

Drafting and Issuing Discovery Subpoenas: Arkansas

by Andrew King, Frederick H. Davis, and McKenzie L. Raub, Kutak Rock LLP, with Practical Law Litigation

Status: **Law stated as of 21 Oct 2025** | Jurisdiction: **Arkansas, United States**

This document is published by Practical Law and can be found at: content.next.westlaw.com/w-000-2677
Request a free trial and demonstration at: tr.com/practicallaw-home

A Q&A guide to drafting, issuing, serving, and enforcing a discovery subpoena in an Arkansas civil proceeding. This Q&A addresses the state statutes and rules governing discovery subpoenas, the types of discovery subpoenas available, the requirements for drafting and serving a discovery subpoena, and the methods of enforcing a discovery subpoena. Answers to questions can be compared across a number of jurisdictions (see Drafting and Issuing Discovery Subpoenas: State Q&A Tool).

Overview of Discovery Subpoenas

1. What are the laws or rules in your jurisdiction that generally govern subpoenas to non-party witnesses in discovery?

The Arkansas Rules of Civil Procedure govern the drafting and issuing of subpoenas. The provisions of the Arkansas Rules of Civil Procedure relating to subpoenas are:

- Rule 45, which addresses subpoenas generally (Ark. R. Civ. P. 45).
- Rule 45.1, which addresses out-of-state discovery subpoenas (Ark. R. Civ. P. 45.1).
- Rule 30, which addresses subpoenas as they apply to depositions (Ark. R. Civ. P. 30).

2. Please identify and describe the different types of discovery subpoenas available in your jurisdiction (for example, document subpoenas, subpoenas for deposition only, or combined deposition and document subpoenas).

Deposition Subpoena

In Arkansas, a deposition subpoena commands the recipient to appear for an oral examination (Ark. R. Civ. P. 45(e)).

Document Subpoena

A document subpoena commands the recipient to produce:

- Books.
- Papers.
- Documents.
- Other tangible things.

(Ark. R. Civ. P. 45(b)(1).)

A document subpoena may be:

- Joined with a subpoena for a trial, hearing, or deposition.
- Served on its own.

(Ark. R. Civ. P. 45(b)(1).)

3. Who has the authority to issue a discovery subpoena?

Drafting and Issuing Discovery Subpoenas: Arkansas

In Arkansas, a subpoena may be issued by either:

- An attorney of record admitted to practice in Arkansas on behalf of any party.
- The court clerk.

(Ark. R. Civ. P. 45(a).)

4. Are there any situations when a discovery subpoena must be issued from a court?

The court's leave is not required to issue a subpoena in Arkansas, other than:

- The court clerk's issuance of a document or deposition subpoena for proceedings pending outside the state (Ark. R. Civ. P. 45.1(c)).
- A deposition subpoena for deponents confined in prison (Ark. R. Civ. P. 30(a)).

Drafting a Discovery Subpoena

5. What information must be included in each type of discovery subpoena?

In Arkansas, all discovery subpoenas must include:

- The name of the court.
- The title of the action.
- A notice informing the witness of their rights under Ark. R. Civ. P. 45. The official Notice to Persons Subject to Subpoenas is set out in the Addition to Reporter's Notes, 2010 Amendment to Rule 45 of the Arkansas Rules of Civil Procedure, as well as in the official subpoena form on the [Arkansas courts' website](#).

(Ark. R. Civ. P. 45(a).)

Deposition Subpoena

A deposition subpoena must state:

- The name of the court.
- The title of the action.
- The date, time, and place for the deposition.
- If the witness is an entity, a statement of the matters on which examination is requested and advisement that the entity:

- must designate one or more officers, directors, managing agents, or other persons who consent to testify on the entity's behalf; and
- may set forth, for each person designated, the matters on which the person will testify.

(Ark. R. Civ. P. 30(a), (b)(6) and 45(a).)

Document Subpoena

If the subpoena commands the production of documents, the subpoena must:

- State the name of the court and the title of the action.
- Designate the books, papers, documents, or things to be produced.
- Be served on all other parties at least three business days before the subpoena is served on the person to whom it is directed.
- State the deadline for production of documents.

(Ark. R. Civ. P. 45(a), (b).)

While these are the general requirements for a civil subpoena, it is always advisable to use the official form (see Question 6).

6. Are there any official forms for any of the different types of discovery subpoenas?

Ark. R. Civ. P. 45 contains an official subpoena form in the Reporter's Notes (Addition to Reporter's Notes, 2010 Amendment, Ark. R. Civ. P. 45). The [subpoena form](#) is also available online from the Arkansas Judiciary [website](#).

