

# Guidelines for Service of Process



## Direct Your Request to the Agent for Service of Process.

The Agent for Service of Process is authorized to accept summons and complaints and subpoenas on behalf of the California Department of Insurance (CDI). Service of court filings therefore must be directed to the following address:

Agent for Service of Process  
Government Law Bureau  
300 Capitol Mall, Suite 1700  
Sacramento, CA 95814

**Please note:** CDI has not agreed to electronic service of summons and complaints in civil cases per the Rules of Court and other applicable laws. In addition, CDI has not agreed to receive facsimile service of summons and complaints in civil cases.

The following are guidelines for service of process at CDI. For more information, please see our [Frequently Asked Questions](#) about service of process at CDI.

## Direct Service on the Agent for Service of Process

A party must serve CDI's Agent for Service of Process with the following documents:

- 1. Summons and Complaint:** A party must serve CDI with a summons and complaint, naming the Insurance Commissioner or CDI, by delivering the summons and complaint to the Agent for Service of Process. Only a single copy of the summons and complaint is necessary. A fee is not required.
- 2. Subpoena:** A party can subpoena a witness to testify either at a deposition or trial or request the production of records by delivering a subpoena to the Agent for Service of Process.

*Appearance Only* – A subpoena for the personal appearance of a witness requires one copy of the subpoena and a [witness fee](#). (Gov. Code, § 68097.2.)

*Records Only* – A subpoena for the production of documents requires one copy of the subpoena and a [furnish documents fee](#). (Evid. Code, § 1563.) Prior to the production of

any records, a requester will be charged an additional [clerical fee](#) per quarter hour and a [printing fee](#) per page. (Evid. Code, § 1563.)

*Appearance and Records* – A subpoena for the personal appearance of a witness and production of documents requires one copy of the subpoena and both a [witness fee](#) and [furnish documents fee](#). (Gov. Code, § 68097.2; Evid. Code, § 1563.) Two separate checks are preferred in the event that deposition or trial testimony does not move forward. Prior to the production of any records, a requester will be charged an additional [clerical fee](#) per quarter hour and a [printing fee](#) per page. (Evid. Code, § 1563.)

### Substituted Service on the Agent for Service of Process

Where CDI is the agent for service of process for an insurance company, a party can request that CDI's Agent for Service of Process forward a summons and complaint, subpoena or other legal document to that company.

1. **Summons and Complaint:** Where CDI is a company's agent for service of process, a party can serve a summons and complaint on that company by delivering the summons and complaint to CDI's Agent for Service of Process. Two copies of the summons and complaint are necessary. A [substituted service fee](#) is required. (Ins. Code, § 12931.)

2. **Subpoena:** Where CDI is a company's agent for service of process, a party can request that CDI's Agent for Service of Process forward a subpoena for personal appearance and/or records to that company by delivering the subpoena to CDI's Agent for Service of Process. Two copies of the subpoena are necessary. A [substituted service fee](#) is required. (Ins. Code, § 12931.)

### Service of Qui Tam Complaint and Written Disclosure of the Material Evidence

The California Insurance Fraud Prevention Act allows members of the public to file private qui tam whistleblower lawsuits against a person or company that commits insurance fraud within the state. (Ins. Code, § 1871.7.) A party filing a qui tam lawsuit shall serve CDI's Agent for Service of Process with one filed-endorsed copy of the complaint and one copy of the written disclosure of the material evidence required by Insurance Code section 1871.7(e)(2). Where a qui tam complaint and written disclosure of material evidence exceed two hundred pages in length, please also provide an electronic copy of the documents. There is no fee for serving a qui tam complaint and written disclosure of material evidence on the Agent for Service of Process.

