

## ***Out of State/Foreign Subpoena***

A Wisconsin clerk of circuit court may issue a subpoena for an out-of-state litigant who has submitted a properly issued foreign subpoena and a proposed Wisconsin subpoena to the clerk in the county in which the discovery is sought. Litigants seeking this type of subpoena may submit the necessary documents to the appropriate Clerk of Court under the following statutory process. If the process is not allowed for electronically, the requestor is to also provide a self-addressed postage paid mailer for return documents.

### **887.24 Depositions and discovery; for use in other states.**

#### **(3) REQUEST FOR ISSUANCE OF SUBPOENA.**

**(a) *Submission of foreign subpoena to clerk.*** To request issuance of a subpoena under this section by a clerk of circuit court, a party must submit the foreign subpoena to the clerk for the county in which discovery is sought to be conducted in this state, accompanied by the appropriate Wisconsin subpoena form which shall do all of the following:

1. List the Wisconsin county in which discovery is to be conducted as the court from which the subpoena is issued. Discovery is to be conducted in the county in which the person to whom the subpoena is directed resides. If the person is not a natural person, discovery is to be conducted in a county in which the person does substantial business. The subpoena shall list the address, including county of residence, for the witness.

2. Use the title of the action and its docket number from the foreign jurisdiction.

3. Incorporate the terms used in the foreign subpoena and include a copy of the foreign subpoena as an attachment.

4. Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

5. Advise the person to whom the subpoena is directed as follows: "You have a right to petition the Wisconsin circuit court for a protective order to quash or modify the subpoena or provide other relief under s. [805.07 \(3\)](#)."

**(b) *Duties of clerk of court.*** When a party submits a foreign subpoena to a clerk of circuit court in this state in compliance with par. [\(a\)](#), the clerk shall promptly sign and issue the Wisconsin subpoena for service upon the person to which the foreign subpoena is directed.

**(c) *Issuance by an attorney.*** Alternatively, a party may retain an attorney who is licensed or otherwise authorized to practice law in Wisconsin to sign and issue the Wisconsin subpoena as an officer of the court pursuant to s. [805.07](#). The subpoena must comply with par. [\(a\) 1.](#) to [5.](#)

**(4) SERVICE AND ENFORCEMENT OF SUBPOENA.** A subpoena issued under sub. [\(3\)](#) must be served and enforced in compliance with ch. [885](#). In issuing the subpoena, the clerk of circuit court may not collect a fee and should not create a

case file, but the clerk may keep a record of the subpoenas issued. The individual responsible for service shall deliver a certificate of service or affidavit to the party that requested the subpoena. The party must retain the certificate of service or affidavit and furnish a copy to any party or to the deponent upon request.

**(5) DEPOSITION, PRODUCTION, AND INSPECTION.** When a subpoena issued under this section commands a person to attend and give testimony at a deposition; produce designated books, documents, records, electronically stored information, or tangible items; or permit inspection of premises, the time and place and the manner of the taking of the deposition, the production, or the inspection must comply with Wisconsin's rules and statutes relating to discovery, including ch. [804](#).

**(6) APPLICATION TO COURT.**




**(a) *Special proceedings.*** An application to the circuit court for a protective order or to enforce, quash, or modify a subpoena issued under this section will commence a special proceeding. Applications and all other filings in the special proceeding must comply with the applicable rules or statutes of this state, including service under s. [801.14 \(2\)](#), and must be filed with the circuit court in the county in which discovery is to be conducted. Applications to enforce a subpoena must include proof of service of the subpoena.

**(b) *Fees; assignment of case number.***

1. On filing an application under this section, a petitioner shall pay a fee as specified in ch. [814](#).
2. The circuit court in which the application is filed shall assign it a case number.

**(c) *Reasonable attorney fees and expenses.*** The court in its discretion may award any prevailing party its reasonable attorney fees and expenses.

**(d) *Appeals.*** A final order granting, denying, or otherwise resolving an application under this subsection is a final order for purposes of filing an appeal in accordance with s. [808.03 \(1\)](#).

GF-127A	<p><b>Foreign Subpoena</b> To provide a means by which a party to an action can cause a person to appear in a court proceeding and be able to give testimony. Also provides means to require that person bring specified documents to court.</p>	05/19/16	<input type="checkbox"/> <a href="#">Form English</a>  <input type="checkbox"/> <a href="#">Form English</a>  <input type="checkbox"/> <a href="#">Summary English</a> 
---------	--	----------	--