While use of the official form is not mandatory, failing to include all the information required by the form may subject the subpoena to challenge.

A party may include additional information that is not inconsistent with Rule 45 or the official form (for example, the issuing attorney's contact information), but a party may not modify the form in ways that distort or omit the controlling law. For example, omitting the notice advising the subpoenaed person of that person's rights under Rule 45, located at the end of the official form, is impermissible. (Addition to Reporter's Notes Regarding Subpoena Form, January 2002, Ark. R. Civ. P. 45.)

Serving a Discovery Subpoena

7. Who may serve a discovery subpoena?

In Arkansas, subpoenas may be served by:

- The sheriff or sheriff's deputy for the county where it is to be served.
- Any person who is:
 - not a party to the action; and
 - at least 18 years of age.

(Ark. R. Civ. P. 45(c).)

A subpoena for deposition may also be served by an attorney of record for a party by any form of mail addressed to the person to be served:

- Return receipt requested.
- Delivery restricted to the addressee or their agent.

(Ark. R. Civ. P. 45(c).)

8. Are there any restrictions on who may be served with a discovery subpoena?

Prisoners

While any person may be served with a subpoena, in Arkansas, a person in prison may only be deposed by leave of the court in a manner the court prescribes (Ark. R. Civ. P. 30(a)).

Minors

If the party to be served is less than 18 years old and has not been emancipated by court order, the subpoena must be served on:

- A parent or guardian located in the state of Arkansas.
- If no parent or guardian is in Arkansas, any person at least 18 years of age:
 - who has care and control of the minor; or
 - with whom the minor resides.

(Ark. R. Civ. P. 4(f)(2).)

9. How is a discovery subpoena served on a non-party witness?

Deposition Subpoena

In Arkansas, a subpoena for deposition may be served by either:

- Delivering a copy of the subpoena to the person named in the subpoena.
- An attorney of record for a party, by any form of mail addressed to the person to be served with:
 - return receipt requested; and
 - delivery restricted to the addressee or their agent.

(Ark. R. Civ. P. 45(c).)

For more information on who may serve subpoenas, see Question 7.

Document Subpoena

A document subpoena may be served by:

- Delivering a copy of the subpoena to the person named in the subpoena.
- An attorney of record for a party, by any form of mail addressed to the person to be served with:
 - return receipt requested; and
 - delivery restricted to the addressee or their agent.

(Ark. R. Civ. P. 45(c).)

Service on a Corporation, Partnership, Limited Liability Company, or Unincorporated Association

A corporation, partnership, limited liability company, or unincorporated association may be served in the same manner noted above, either by personal service or mail.

A subpoena served on a corporation, partnership, association, or governmental agency should describe with "reasonable particularity" the matter on which examination is sought. The named organization must then designate a person to testify at the deposition. When a non-party organization is served with a subpoena for a deposition, it must designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf, and it may set forth, for each person designated, the matters on which the person will testify. (Ark. R. Civ. P. 30(b)(6).)

10. How far in advance must the issuing party serve a discovery subpoena on a non-party witness before the compliance date stated in the subpoena (for example, a specific number of days before the compliance date or a reasonable time before the compliance date)?

Deposition Subpoena

In Arkansas, a deposition subpoena must be properly served at least five business days before the date of the deposition unless the court grants the issuing party leave to serve the subpoena less than five business days before the deposition (Ark. R. Civ. P. 45(e)).

Document Subpoena

Arkansas law does not specify how far in advance the issuing party must serve a document subpoena on a non-party witness. However, if the issuing party does not allow the witness a reasonable time to gather documents and respond, the witness may file a motion to quash or modify the subpoena (Ark. R. Civ. P. 45(b)(2)).

11. When and how must the issuing party notify other parties in the case that a discovery subpoena will be or has been served on a non-party witness? If no notice of that kind is required, please state that in your answer.

Deposition Subpoena

In Arkansas, a party seeking the deposition of any person must give reasonable written notice to all other parties. The notice must include:

- The time and place of the deposition.
- The name and address of each person to be examined, if known.
- A general written description sufficient to identify the person to be deposed or the particular group or class to which they belong, if their name and address are not known.

If the subpoena includes a request for documents, a designation of the materials sought must be attached

to or included in the notice of deposition. (Ark. R. Civ. P. 30(b)(1).)

