

PRACTICE TIP SHEETS

Depositions: California Superior Court Scheduling Rules

1. A plaintiff can serve a deposition notice 20 days after a defendant has been served or has appeared. A defendant can serve a deposition notice as soon as the defendant has been served or has appeared. [Code Civ. Proc. §2025.210](#).
2. A deposition notice must: 1) contain the deponent's name, as well as his or her address and phone number if the deponent is not a party, and the date, time and location of the deposition; 2) state any intention to record the testimony in any manner; and 3) specify with reasonable particularity any materials to be produced. [Code Civ. Proc. §2025.220](#).
3. Service of a deposition notice is sufficient to require the testimony and production of documents or things of a party. In order to depose a non-party, a deposition subpoena must be personally served upon the deponent. [Code Civ. Proc. 2025.280](#).
4. Service must be given at least 10 days prior to the noticed deposition date. [Code Civ. Proc. §2025.270\(a\)](#).
5. If the notice includes a request that the deponent bring documents or things, the notice must be served “a sufficient time in advance of the deposition” to provide “a reasonable opportunity” to find and produce the requested records. [Code Civ. Proc. §2020.220](#). In addition, if records being subpoenaed are “personal records” of a “consumer,” generally meaning medical or financial records, or employment records of an employee, notice must be served at least 20 days prior to the deposition date. [Code Civ. Proc. §2025.270\(c\)](#); see also [Code Civ. Proc. §1985.3](#), [§1985.6](#).
6. A deponent cannot be compelled to travel farther than 75 miles from his or her residence, or 150 miles from his or her residence if within the county where the lawsuit is pending. [Code Civ. Proc. §2025.250](#). Leave of the court may be sought to depose a party, or agent of a party, at a more distant location. [Code Civ. Proc. §2025.260](#).
7. Non-party deponents are entitled to a witness fee, and this fee should be served with the deposition subpoena, if requested by the witness. [Code Civ. Proc. §1987\(a\)](#). Currently this fee is \$35 per day, plus round trip mileage actually traveled, at \$.20 per mile. [Govt. Code §68093](#). Expert witnesses are entitled to their “reasonable and customary hourly or daily fee for the actual time consumed in the examination.” [Govt. Code §68092.5](#).
8. The deposition notice must be served upon all parties to the action, as identified on the proof of service. [Code Civ. Proc. §2025.240](#).
9. The original deposition notice or subpoena with the original proof of service is retained by the deposing party. [Cal. R. Ct. 3.250\(b\)](#).