

RULE 147. SUBPOENAS ¹

(a) Attendance of Witnesses; Form; Issuance: Every subpoena shall be issued under the seal of the Court, shall state the name of the Court and the caption of the case, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified. A subpoena, including a subpoena for the production of documentary evidence or electronically stored information, signed and sealed but otherwise blank, shall be issued to a party requesting it, who shall fill it in before service. Subpoenas may be obtained at the Office of the Clerk in Washington, D.C., or from a trial clerk at a trial session. See Code sec. 7456(a).

(b) Production of Documentary Evidence and Electronically Stored Information: A subpoena may also command the person to whom it is directed to produce the books, papers, documents, electronically stored information, or tangible things designated therein, and may specify the form or forms in which electronically stored information is to be produced. The Court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive, or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, electronically stored information, or tangible things.

(c) Service: A subpoena may be served by a United States marshal, or by a deputy marshal, or by any other person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to such person the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the Commissioner, fees and mileage need not be tendered. See Rule 148 for fees and mileage payable. The person making service of a subpoena shall make the return thereon in accordance with the form appearing in the subpoena.

¹The amendments to paragraphs (a), (b), and (d) are effective as of January 1, 2010.

(d) Subpoena for Taking Depositions: (1) *Issuance and Response:* The order of the Court approving the taking of a deposition pursuant to Rule 81(b)(2), the executed stipulation pursuant to Rule 81(d), or the service of the notice of deposition pursuant to Rule 74(b)(2) or (c)(2), constitutes authorization for issuance of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents, electronically stored information, or tangible things, which come within the scope of the order or stipulation pursuant to which the deposition is taken. Within 15 days after service of the subpoena or such earlier time designated therein for compliance, the person to whom the subpoena is directed may serve upon the party on whose behalf the subpoena has been issued written objections to compliance with the subpoena in any or all respects. Such objections should not include objections made, or which might have been made, to the application to take the deposition pursuant to Rule 81(b)(2) or to the notice of deposition under Rule 74(b)(2) or (c)(2). If an objection is made, the party serving the subpoena shall not be entitled to compliance therewith to the extent of such objection, except as the Court may order otherwise upon application to it. Such application for an order may be made, with notice to the other party and to any other objecting persons, at any time before or during the taking of the deposition, subject to the time requirements of Rule 70(a)(2) or 81(b)(2). As to availability of protective orders, see Rule 103; and, as to enforcement of such subpoenas, see Rule 104.

(2) *Place of Examination:* The place designated in the subpoena for examination of the deponent shall be the place specified in the notice of deposition served pursuant to Rule 74(b)(2) or (c)(2), in a motion to take deposition under Rule 74(c)(3) or (4), in the order of the Court referred to in Rule 81(b)(2), or in the executed stipulation referred to in Rule 81(d). With respect to a deposition to be taken in a foreign country, see Rules 74(e)(2), 81(e)(2), and 84(a).

(e) Contempt: Failure by any person without adequate excuse to obey a subpoena served upon any such person may be deemed a contempt of the Court.