Document Subpoena

If a document subpoena does not require a non-party witness's appearance, the issuing party must:

- Serve all other parties notice of the deposition at least three business days before the subpoena is served on the person to be deposed.
- Promptly provide all other parties with a copy of all the material produced in response to the subpoena.

(Ark. R. Civ. P. 45(b)(1).)

When and How Notice Is Served

If service is made by:

- Mail, service is presumptively complete on mailing.
- Commercial delivery company, service is presumptively complete on depositing the papers with the company but is not valid unless the company:
 - maintains permanent records of actual delivery; and
 - has been approved by the circuit court where the action is filed or in the county where service is to be made.
- Email, service is complete on transmission but is not effective if it does not reach the person to be served.

(Ark. R. Civ. P. 5(b)(2).)

A party may serve the notice on an attorney by:

- Handing it to the attorney.
- Leaving a copy at their office, with the clerk or person in charge.
- If the office is closed or the attorney does not have an office, by leaving a copy at their dwelling or usual place of abode with a person who:
 - resides there; and
 - is at least 14 years old.

(Ark. R. Civ. P. 5(b)(2).)

Notice of a document subpoena that does not require an appearance by the non-party witness must be

served on all other parties by any of the following methods:

- Email.
- Facsimile.
- Hand delivery.

(Ark. R. Civ. P. 45(b)(1).)

12. Are there any territorial limits for service of a discovery subpoena? If so, please describe:

- Any limits on service within the state.
- Any limits on service outside the state.
- The procedure for obtaining discovery from a non-party witness located outside of the issuing court's jurisdiction.

In-State Limits on Service

In Arkansas, a deposition subpoena may compel appearance:

- Within 100 miles of the witness's:
 - residence;
 - workplace; or
 - place of business.
- Another convenient location ordered by the court.

(Ark. R. Civ. P. 45(e).)

Out-of-State Limits on Service

Ark. R. Civ. P. 45(e) governs service of subpoenas throughout the state of Arkansas but does not regulate the enforcement of subpoenas outside the state.

Whether another state will honor an Arkansas subpoena depends on the reciprocity between the two states and the other state's law (Reporter's Notes to Rule 45, Ark. R. Civ. P. 45(e)).

Obtaining Discovery Located Outside Issuing Court's Jurisdiction

Arkansas courts have no power to compel out-of-state witnesses to comply with civil subpoenas

issued in Arkansas (*Thomas v. Pacheoco*, 740 S.W.2d 123, 126 (Ark. 1987)). Attorneys should check the rules of the state where the witness is located.

Arkansas has adopted the Uniform Interstate Discovery and Depositions Act (UIDDA) under Ark. R. Civ. P. 45.1. If the state in which discovery is sought has also adopted the UIDDA, the party must submit an Arkansas subpoena to the clerk of the county in which discovery is sought. The clerk then issues a subpoena for service on the applicable subpoena recipient. (Ark. R. Civ. P. 45.1(c).) For a list of states participating in the UIDDA, see [Interstate Discovery Chart](#).

The subpoena must include:

- The name of the court.
- The title of the action.
- Either:
 - the date, time, and place for the deposition; or
 - the deadline for production of documents.
- A designation of the books, papers, documents, or things to be produced, if applicable.
- The names, addresses, and telephone numbers of:
 - all counsel of record; and
 - any party not represented by counsel.

(Ark. R. Civ. P. 30(a) and (b)(6), 45(a) and (b), and 45.1(c).)

A properly issued foreign subpoena may be served by either:

- Delivering a copy of the subpoena to the person named in the subpoena.
- Any form of mail, addressed to the person to be served, with:
 - return receipt requested; and
 - delivery restricted to the addressee or their agent.

(Ark. R. Civ. P. 45(c).)

The subpoena must follow the time periods for compliance set out in Ark. R. Civ. P. 45 (Ark. R. Civ. P. 45.1(c)).

Witness Fees

13. What are the applicable witness fees for a deposition in your state? In particular, please describe:

- How the fees are calculated.
- In what form fees are paid (for example, cash or check).
- When the fees must be paid.
- The consequences for failing to pay the fees.

Applicable Fees

Under Arkansas rules, a subpoenaed witness must be paid:

- Attendance fees for attending a deposition.
- Mileage fees for traveling expenses.

(Ark. R. Civ. P. 45(d), (e).)

Calculating Fees

The Arkansas rules provide fees calculated at a rate of:

- \$30 per day for attendance fees.
- \$0.25 per mile of travel from the witness's residence to the place where testimony is to be given for mileage fees.

