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### Cal Code Civ Proc § 2020.510

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[CODE OF CIVIL PROCEDURE \(§§ 1 – 2107\)](#)
[Part 4 Miscellaneous Provisions \(§§ 1834 – 2107\)](#)
[Title 4 Civil Discovery Act \(Chs. 1 – 20\)](#)
[Chapter 6 Nonparty Discovery \(Arts. 1 – 5\)](#)
[Article 5 Subpoena Commanding Both Production of Business Records and Attendance and Testimony of the Deponent \(§§ 2020.510 – 2022\)](#)

### § 2020.510. Requirements for deposition subpoena that commands attendance, testimony and production of business records, etc.; Records pertaining to consumer

(a) A deposition subpoena that commands the attendance and the testimony of the deponent, as well as the production of business records, documents, electronically stored information, and tangible things, shall:

- (1) Comply with the requirements of [Section 2020.310](#).
  - (2) Designate the business records, documents, electronically stored information, and tangible things to be produced either by specifically describing each individual item or by reasonably particularizing each category of item.
  - (3) Specify any testing or sampling that is being sought.
  - (4) Specify the form in which any electronically stored information is to be produced, if a particular form is desired.
- (b) A deposition subpoena under subdivision (a) need not be accompanied by an affidavit or declaration showing good cause for the production of the documents and things designated.
- (c) If, as described in [Section 1985.3](#), the person to whom the deposition subpoena is directed is a witness, and the business records described in the deposition subpoena are personal records pertaining to a consumer, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the notice to the consumer described in subdivision (e) of [Section 1985.3](#), or by the consumer's written authorization to release personal records described in paragraph (2) of subdivision (c) of [Section 1985.3](#).
- (d) If, as described in [Section 1985.6](#), the person to whom the deposition subpoena is directed is a witness and the business records described in the deposition subpoena are employment records pertaining to an employee, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the notice to the employee described in subdivision (e) of [Section 1985.6](#), or by the employee's written authorization to release personal records described in paragraph (2) of subdivision (c) of [Section 1985.6](#).

### History

Added [Stats 2004 ch 182 § 23 \(AB 3081\)](#), operative July 1, 2005. Amended [Stats 2007 ch 113 § 4 \(AB 1126\)](#), effective January 1, 2008; [Stats 2012 ch 72 § 18 \(SB 1574\)](#), effective January 1, 2013.

## ▼ Annotations

### Notes

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#### ⚡ Derivation:

#### ⚡ Editor's Notes—

#### ⚡ Amendments:

#### ⚡ Derivation:

Former CCP § 2020(e), added Stats 1986 ch 1334 § 2, amended [Stats 1987 ch 86 § 5](#), [Stats 1992 ch 876 § 9](#), [Stats 1993 ch 926 § 8](#), [Stats 1999 ch 444 § 3](#), [Stats 2002 ch 1068 § 1](#).

#### ⚡ Editor's Notes—

For notes of decisions derived from cases decided under [CCP § 2020](#), see [CCP § 2020.010](#).

#### ⚡ Amendments:

##### 2007 Amendment:

(1) Substituted "If" for "Where" at the beginning of subd (c); and (2) added subd (d).

##### 2012 Amendment:

Added (1) "electronically stored information," in the introductory clause of subd (a) and in subd (a)(2); and (2) subd (a)(4).

### Commentary

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#### Law Revision Commission Comments:

##### 2004—

Subdivision (a) of [Section 2020.510](#) continues the first sentence of former [Section 2020\(e\)](#) without substantive change.

Subdivision (b) continues the second sentence of former [Section 2020\(e\)](#) without substantive change.

Subdivision (c) continues the second paragraph of former [Section 2020\(e\)](#) without change.

##### 2007—

[Section 2020.510](#) is amended to clarify its application when employment records of an employee are subpoenaed under [Section 1985.6](#).

### Notes to Decisions

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#### ⚡ 1. Generally

#### ⚡ 2. Affidavit or Declaration

#### ⚡ 1. Generally

Contrary provisions in [CCP §§ 1985](#) and [1987.5](#), are inconsistent with, and therefore superseded by, [CCP § 2020.510](#) because [CCP § 2020.030](#) provides that the general subpoena provisions that include §§ 1985 and 1987.5 apply to a deposition subpoena except as modified in the chapter, and treating §§ 1985 and 1987.5 as the controlling provision would be at odds with § 2020.030 and with the fundamental understanding that has prevailed since the adoption of California's Civil Discovery Act, [CCP §§ 2016.010](#) et seq., that to the extent that its provisions concerning nonparty discovery overlap or conflict with other provisions of more general application, the provisions of the Civil Discovery Act prevail. Moreover, because a supporting affidavit need not be served with a deposition subpoena under [CCP § 2020.310](#), requiring only attendance and testimony, or with a deposition subpoena under [CCP § 2020.410](#), requiring only the production of business records, there is no apparent reason why an affidavit should be required when a deposition subpoena under § 2020.510 calls for both attendance and testimony and the production of documents. [Terry v. SLICO \(Cal. App. 1st Dist. 2009\)](#), [175 Cal. App. 4th 352](#), [95 Cal. Rptr. 3d 900](#), [2009 Cal. App. LEXIS 1022](#).

## 2. Affidavit or Declaration

Trial court did not abuse its discretion in imposing reasonable monetary sanctions for a nonparty witness's failure to comply with a subpoena demanding his testimony and the production of documents because service of the deposition subpoena on the nonparty witness was effective despite the absence of a supporting affidavit or declaration. [Terry v. SLICO \(Cal. App. 1st Dist. 2009\)](#), 175 Cal. App. 4th 352, 95 Cal. Rptr. 3d 900, 2009 Cal. App. LEXIS 1022.

## Research References & Practice Aids

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### Treatises:

[Cal. Forms Pleading & Practice \(Matthew Bender\) ch 193 "Discovery: Depositions"](#).

[Cal. Points & Authorities \(Matthew Bender\) ch 83 "Discovery: Depositions" § 83.46](#).

[Cal. Points & Authorities \(Matthew Bender\) ch 83 "Discovery: Depositions" § 83.50](#).

### Practice Guides

Matthew Bender® Practice Guide: California E-Discovery and Evidence, 6.17.

### Hierarchy Notes:

[Cal Code Civ Proc Pt. 4](#)

[Cal Code Civ Proc Pt. 4, Title 4](#)

[Cal Code Civ Proc Pt. 4, Title 4, Ch. 6](#)

[Cal Code Civ Proc Pt. 4, Title 4, Ch. 6, Art. 5](#)

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