

United States Department of Labor
OFFICE OF ADMINISTRATIVE LAW JUDGES

In re

SUBPOENA

Plaintiff/Complainant/Claimant
V.

To be used only in Case No.:

Defendant/Respondent/Employer/Carrier

TO:

YOU ARE DIRECTED to appear at the place, date, and time specified below to testify in the above proceeding.

PLACE OF TESTIMONY

DATE AND TIME

YOU ARE DIRECTED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above proceeding.

PLACE OF DEPOSITION

DATE AND TIME

YOU ARE DIRECTED to produce and permit inspection and copying of the following documents or objects at the place, date and time specified below (list documents or objects):

DOCUMENTS OR OBJECTS TO BE PRODUCED

DATE AND TIME

PLACE

YOU ARE DIRECTED to permit inspection of the following premises at the date and time specified below.

PREMISES TO BE INSPECTED

DATE AND TIME

This subpoena is issued upon the application of (indicate if attorney/representative for party):

PERSON REQUESTING SUBPOENA

ADDRESS AND TELEPHONE NUMBER

IN WITNESS WHEREOF the undersigned Administrative Law Judge has hereunto set his/her hand and caused the seal of the United States Department of Labor to be affixed.

SIGNATURE OF ADMINISTRATIVE LAW JUDGE

DATE

PROOF OF SERVICE

I certify that this subpoena was served as follows:

_____ PERSON SERVED (PRINT NAME)	_____ DATE OF SERVICE
_____ SERVER (PRINT NAME)	_____ PLACE OF SERVICE
_____ TITLE OF SERVER (PRINT)	_____ MANNER OF SERVICE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

_____ SIGNATURE OF SERVER	_____ DATE	_____ ADDRESS OF SERVER
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TITLE 29--LABOR
SUBTITLE A--OFFICE OF THE SECRETARY OF LABOR
PART 18--RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE
HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

§ 18.24 Subpoenas.

(a) Except as provided in paragraph (b) of this section, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may issue subpoenas as authorized by statute or law upon written application of a party requiring attendance of witnesses and production of relevant papers, books, documents, or tangible things in their possession and under their control. A subpoena may be served by certified mail or by any person who is not less than 18 years of age. A witness, other than a witness for the Federal Government, may not be required to attend a deposition or hearing unless the mileage and witness fee applicable to witnesses in courts of the United States for each date of attendance is paid in advance of the date of the proceeding.

(b) If a party's written application for subpoena is submitted three (3) working days or less before the hearing to which it relates, a subpoena shall issue at the discretion of the Chief Administrative Law Judge or presiding administrative law judge, as appropriate.

(c) *Motion to quash or limit subpoena.* Within ten (10) days of receipt of a subpoena but no later than the date of the hearing, the person against whom it is directed may file a motion to quash or limit the subpoena, setting forth the reasons why the subpoena should be withdrawn or why it should be limited in scope. Any such motion shall be answered within ten (10) days of service, and shall be ruled on immediately thereafter. The order shall specify the date, if any, for compliance with the specifications of the subpoena.

(d) *Failure to comply.* Upon the failure of any person to comply with an order to testify or a subpoena, the party adversely affected by such failure to comply may, where authorized by statute or by law, apply to the appropriate district court for enforcement of the order or subpoena.

See also 5 U.S.C. § 555(d); 29 C.F.R. § 18.29(b) (enforcement of subpoena in Federal District Court).

Notice: To be valid, this subpoena must bear a raised United States Department of Labor Seal, and the signature of the Chief Administrative Law Judge, an Associate or District Chief Administrative Law Judge, or the presiding administrative law judge. This subpoena is valid only in proceedings before the Department of Labor Office of Administrative Law Judges or Office of Workers' Compensation Programs. See *Maine v. Brady-Hamilton Stevedore Co.*, 18 BRBS 129 (1986) (*en banc*).

Notice to entities covered by the regulations implementing the Health Insurance Portability and Accountability Act of 1996, in regard to the Privacy of Individually Identifiable Health Information. If this subpoena does not bear a raised USDOL seal and the signature of a DOL administrative law judge, it is not valid under 45 CFR §§164.512(e), 164.512(f) or 164.512(l).

Fed.R.Civ.P. 30(b)(6): Any subpoenaed organization not a party to this adversary proceeding shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Fed.R.Civ.P. 30(b)(6) made applicable by 29 C.F.R. § 18.1(a).

Protection of Persons Subject to Subpoenas: 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. A party or attorney who breaches this duty may be subject to an appropriate sanction. See, e.g., 29 C.F.R. §§ 18.6(d)(2), 18.29, 18.34, 18.36. See also Fed.R.Civ.P. 45(c)(1).

Prior Notice of Use of Subpoena in Discovery: Notice must be given pursuant to 29 C.F.R. § 18.22(c) when using a subpoena to direct appearance at a deposition. In addition, a party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. Fed.R.Civ.P. 30(b)(1), as made applicable by 29 C.F.R. § 18.1(a). Similarly, use of a subpoena on a third party to command production of documents and things or inspection of premises before the hearing requires prior notice to all parties prior to service of the subpoena on the nonparty. Fed.R.Civ.P. 45(b)(1), as made applicable by 29 C.F.R. § 18.1(a). See *McCurdy v. Wedgewood Capital Management Co., Inc.*, No. Civ.A. 97-4304, 1998 WL 964185, *6 (E.D. Pa Nov. 16, 1998).