(Ark. R. Civ. P. 45(d), (e).)

Form of Fees

In Arkansas, parties generally pay witness fees in the form of a check, but attorneys should consult with the local clerk to determine the preferred form of fees.

Timing

The subpoena must be accompanied by tender of the witness fees (Ark. R. Civ. P. 45(d), (e)).

Consequences for Failure to Pay

A witness who has appeared under a subpoena and has not been paid may submit an enforceable fee bill to the clerk who, on examination, must deliver the fee bill to the sheriff for collection (A.C.A. § 16-68-503).

Enforcing a Discovery Subpoena

14. What are the available methods for enforcing a discovery subpoena against a non-party witness (for example, motion to compel, motion for contempt)?

Good Faith Effort to Resolve Dispute over Subpoena

In Arkansas, if a person fails to comply with or objects to a subpoena, the issuing party should first contact the witness or the witness's attorney to resolve the dispute informally.

Motion for Compliance

If a non-party witness makes an objection to production, the party seeking production may move for an order of compliance at any time before or during the deposition (Ark. R. Civ. P. 45(e)).

Motion for Sanctions

Failure to attend a deposition under subpoena may result in sanctions (Ark. R. Civ. P. 37(a) and 45(f)).

Motion for Contempt

When a subpoenaed witness fails to comply with or intentionally evades service of a subpoena, the court may find the witness in contempt and issue a warrant to arrest and bring the witness before the court to testify (Ark. R. Civ. P. 45(f)).

Appealing a Court Decision on a Discovery Subpoena

15. May a court's decision concerning a discovery subpoena be appealed? If so, please indicate:

- Whether the decision may be appealed.
- When the decision may be appealed.
- The standard of review for an appeal.

Appealability

When a discovery order denies a person's claims of document privilege or opinion work-product protection, in Arkansas, a person may appeal an order:

- Denying a motion for a protective order under Ark. R. Civ. P. 26(c).
- Compelling production under Ark. R. Civ. P. 37.
- Denying a Rule 45 motion to quash or modify a subpoena.

(Ark. R. App. P. Civ. Rule 2(f)(1).)

The document privilege involved may include any privilege recognized by Arkansas law (Ark. R. App. P. Civ. Rule 2(f)(1)).

A petitioner must submit a petition for permission to appeal to the [Arkansas Supreme Court](#) that addresses:

- The need to prevent irreparable injury.
- Whether the petitioner's claim of privilege or protection is likely to be sustained.
- Whether an immediate appeal is likely to delay a scheduled trial date.
- The diligence of the parties in seeking or resisting an order compelling the discovery in the circuit court.
- The circuit court's written statement of reasons supporting or opposing immediate review.
- Any conflict with precedent or other controlling authority for which there is substantial ground for difference of opinion.

(Ark. R. App. P. Civ. Rule 2(f)(1).)

Timing of Appeal

A petitioner must file a petition for permission to appeal with the Arkansas Supreme Court within 14 calendar days after the order is entered (Ark. R. App. P. Civ. Rule 2(f)(1)).

The opposing party may file a response to the petition for appeal within ten calendar days after that petition is served (Ark. R. App. P. Civ. Rule 2(f)(2)).

If the Arkansas Supreme Court grants the petition to appeal, the petitioner must file:

- A notice of appeal with the circuit clerk within ten calendar days of the Supreme Court's order.
- The record on appeal within 30 calendar days from the entry of the order appealed from.

(Ark. R. App. P. Civ. Rule 2(f)(3).)

Standard of Review

As a general matter, trial courts have wide latitude in matters of discovery, and their decisions are reviewed under an abuse of discretion standard (*Grand Valley Ridge, LLC v. Metro. Nat'l Bank*, 388 S.W.3d 24, 37 (Ark. 2012)). Where the issue presented involves the correct interpretation of an Arkansas court rule, the issue is a question of law reviewed *de novo* (*Dobbs v. Discover Bank*, 425 S.W.3d 50, 52 (Ark. Ct. App. 2012)).

About Practical Law

Practical Law provides legal know-how that gives lawyers a better starting point. Our expert team of attorney editors creates and maintains thousands of up-to-date, practical resources across all major practice areas. We go beyond primary law and traditional legal research to give you the resources needed to practice more efficiently, improve client service and add more value.

If you are not currently a subscriber, we invite you to take a trial of our online services at legalsolutions.com/practical-law. For more information or to schedule training, call 1-800-733-2889 or e-mail referenceattorneys@tr.com.