

OUT OF STATE SUBPOENA PROCEDURE

State Court Cases Venued Outside of Wisconsin

Follow the instructions below to have a Wisconsin resident subpoenaed.

References below to “circuit court judge” refer to the Chief Judge in Milwaukee County, or any circuit Court judge in the state of Wisconsin, most preferably one within the county in which the witness to be subpoenaed resides.

1. Commission

A commission must be issued by the out-of-state court of jurisdiction to the circuit court judge or Chief Judge (Milwaukee County). Typically, the attorney taking the deposition petitions his or her court or judge to issue a commission to our judge in the county of the witness’s residence thereby empowering him or her to issue a subpoena for the witness’s appearance. The document should state the parties, who they are, and that the witness is necessary for the case to proceed.

2. Petition for Issuance of Subpoena

This is a request for the circuit court judge or Chief Judge to issue a subpoena, authorized by the above commission. The petition should contain reference to your state’s statutes regarding deposition testimony reciprocal with Wisconsin Statutes 887.24, 887.25 and 887.26. An attachment of your state statute is required.

3. Order for Issuance of Subpoena

This is the document prepared by the petitioning attorney and presented to the circuit court judge or Chief Judge for his or her signature, thereby ordering the issuance of the subpoena. Any additional request for production of records or duces tecum is to be included in the **subpoena** itself, not this document.

4. Subpoena

[s. 885.02(1)] This is the actual subpoena, signed by the person requesting the deposition (usually the petitioning attorney), which is then presented to the process server for service on the witness. This document may contain requests for records production or duces tecum [s 885.02(2)]. Use Wisconsin Circuit Court Form GF-126.

5. Submit Subpoena

Send all four documents (original plus two copies) to the circuit court judge's office. Please include a self-addressed, stamped envelope for return of the signed copies.

Milwaukee County

Arrange for local counsel or a process server to deliver all four of the above documents (original plus two copies) along with a check made payable to the Milwaukee County Clerk of Courts in the amount of *\$158.50 to room 104 at the Milwaukee County Courthouse. At that point, a case file will be opened in Milwaukee County. Counsel or process server will next be directed to the Chief Judge's office, with the Circuit Court file, for the required signatures.

6. Arrange Witness Payment

After accomplishing the above steps, make out a check payable to the witness for \$5.00 [regular depo, s. 814.67(1)(a)1] or \$16.00 [video/evidentiary depo or court appearance, s. 814.67(1)(am)] plus .20/mile [s. 814.67(1)(c)] for the round trip for the witness to the deposition site or circuit court.

Fees

Milwaukee County has a case filing fee of \$158.50. Outlying counties may have lesser or no fees. Check rates in the county where the witness resides.