

Foreign Subpoena / Subpoena Duces Tecum

Trial Court Out-of-State / Witness in Fairfax County

Uniform Interstate Deposition & Discovery Act - §8.01-412.8 through §8.01-412.15

(Applies to depositions, production of documents and inspection of premises requested by an out-of-state court which will be served on a person or entity in Virginia. This uniform act replaces the repealed Uniform Foreign Depositions Act §8.01-411 through §8.01-412.1.)

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. The privilege extended to persons in other states for discovery under this article shall only apply if the jurisdiction where the action is pending has extended a similar privilege to persons in the Commonwealth, by that jurisdiction's enactment of the Uniform Interstate Depositions and Discovery Act, a predecessor uniform act, or another comparable law or rule of court providing substantially similar mechanisms for use by out-of-state parties.

- A request for the issuance of a subpoena under this article does not constitute an appearance in the courts of the Commonwealth, and no civil action need be filed in the circuit court of the Commonwealth.
- The provisions of this article shall be in addition to other procedures authorized in the Code of Virginia and the rules of court for obtaining discovery.
- Witness under subpoena must be located in Fairfax County.
- Production and/or deposition must occur in the Commonwealth of Virginia.
- Must comply with §8.01-412.8 through §8.01-412.15 and Rule 4:9C of the Code of VA
- Local counsel not required.
- Commissions and Letters Rogatory are still valid. (See page 3)

NOTE: Witness subpoenas should give at least 10 days notice for appearance, and 15 days notice for production of documents. When setting the date for production, allow at least five (5) working days for preparation of the subpoena by the Clerk's office.

FEES

- Payment of fees. (See Fee Schedule)

<http://www.fairfaxcounty.gov/courts/circuit/pdf/CCR-A-20.pdf>

Methods of Payment:

- Fees may be paid by cash, certified check or money order, payable to:
Clerk of the Circuit Court
4110 Chain Bridge Road
Fairfax, Virginia 22030
Attention: Civil Intake

NOTE: No Personal Checks or Credit Cards Accepted

- The Court accepts check payment by members of the Virginia State Bar Association.
 - Check must provide counsel's Virginia State Bar Association number.

REQUIRED Documents

- Original plus one (1) copy of:
 - Foreign subpoena – issued under the authority of a court of record of a foreign jurisdiction (a state other than the Commonwealth of Virginia, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. This does not apply to foreign countries).
 - Virginia State Foreign Subpoena form # CC-1439 (completed by attorney) <http://www.fairfaxcounty.gov/courts/circuit/pdf/cc-1439-foreign-subpoena.pdf>
 - a written statement that the law of the foreign jurisdiction grants reciprocal privileges to citizens of the Commonwealth for taking discovery in the jurisdiction that issued the foreign subpoena. Statement does not have to be notarized.
- Praecipe or cover letter requesting the Clerk to issue a subpoena in accordance with the Uniform Interstate Deposition & Discovery Act, pursuant to §8.01-412.8 through §8.01-412.15 of the Code of Virginia.
- Indicate the type of service (sheriff or special process for pick-up); documents are mailed back for special process service only if self-addressed, stamped envelope is provided.

NOTE: If you are unable to meet any of the requirements of this court, it will be necessary to petition our court by opening a Civil Miscellaneous (CM) case, paying a filing fee (*See Current Fee Schedule*) and putting a Motion for hearing on the 9:00 a.m. With Judge - Friday Motions Docket.

REQUIRED Information for Foreign Subpoena / Duces Tecum

- Must incorporate the terms used in the foreign subpoena.
- Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and any party not represented by counsel.
- Name & address of the person to be deposed.
- Date & time of deposition.
- Address where deposition or production will take place in Virginia.
- Items to be produced as a result of subpoena.
- For medical records subpoena, a 'Notice to Provider' must be included pursuant to §32.1-127 1:03 of the Code of Virginia.
- A certificate of service or statement showing that the opposing party was mailed a copy of the request for subpoena duces tecum.
- Payment of filing fees and service fees. (See Fee Schedule)

<http://www.fairfaxcounty.gov/courts/circuit/pdf/CCR-A-20.pdf>

IF USING: Letter Rogatory or Commission

REQUIRED Documents

- Two (2) certified copies of:
 - Certified Commission or certified Letter Rogatory from the foreign jurisdiction, with:
 - a written statement that the law of the foreign jurisdiction grants reciprocal privileges to citizens of the Commonwealth for taking discovery in the jurisdiction that issued the foreign subpoena.
Statement does not have to be notarized.
- Original plus one (1) copy of:
 - Virginia State Foreign Subpoena form # CC-1439 (fully completed)
<http://www.fairfaxcounty.gov/courts/circuit/pdf/cc-1439-foreign-subpoena.pdf>
- Praecepte or cover letter requesting the Clerk to issue a subpoena in accordance with the Uniform Interstate Deposition & Discovery Act pursuant to §8.01-412.8 through §8.01-412.15 of the Code of Virginia.
- Indicate the type of service (sheriff or special process for pick-up); documents are mailed back for special process service only if self-addressed, stamped envelope is provided.

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