

Judge of the Tribal Court
Confederated Salish and Kootenai Tribal Court
Post Office Box 278
Pablo, MT 59855
(406) 675-2700

IN THE TRIBAL COURT OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA

<div>Plaintiff(s)/Petitioner(s)</div> <div>v.</div> <div>Defendant(s)/Respondent(s)</div>	<div>Cause No. _____</div> <div>SUBPOENA TO <input type="checkbox"/>ATTEND <input type="checkbox"/>ATTEND AND PRODUCE <input type="checkbox"/>PRODUCE</div>
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TO: _____

YOU ARE HEREBY ORDERED TO:

<div><input type="checkbox"/> Attend and give testimony at a <input type="checkbox"/>deposition, <input type="checkbox"/>hearing, <input type="checkbox"/>trial at the _____ (court) at _____ (address), on _____ (date) at _____ (time), as a witness for _____ (name of party) in this action.</div> <div>If for a deposition, the means of recording will be by <input type="checkbox"/>shorthand reporter, <input type="checkbox"/>video, <input type="checkbox"/>audio.</div>

-OR-

<div><input type="checkbox"/> Attend, Produce, and give testimony at a <input type="checkbox"/>deposition, <input type="checkbox"/>hearing, <input type="checkbox"/>trial at the _____ (court) at _____ (address), on _____ (date) at _____ (time), as a witness for _____ (name of party) in this action.</div> <div>If for a deposition, the means of recording will be by <input type="checkbox"/>shorthand reporter, <input type="checkbox"/>video, <input type="checkbox"/>audio.</div> <div>PRODUCE the following books, papers and documents, whether in physical or electronic form, or tangible things now in your possession, custody or control:</div>

Date and time of production: Unless otherwise agreed to in writing by all parties and privilege holder or holders and the person subpoenaed, production must be made no later than _____. (date and time).

-OR-

☐ **Produce** the following books, papers and documents, whether in physical or electronic form, or tangible things now in your possession, custody or control (attach a separate sheet if necessary):

Place of production:

Date and time of production: Unless otherwise agreed to in writing by all parties and privilege holder or holders and the person subpoenaed, production must be made no later than _____. (date and time).

IDENTITY OF PARTIES: The following are the names of the parties in this action and the names, addresses, phone numbers and e-mail addresses of the attorneys for the parties and of any parties who have entered appearances without an attorney:

Name	Address	Phone Number	Email Address

The party and the party's attorney who are serving this subpoena:

This Subpoena is issued pursuant to the CSKT Laws Codified, Rule 16 and CSKT Laws Codified, § 1-2-607 and failure to obey this Subpoena may be punishable by contempt set forth in CSKT Laws Codified, § 1-2-610.

NOTICE TO PARTY SERVING SUBPOENA: If this Subpoena “commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party.” Federal Rules of Civil Procedure (FRCP) 45(a)(4).

NOTICE TO SUBPOENA RECIPIENT (when production of records or tangible things are sought): This Subpoena is also issued pursuant to FRCP Rule 45 and the pertinent provisions related to compliance are as follows (c) place of compliance, (d) protection as a person subject to a subpoena, and (e) duty to respond to this subpoena.

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in [Rule 45\(c\)](#);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and

results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Dated this _____ day of _____, 20__.

Judge of Tribal Court

AFFIDAVIT OF SERVICE

I declare under oath that, I am 18 years or older and not a party to the action and that I served this Subpoena to ☐ Appear for Deposition ☐ Produce to the Witness in _____
(County) _____ (State) _____ (Tribal Jurisdiction) on
_____ (date) at the following location:

Check one:

- ☐ By handing it to a person identified to me as the Witness or by leaving it with the Witness who refused service.
- ☐ By leaving it with one of the following:
 - ☐ the person's usual place of abode or workplace;
 - ☐ with any person who is 18 years or older and who is a member of the person's family;
 - ☐ with the person's secretary, administrative assistant, bookkeeper, or managing agent; or
 - ☐ by delivering a copy to an agent authorized by appointment or by law to receive service of process.
- ☐ I attempted to serve the Witness on _____ occasions but have not been able to locate the Witness.
- ☐ Private process server
- ☐ Law Enforcement, _____ County/Jurisdiction
Fee \$ _____ Mileage \$ _____

Signature of Process Server

Name (Print or type)

My Commission Expires: _____

Notary Public /Deputy Clerk Date

(SEAL)

Clerk of Court, Notary Public or other
person authorized to administer oath.

My commission expires: _____