# Frequently Asked Questions about Service of Process

1. How Do I Serve CDI with a Petition for Writ of Mandate?
2. What Information Must be Included in a Subpoena?
3. What Are the Additional Requirements for Subpoenaing Consumer or Employee Records?
4. What Subpoenaed Records Will Not Be Produced?
5. What is CDI's Authority for Charging Fees and Why Do Fees Change?
6. When Does CDI Require Two Copies of a Document?
7. How Do I Know Whether CDI is an Insurance Company's Agent for Service of Process?
8. How Do I Serve a Risk Retention Group?
9. What if an Insurance Company is Insolvent?

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## **1. HOW DO I SERVE CDI WITH A PETITION FOR WRIT OF MANDATE?**

A party must serve CDI with a petition for writ of mandate, naming the Insurance Commissioner or CDI, by delivering the summons and complaint to CDI's Agent for Service of Process at 300 Capitol Mall, Suite 1700, Sacramento, CA 95814. Only a single copy of the summons and complaint is necessary. A fee is not required.

## **2. WHAT INFORMATION MUST BE INCLUDED IN A SUBPOENA?**

Information that is required for a subpoena includes, but is not limited to, the following:

- a. Identity of the person or entity to whom the subpoena is directed (Civ. Proc. Code, § 2020.410, subd. (c); Fed. Rules Civ.Proc., rule 45(a)(1)(A)(iii), 28 U.S.C.);
- b. Time and place for either the production or inspection of documents or for an appearance at a deposition or trial (Civ. Proc. Code, §§ 2020.310, subd. (a), 2020.410, subd. (c); Fed. Rules Civ.Proc., rule 45(a)(1)(A)(iii), 28 U.S.C.);
- c. Descriptions or categories of document sought if the subpoena commands the production or inspection of documents (Civ. Proc. Code, §§ 2020.410, subd. (a), (b), 2020.510, subd. (a)(2); Fed. Rules Civ.Proc., rule 45(a)(1)(A)(iii), 28 U.S.C.);
- d. Method for recording testimony if the subpoena seeks testimony (Civ. Proc. Code §§ 2020.310, subd. (c), 2020.510, subd. (a)(1); Fed. Rules Civ.Proc., rule 45(a)(1)(B), 28 U.S.C.); and,
- e. Form in which any electronically-stored information is to be produced (Civ. Proc. Code §§ 2020.410, subd. (a), 2020.510, subd. (a)(4); Fed. Rules Civ.Proc., rule 45(a)(1)(A)(iii), 28 U.S.C.).

In addition:

A subpoena issued by a federal court requires inclusion of Federal Rules of Civil Procedure, Rule 45(d) and (e)'s text, which describes rights and duties in responding, objecting or moving to quash a subpoena. (Fed. Rules Civ.Proc., rule 45(a)(1)(A)(iv), 28 U.S.C..)

A subpoena issued by a state court requires inclusion of evidence that a consumer or employee has been informed of his or her rights with respect to subpoenaed records. (Civ. Proc. Code §§ 1985.3, 1985.6, 2020.410, subd. (d), 2020.510, subd. (c), (d).)

### **3. WHAT ARE THE ADDITIONAL REQUIREMENTS FOR SUBPOENAING CONSUMER OR EMPLOYEE RECORDS?**

There are additional state court requirements for subpoenaing a consumer's personal records or an employee's employment records. A subpoena for personal or employment records must include either a written release of the records or proof of service of a special notice that the records are being subpoenaed. (Civ. Proc. Code, §§ 1985.3, 1985.6, 2020.410, subd. (d), 2020.510, subd. (c), (d).)

### **4. WHAT SUBPOENAED RECORDS WILL NOT BE PRODUCED?**

In balancing a party's right to access records with the recognized individual right of privacy and the need for CDI to be able to competently perform its duties, the Legislature has established certain categories of records which may be exempt from disclosure.

