

STATE OF VERMONT

SUPERIOR COURT

DIVISION

Unit

Case No.: \_\_\_\_\_

Case Name (example: Plaintiff name v Defendant name, or In re name)

CIVIL SUBPOENA

Vermont Rule of Civil Procedure 45

Type of Case: (Check One):

- Civil, Environmental, Small Claims, Probate, Family - Domestic Relations, Family - Juvenile

TO: Name: \_\_\_\_\_

Address: \_\_\_\_\_

You are directed to (choose all that apply):

- Appear on (date) at (time) to attend and give testimony at a (choose one): Trial, Hearing, Deposition. At the Superior Court: Civil, Environmental, Family, Probate Divisions.

Address: \_\_\_\_\_

At this place: \_\_\_\_\_

Address: \_\_\_\_\_

Permit inspection of the following premises:

Address: \_\_\_\_\_

Produce and permit inspection, copying, testing or other sampling of designated electronically stored information, books, papers, documents or tangible things in your possession, custody or control (describe):

\_\_\_\_\_

Other (describe):

\_\_\_\_\_

Date: \_\_\_\_\_

Name of Court Clerk / Attorney / Magistrate

Signature

**To the person served with the subpoena**

1. This subpoena was requested by:

Plaintiff    Defendant    State’s Attorney    Other: \_\_\_\_\_

2. If you have questions about this subpoena, contact:

\_\_\_\_\_ (person requesting subpoena)  
at \_\_\_\_\_ (phone number).

3. If the subpoena directs you to attend a hearing or trial, you must be paid a ‘witness fee’ and mileage reimbursement when the subpoena is served on you.

4. If you are directed to attend a hearing or trial, bring a copy of this subpoena with you.

5. See the last pages of this subpoena for information about your rights and responsibilities. The Subpoenas in Civil Cases web page on the Vermont Judiciary website has additional information:  
[www.vermontjudiciary.org/civil/subpoenas-civil-cases](http://www.vermontjudiciary.org/civil/subpoenas-civil-cases).

**RETURN OF SERVICE**

The subpoena may be served by anyone who is **not a party to the case** and who is **over 18**.

The person serving the subpoena must complete this section.

1. My name is: \_\_\_\_\_

2. I served this subpoena on \_\_\_\_\_ (name)  
on \_\_\_\_\_ (date).

3. I served the subpoena by (describe method):

\_\_\_\_\_

4. I served the subpoena at this address:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Signature

If served by sheriff or constable:

Mileage ( \_\_\_\_\_ miles at \_\_\_\_\_ per mile)    \$ \_\_\_\_\_

Reading    \$ \_\_\_\_\_

Copies    \$ \_\_\_\_\_

**Total sheriff or constable service cost    \$ \_\_\_\_\_**

## Information for the Person Served with the Subpoena

### Vermont Rule of Civil Procedure 45. Subpoena

#### (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 and a reasonable attorney's fee.

**(2) (A)** A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, 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, copying, testing, or sampling 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 producing any or all of the designated materials or inspection of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to the requested production or to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order 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, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling 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 reasonable time for compliance;

**(ii)** requires a resident of this state to travel to attend a deposition more than 50 miles one way unless the court otherwise orders; requires a nonresident of this state to travel to attend a deposition at a place more than 50 miles from the place of service unless another convenient place is fixed by order of court, 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, or

**(iii)** requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 50 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 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)** 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.

**(B)** If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

**(C)** A person responding to a subpoena need not produce the same electronically stored information in more than one form.

**(D)** A person responding to a subpoena need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(1). The court may specify conditions for the discovery.

**(2) (A)** 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.

**(B)** If information is produced in response to a subpoena that 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 and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

VRCP 45 last updated December 10, 2019, effective March 2, 2020.