

# Rule 12.351. Production of Documents and Things Without Deposition

**(a) Request; Scope.** A party may seek inspection and copying of any documents or things within the scope of rule 12.350(a) from a person who is not a party by issuance of a subpoena directing the production of the documents or things when the requesting party does not seek to depose the custodian or other person in possession of the documents or things. This rule provides the exclusive procedure for obtaining documents or things by subpoena from nonparties without deposing the custodian or other person in possession of the documents or things under rule 12.310.

**(b) Procedure.** A party desiring production under this rule must serve notice as provided in Florida Rule of Judicial Administration 2.516 on every other party of the intent to serve a subpoena under this rule at least 10 days before the subpoena is issued if service is by delivery and 15 days before the subpoena is issued if the service is by mail or e-mail. The proposed subpoena must be attached to the notice and must state the time, place, and method for production of the documents or things, and the name and address of the person who is to produce the documents or things, if known, and if not known, a general description sufficient to identify the person or the particular class or group to which the person belongs; must include a designation of the items to be produced; and must state that the person who will be asked to produce the documents or things has the right to object to the production under this rule and that the person will not be required to surrender the documents or things. A copy of the notice and proposed subpoena shall not be furnished to the person on whom the subpoena is to be served. If any party serves an objection to production under this rule within 10 days of service of the notice, the documents or things must not be produced pending resolution of the objection in accordance with subdivision (d).

**(c) Subpoena.** If no objection is made by a party under subdivision (b), an attorney of record in the action may issue a subpoena or the party desiring production must deliver to the clerk for issuance a subpoena together with a certificate of counsel or pro se party that no timely objection has been received from any party, and the clerk must issue the subpoena and deliver it to the party desiring production. Service within the state of Florida of a nonparty subpoena is deemed sufficient if it complies with rule 12.410(d) or if (1) service is accomplished by mail or hand delivery by a commercial delivery service, and (2) written confirmation of delivery, with the date of service and the name and signature of the person accepting the subpoena, is obtained and filed by the party seeking production. The subpoena must be identical to the copy

attached to the notice and must specify that no testimony may be taken and must require only production of the documents or things specified in it. The subpoena may give the recipient an option to deliver or mail legible copies of the documents or things to the party serving the subpoena. The person on whom the subpoena is served may condition the preparation of copies on the payment in advance of the reasonable costs of preparing the copies. The subpoena may require production only in the county of the residence of the custodian or other person in possession of the documents or things or in the county where the documents or things are located or where the custodian or person in possession usually conducts business. If the person on whom the subpoena is served objects at any time before the production of the documents or things, the documents or things will not be produced under this rule, and relief may be obtained under rule 12.310.

**(d) Ruling on Objection.** If an objection is made by a party under subdivision (b), the party desiring production may file a motion with the court seeking a ruling on the objection or may proceed under rule 12.310.

**(e) Copies Furnished.** If the subpoena is complied with by delivery or mailing of copies as provided in subdivision (c), the party receiving the copies may furnish a legible copy of each item furnished to any other party who requests it upon the payment of the reasonable cost of preparing the copies.

**(f) Independent Action.** This rule does not affect the right of any party to bring an independent action for production of documents and things or permission to enter on land.