

ARCADIA NEWS



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It's the time of year when Arcadia's citrus needs attention. With the annual citrus drive no longer taking place, local residents—like Anita Hildreth (left) and Marci McDonald—may experience a lot of changes this season. See our story on page 18 for more information about what you can do with this year's citrus crop.

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February: It's not just for Valentine's Day anymore. Find all the ways to celebrate in this month's Kids Corner.

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Tavan Elementary School earned the Arizona Educational Foundation's prestigious A+ award for excellence.

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For their service project, fourth grade students at St. Thomas work hand-in-hand with the Down Syndrome Network.

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Mark A. Wyse, M.D.



Kate Montgomery, FNP



Allan Goldman, D.O.



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Charles Levison, M.D.



David Anderson, O.D.
Optometrist



Tyler Southwell, M.D.
Certified in DOT Physicals



Andrew Racette, D.O.
Certified Dermatologist



Alisha Archibeck, D.O.



Walter Koppenbrink, M.D.



Jennifer Francyk, PA-C.
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Arizona civil subpoenas 101

By Jennifer A. Cranston

A client who was served with a subpoena in another state recently contacted me. The subpoena required the client to produce a substantial number of documents in a short time frame, and many of the documents contained proprietary information that the client did not want made public. In helping the client respond to the subpoena, I had a chance to reflect on and appreciate the user-friendly subpoena rules that we have in place here in Arizona.



recipient can send a written objection to the party seeking the documents. At that point, the burden shifts to the litigant and his attorney to file a motion with the Court to enforce the disputed portions of the subpoena.

LEGAL EASE

What other protections do Arizona's civil subpoena rules provide?

Although there is no requirement that a party serve a subpoena within any set number of days before compliance is due, the rules indicate that the date of service should allow a reasonable amount of time – usually a minimum of 14 days – for the recipient to review and object.

The rules also acknowledge that some documents and information may be protected from disclosure if they are privileged or confidential. This is beneficial to businesses, like the client I referenced above, that have concerns regarding public dissemination of sensitive material.

Another unique aspect of Arizona's rules is that the standard form includes a full explanation of the recipient's legal rights and obligations. That way, a person served with a subpoena is not disadvantaged by his or her lack of familiarity with the subpoena process.

Finally, Arizona places an affirmative obligation on the party responsible for issuing the subpoena to take

reasonable steps to avoid imposing an undue burden or expense on the recipient of the subpoena. The Court can sanction a party or attorney who breaches this duty. The availability of sanctions provides an additional protection from aggressive litigants and their lawyers who might otherwise make unreasonable demands on persons with no interest or stake in the lawsuit.

— Jennifer A. Cranston is a shareholder at Gallagher & Kennedy. For more information about Ms. Cranston, visit gknet.com.

What is a subpoena?

A subpoena is a document that requires the recipient (typically a nonparty to the lawsuit) to either (1) appear and give testimony at a hearing, trial or deposition; or (2) produce documents that are relevant to the lawsuit. A subpoena for documents (called a "subpoena duces tecum") is a common investigation tool used by parties in a civil lawsuit (such as a breach of contract or personal injury claim).

How does a party issue subpoena?

In a civil case, the parties prepare subpoenas using a standard form, which lists the date, time and place that the recipient is requested to testify or produce the specified documents. The party then takes the subpoena to the Court clerk to be signed, at which point the subpoena is said to be "issued" by the Court. Once issued, the party is then responsible for serving the subpoena on the person from whom the testimony or documents are sought.

What do I do if I am served with a subpoena?

In some states, the only option for objecting to a subpoena is to file a motion with the Court, which can be time-consuming, expensive and place an unfair burden on the recipient who is not a party to the lawsuit. However, in Arizona, the subpoena recipient can negotiate directly with the party seeking the testimony or documents before having to turn to the Court for relief.

If the subpoena is for testimony, the party issuing the subpoena can accommodate requests to change the date, time or location specified in the subpoena, or can excuse the testimony requirement altogether. If negotiations with the party are unsuccessful, then the subpoena recipient must file a motion with the Court.

In the case of a document subpoena, the

"The availability of sanctions provides an additional protection from aggressive litigants and their lawyers who might otherwise make unreasonable demands on persons with no interest or stake in the lawsuit."