Pursuant to the Insurance Code and other state and federal law, categories of records that are exempt from disclosure include, but are not limited to:

- a. Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy (Civ. Code, § 1798.24; Cal. Const., art. 1, §1);
- b. Applications, examination reports and related work papers, appraisals, written opinions, statements and other material (Ins. Code, §§ 735.5, 739.8, 925.3, 933, 1215.8, 1433, 1666.5, 1759.3, 1763, 11754, 12919, 12956);
- c. Records of complaints to or investigations conducted by CDI for law enforcement or licensing purposes (Ins. Code, §§ 1858.02, 1872.3, 1872.83, 1874.3; Evid. Code, §§ 1040, 1041);
- d. Trade secrets involving certain formulas, patterns, compilations, programs, devices, methods, techniques or processes that possess independent economic value and are subject to reasonable efforts to maintain their secrecy (Evid. Code, § 1060 et seq.); and,
- e. Legal memorandum, attorney-client communications and attorney work product, including but not limited to, contracts for legal services, legal opinions written for the Insurance Commissioner, legal advice prepared by staff attorneys for the Insurance Commissioner or other members of the staff, analyses of proposed, pending or enacted legislation prior to approval or disapproval by the Governor's Office (Bus. & Prof. Code, § 6149; Ins. Code, §§ 1067.11, 1077.3, 1215.2, 1215.8; Civ. Proc. Code, § 2018.030; Evid. Code, § 950 et seq.).

CDI's determination to disclose a record which may otherwise be exempt from disclosure does not constitute a waiver with respect to any other records.

### **5. WHAT IS CDI'S AUTHORITY FOR CHARGING FEES AND WHY DO FEES CHANGE?**

CDI maintains a schedule of fees for its service of process costs. The schedule is posted on CDI's public website at the following address: <http://www.insurance.ca.gov/0200-industry/0050-renew-license/0600-fees/>. The schedule is updated pursuant to authority provided in Insurance Code section 12978. All payments required by the schedule must be presented to CDI in the form of a check made payable to the "California Department of Insurance".

### **6. WHEN DOES CDI REQUIRE TWO COPIES OF A DOCUMENT?**

Two copies of documents are necessary when CDI is the agent for service of process for an insurance company and a party requests that CDI's Agent for Service of Process forward a summons and complaint or subpoena to that company. (Ins. Code, § 12931.) The Agent for Service of Process will forward one copy to the company and retain the other copy for CDI's records. A [substituted service fee](#) is required. (Ins. Code, § 12931.)

### **7. HOW DO I KNOW WHETHER CDI IS AN INSURANCE COMPANY'S AGENT FOR SERVICE OF PROCESS?**

CDI tracks contact information for each insurance company's agent for service of process. Contact information for standard carriers is posted on CDI's public website at the following address: <https://www.insurance.ca.gov/01-consumers/120-company/>. Contact information for surplus line carriers is posted on the Surplus Line Association public website at the following address: <http://www.slacal.org/resources/insurer-member-lookup>. CDI contact information will be listed for a company when CDI is the agent for service of process for that company. When no information is listed for a company's agent for service of process, a party can contact CDI at (916) 492-3657 for assistance in identifying the appropriate agent for service of process.

### **8. HOW DO I SERVE A RISK RETENTION GROUP?**

Pursuant to the California Risk Retention Act (Ins. Code § 132, subd. (a)(3)) and the federal Liability Risk Retention Act (15 U.S.C.A. § 3902 (a)(1)(D)), the Insurance Commissioner is the agent for service of process for all risk retention groups. A party can therefore accomplish service on a risk retention group by providing CDI's Agent for Service of Process with two copies of the party's summons and complaint, subpoena or other legal document. One copy of the summons and complaint will be forwarded to the risk retention group. A [substituted service fee](#) is required. (Ins. Code, § 12931, citing Ins. Code, § 1612.)

### **9. *WHAT IF AN INSURANCE COMPANY IS INSOLVENT?***

A party may have difficulty serving an insurance company where a company is insolvent, bankrupt or otherwise defunct. To obtain contact information for such a company's agent for service of process, a party should contact the Conservation and Liquidation Office at (415) 676-5000.