

DISCOVERY

Exchange of Expert Witness Information

This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be accessed at www.saclaw.org/exchange-expert-info

BACKGROUND

After a trial date is set, any party may demand the simultaneous exchange of information about the expert witnesses all other parties intend to have testify at trial. [California Code of Civil Procedure \(CCP\) § 2034.210\(b\)](#) defines “experts” as parties, employees of a party, or witnesses who have been retained to express an opinion as part of the litigation. Parties may also demand the production of all discoverable reports and writings made in the course of preparing the expert’s opinion. See *California Expert Witness Guide* ([KFC 1042 .K45](#)) Chap. 10 (available electronically on the Law Library’s computers, using *OnLaw*), for more information on the types of writings that are discoverable.

Any party in the case may make a demand for exchange of expert witness information. Only one party in the case needs to make this demand. Once any party makes a demand, all parties must simultaneously disclose their expert witness information to all other parties in the case.

This exchange provides opposing parties with enough information and time to prepare for trial. Expert witnesses will generally have specialized knowledge of a scientific or technical field. By receiving information about the witness and his intended testimony ahead of time, opposing parties have the opportunity to research the expert, depose the expert, and gather information and evidence in the specialized field that may be useful during the cross-examination of the expert.

STEP-BY-STEP INSTRUCTIONS

Step 1: Prepare Your Demand

There is no Judicial Council form for this procedure. Instead, the relevant document must be typed on 28-line pleading paper. A customizable template may be downloaded from this link:

- [Demand for Exchange of Expert Witness Information](#)

A sample demand for exchange of expert witness information is available at the end of this Guide.

You may also need...

Related Step-by-Step Guide

- [Locating Expert Witnesses](#)

If you have already received a demand for exchange of expert witness information from another party, skip to Step 4.

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

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California law provides very strict timelines for the demand and exchange of expert witness information. You will need to determine two separate dates:

Date of demand. You must make your demand no later than the 10th day after the initial trial date is set, or 70 days before trial date, whichever is closer to the trial date. If that day falls on a Saturday, Sunday or court holiday, the last day to make your demand is the next court day closer to the trial date ([CCP § 2034.220](#)).

Date of exchange. Lists must be exchanged 50 days before the trial date, or 20 days after service of demand, whichever is closer to the trial date. If that day falls on a Saturday, Sunday or court holiday, the last day to provide your list is the next court day closer to the trial date ([CCP § 2034.230\(b\)](#)), unless the court orders an earlier or later exchange.

For more information, see *California Civil Discovery Practice* §§ 11.9-11.14 ([KFC 1020 .C35](#)), available electronically on the Law Library's computers, using *OnLaw*.

Step 2: Make Copies

Make one photocopy of your demand for each party in the case.

Step 3: Have Your Demand Served

A photocopy of your demand must be served on each attorney or self-represented party in the case. Service may be completed by mail, by a person over the age of 18 who is not a party to the case. The person serving your requests must complete a proof of service form, typically [a Proof of Service by First Class Mail \(POS-030\)](#). For more information, see the Step-by-Step guide on Proof of Service by Mail on our website at www.saclaw.org/mail-service.

The demands, lists, and declarations are not filed with the court. Retain your original demand and proof of service until 6 months after final disposition of the case. If the contents of the demand, lists, or declarations become relevant to any pending matter before the court, they are lodged with the court at that time ([CCP § 2034.290](#)).

Step 4: Exchange Expert Witness Information

Each party must disclose information about all experts whose testimony will be used at trial. Once a demand is made, all parties must simultaneously exchange of the names and addresses of every person who will offer an expert opinion in the trial. This exchange may occur at a meeting of the attorneys and self-represented parties in the case, or by mail.

There is no Judicial Council form for this procedure. Instead, the relevant document must be typed on 28-line pleading paper. A customizable template may be downloaded from this link:

- [Written Exchange of Expert Witness Information](#)

A sample written exchange of expert information is available at the end of this Guide.

If any of the experts is a party, employee of a party, or expert retained for the purpose of providing an expert opinion at trial, the exchange of information must also include an "expert witness declaration." This declaration is a statement signed by the attorney or self-represented party that provides information about the expert's qualifications and a brief description of the general substance of the expert's anticipated testimony. The declaration also includes information about the expert's fees, and

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assurances that the expert has agreed to testify and will be sufficiently familiar with the case to provide meaningful testimony. A sample expert witness declaration is available at the end of this Guide, and is included as the second page of the customizable template listed above.

Finally, if any party does not intend to offer the testimony of any expert witness, the party should state this fact.

If a party does not disclose their experts, include an expert declaration when required, produce reports and writings of experts demanded under [CCP § 2034.270](#), or make their expert available for deposition, the court must exclude any evidence from that expert ([CCP § 2034.300](#)), except under a few narrow circumstances ([CCP § 2034.310](#)).

FOR MORE INFORMATION

At the Law Library:

California Civil Discovery [KFC 1020 .H64](#) Chap. 10.

Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Civil Discovery Practice [KFC 1020 .C35](#) Chap. 11.

Electronic Access: On the Law Library's computers, using *OnLaw*.

