

UNIFORM FOREIGN DEPOSITIONS LAW

Provide the following to the Brevard County Clerk of Court:

1. One (1) certified copy of either the Notice to Taking Deposition or the Notice of Production From Non-Party as is required under Florida law.
 - a. If the subpoena is for records pick-up only, a certified copy of the Certificate of No Objection must also be filed.
2. Original and one (1) copy of the proposed Subpoena to be issued by the Clerk.
3. A \$2.00 fee for signing and sealing the Subpoena.

The Clerk will assign a case number (assigned for tracking purposes only) and issue the Subpoena. The Clerk will forward the Subpoena to the Sheriff if a separate check for \$40.00 is included.

Applicable Florida Statutes

92.142(1) Witnesses; pay

(1) Witnesses in all cases, civil and criminal, in all courts, now or hereafter created, and witnesses summoned before any arbitrator or general or special magistrate appointed by the court shall receive for each day's actual attendance \$5 and also 6 cents per mile for actual distance traveled to and from the courts. A witness in a criminal case required to appear in a county other than the county of his or her residence and residing more than 50 miles from the location of the trial shall be entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061, in lieu of any other witness fee.

92.251 Uniform Foreign Depositions Law

(1) This section may be cited as the "Uniform Depositions Law".

(2) Whenever any mandate, writ or commission is issued out of any court of record in any other state, territory, district, or foreign jurisdiction, or whenever upon notice or agreement it is required to take the testimony of a witness or witnesses in this state, witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this state.

(3) This section shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

Applicable Florida Rules of Procedure

Rule 1.310 Depositions Upon Oral Examination

(b)(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party in the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced under the subpoena shall be attached to or included in the notice.

Rule 1.351 Production of Documents and Things Without Deposition

(a) A party may seek inspection and copying of any documents or things within the scope of rule 1.350(a) from a person who is not a party by issuance of a subpoena directing the production of

the documents or things when the requesting party does not seek to depose the custodian or other person in possession of the documents or things.

(b) A party desiring production under this rule shall serve notice on every other party of the intent to serve a subpoena under this rule at least 10 days before the subpoena is issued if service is by delivery and 15 days before the subpoena is issued if the service is by mail. The proposed subpoena shall be attached to the notice and shall state the time, place, and method for production of the documents or things, and the name and address of the person who is to produce the documents or things, if known, and if not known, a general description sufficient to identify the person or the particular class or group to which the person belongs; shall include a designation of the items to be produced; and shall state that the person who will be asked to produce the documents or things has the right to object to the production under this rule and that the person will not be required to surrender the documents or things. A copy of the notice and proposed subpoena shall not be furnished to the person upon whom the subpoena is to be served. If any party serves and objection to production under this rule within 10 days of service of the notice, the documents or things shall not be produced pending resolution of the objection in accordance with subdivision (d).

(c) If not objection is made by a party under subdivision (b), an attorney or record in the action may issue a subpoena or the party desiring production shall deliver to the clerk for issuance a subpoena together with a certificate of counsel or pro se party that no timely objection has been received from any party, and the clerk shall issue the subpoena and deliver it to the party desiring production. The subpoena shall be identical to the copy attached to the notice and shall specify that no testimony may be taken and shall require only production of the documents or things specified in it. The subpoena may give the recipient an option to deliver to mail legible copies of the documents or things to the party serving the subpoena. The person upon whom the subpoena is served may condition to preparation of copies on the payment in advance of the reasonable costs of preparing the copies. The subpoena shall require production only in the county of the residence of the custodian or other person in possession of the documents or things or in the county where the documents or things are located or where the custody or person in possession usually conducts business. If the person upon whom the subpoena is served objects at any time before the production of the documents or things, the documents or things shall not be produced under this rule, and relief may be obtained pursuant to rule 1.310.