

Subpoenas

SECTION 22-3-930 of the South Carolina Code of Laws provides:

"Any magistrate, on the application of a party to a cause pending before the magistrate, must issue a summons citing any person whose testimony may be required in the cause and who resides in the county to appear before the magistrate at a certain time and place to give evidence. This summons must be served in a manner such that it is received by the witness at least one day before his attendance is required. If the witness fails or refuses to attend, the magistrate may issue a rule to show cause commanding the witness to be brought before the magistrate or, if any witness attending refuses to give evidence without good cause shown, the magistrate may punish the witness for contempt by imposition of a sentence up to the limits imposed on magistrates' courts in Section 22-3-550."

SECTION 22-3-940 of the South Carolina Code of Laws provides:

"In case it shall appear to the satisfaction of any magistrate that the attendance of any witness whose testimony may be required in any case before him cannot be had (a) by reason of (i) extreme age, (ii) sickness or infirmity or (iii) indispensable absence on public official duty, (b) in consequence of intended removal from the State before the cause can be otherwise ready for trial or (c) when such witness may be resident in another county or without the limits of the State, such magistrate may take the examination of such witness in writing or cause it to be done by another magistrate or other officer authorized by law to administer oaths, to be used in evidence on the trial of the case. But the parties to such cause shall have notice thereof in time to be present if they or either should choose to be present or notice may be given by either party to the other of interrogatories to be propounded to such witness, with four days' time given the party notified to prepare cross-interrogatories, upon which interrogatories and cross-interrogatories, when preferred by the parties or either of them, the deposition shall be had. When such examination is so made by another, it shall be sealed up, with the title of the case endorsed, and conveyed by a disinterested person to the magistrate authorizing it or mailed and the postage prepaid."

The court cannot issue a subpoena until a court date and time has been set for the trial. Once you are notified of a court date, you may obtain a subpoena for your witness(es) by then contacting the court and supplying it with the name(s) and address(es) of your witness(es) and the trial date and time of your case. This needs to be done immediately after you are notified of your trial date in order to provide the court with the adequate time necessary to have the witness(es) served with the subpoena(s). There is no fee for obtaining subpoenas in criminal and traffic cases.

There is an \$8.00 fee for each subpoena prepared and served for civil cases. Also, you are obligated to pay \$25 per day plus mileage at the rate of 34.5 cents per mile for all witnesses subpoenaed to testify in civil cases.