission Expires: _____

Notary Public /Deputy Clerk Date

WAIVER OF SERVICE

I hereby waive Personal Service and accept service of this subpoena by mail/fax. _____

Signature

Date _____

Phone Day: _____

Phone Evening: _____

NOTICE TO SUBPOENA RECIPIENTS
(when production of records or tangible things is sought)

Protecting a Person Subject to a Subpoena. (required by Colorado Rule of Civil Procedure 45(c))

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing Administrative Law Judge (“ALJ”) must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney’s fees, on a party or attorney who fails to comply.

(2) **Command to Produce Records or Tangible Things.**

(A) **Attendance Not Required.** A person commanded to produce records or tangible things need not attend in person at the place of production unless also commanded to attend for a deposition, hearing, or trial.

(B) **For Production of Privileged Records.**

(i) If a subpoena commands production of records from a person who provides services subject to one of the privileges established by C.R.S. § 13-90-107, or from the records custodian for that person, which records pertain to services performed by or at the direction of that person (“privileged records”), such a subpoena must be accompanied by an authorization signed by the privilege holder or holders or by an ALJ order authorizing production of such records.

(ii) Prior to the entry of an order for a subpoena to obtain the privileged records, the ALJ shall consider the rights of the privilege holder in such privileged records, including an appropriate means of notice to the privilege holder or holders or whether any objection to production may be resolved by redaction.

(ii) If a subpoena for privileged records does not include a signed authorization or ALJ order permitting the privileged records to be produced by means of subpoena, the subpoenaed person shall not appear to testify and shall not disclose any of the privileged records to the party who issued the subpoena.

(C) **Objections.** Any party or the person subpoenaed to produce records or tangible things may submit to the party issuing the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials. The objection must be submitted before the earlier of the time specified for compliance or 14 days after the subpoena is served. If objection is made, the party issuing the subpoena shall promptly serve a copy of the objection on all other parties. If an objection is made, the party issuing the subpoena is not entitled to inspect, copy test or sample the materials except pursuant to an order of the ALJ whom subpoena was issued. If an objection is made, at any time on notice to the subpoenaed person and the other parties, the party issuing the subpoena may move the issuing ALJ for an order compelling production.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On motion made promptly and in any event at or before the time specified in the subpoena for compliance, the issuing ALJ must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party’s officer to attend a deposition in any county other than where the person resides or is employed or transacts his business in person or at such other convenient place as is fixed by an order of ALJ;

- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing ALJ may, on motion made promptly and in any event at or before the time specified in the subpoena for compliance, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or
- (ii) disclosing an unretained expert's opinion or information that does not describe specific matters in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order attendance or production under specified conditions if the issuing party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

Duties in Responding to Subpoena. (required by Colorado Rule of Civil Procedure 45(d))

(1) Producing Records or Tangible Things.

(A) Unless agreed in writing by all parties, the privilege holder or holders and the person subpoenaed, production shall not be made until at least 14 days after service of the subpoena, accept that, in the case of an expedited hearing pursuant to these rules or any statute, in the absence of such agreement, production shall be made only at the place, date and time for compliance set forth in the subpoena; and

(B) If not objected to, a person responding to a subpoena to produce records or tangible things must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand and must permit inspection, copying, testing, or sampling of the materials.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* Unless the subpoena is subject to subsection (c)(2)(B) of this Rule relating to production of privileged records, a person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) make the claim expressly; and
- (ii) describe the nature of the withheld records or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.