California Civil Litigation and Discovery [KFC 995 .G674](#) Chap. 17

California Deposition and Discovery Practice [KFC 1020 .D44](#) Chap. 64.

Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Discovery Citations [KFC 1020 .F56](#) Chap. 8.

Electronic Access: On the Law Library's computers, using *WestlawNext*.

California Expert Witness Guide [KFC 1042 .K45](#) Chap. 10.

Electronic Access: On the Law Library's computers, using *OnLaw*.

California Forms of Pleading and Practice [KFC 1010 .A65 C3](#) (Ready Reference) Chap. 198.

Electronic Access: On the Law Library's computers, using the *Matthew Bender CD*.

Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Practice Guide: Civil Procedure Before Trial [KFC 995 .W4](#) Chap. 8J.

Electronic Access: On the Law Library's computers, using *WestlawNext*.

Matthew Bender Practice Guide: California Civil Discovery [KFC 1020 .M37](#) Chap. 13.

Electronic Access: On the Law Library's computers, using the *Matthew Bender CD*.

Electronic Access: On the Law Library's computers, using *Lexis Advance*.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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ATTACHMENTS: FORMS AND INSTRUCTIONS

There is no Judicial Council form for this procedure. Instead, the relevant document must be typed on 28-line pleading paper. Customizable templates may be downloaded from these links:

- [Demand for Exchange of Expert Witness Information](#)
- [Written Exchange of Expert Witness Information](#)

Sample filled-in forms with instructions are available at the end of this Guide.

1 PAUL SAMPLE
2 123 Main Street
3 Sacramento, CA 95814
4 916-555-1212

Requesting party's name, address and telephone number. "In Pro Per" means you are representing yourself.

5 PAUL SAMPLE, IN PRO PER

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7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SACRAMENTO

County.

Case number.

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11
12 PAUL SAMPLE,

Case No.: 34-2013-00012345

13
14 Plaintiff,

DEMAND FOR EXCHANGE OF EXPERT WITNESS INFORMATION

15 vs.

Names of the parties.

16 DOUG DEFENDANT,

17 Defendant

Name of demanding party, with date, time, and location of exchange.

18
19 PARTY MAKING THIS DEMAND: Paul Sample

DATE AND TIME OF EXCHANGE: October 28, 2013 at 9:00 am

PLACE OF EXCHANGE: 1014 Maple Street, Sacramento, CA 95814

Name of demanding party.

21 Paul Sample demands under CCP §§ 2034.210-2034.310 that, on or before the above
22 date of exchange and at the above place of exchange, all parties to this action participate in
23 a mutual and simultaneous exchange of information concerning each party's expert trial
witness(es), in writing as required by CCP §§ 2034.210-2034.310, to the following extent:

24 1. Either a written list containing the name and address of each natural person (including
25 any party) whose oral or deposition testimony in the form of an expert opinion the
26 responding party expects to offer in evidence at the trial, or a statement that the responding
party does not presently intend to offer the testimony of any expert witness.

27 2. If any witness on the list to be exchanged is a party, an employee of a party, or has
28 been retained by a party for the purpose of forming and expressing an opinion in
anticipation of the litigation or in preparation for the trial of the action, an expert witness

1 declaration signed by the responding party's attorney of record (or, if that party is without an
2 attorney of record, by the party), containing for each such witness:

3 (a) A brief narrative statement of the qualifications of the expert;

4 (b) A brief narrative statement of the general substance of the testimony that the expert is
5 expected to give;

6 (c) A representation that the expert has agreed to testify at the trial;

7 (d) A representation that the expert will be sufficiently familiar with the pending action to
8 submit to a meaningful oral deposition concerning the specific testimony, including any
9 opinion and its basis, that the expert is expected to give at trial; and

10 (e) A statement of the expert's hourly and daily fee for providing deposition testimony.

11 Under CCP § 2034.210(c), each party is also required to produce for inspection and
12 copying, at the time and place of exchange stated above, any discoverable reports and
13 writings made in the course of preparing an expert opinion by any witness on the list to be
14 exchanged who is a party or an employee of a party or who has been retained by a party for
15 the purpose of forming and expressing an opinion in anticipation of the litigation or in
16 preparation for the trial of the action.

17 DATED: November 2, 2016

18 Sign and date.

19 _____
20 PAUL SAMPLE
21 In Pro Per

1 Doug Defendant
2 987 Oak Street
3 Sacramento, CA 95826
4 916-555-9876

Responding party's name, address and telephone number. "In Pro Per" means you are representing yourself.

5 DOUG DEFENDANT, IN PRO PER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SACRAMENTO

10 Case number.

11 PAUL SAMPLE,
12 Plaintiff,

) Case No.: 34-2013-00012345

13 vs.

Party Names.

) WRITTEN EXCHANGE OF REQUIRED
) EXPERT WITNESS INFORMATION (CCP
) §2034.260) AND EXPERT WITNESS
) DECLARATION (CCP §2034.260(c))

14 DOUG DEFENDANT,
15 Defendant

Name of demanding party, with date, time, and location of exchange.

17 PARTY MAKING THIS DEMAND: Paul Sample
18 DATE AND TIME OF EXCHANGE: October 28, 2013 at 9:00 am
19 PLACE OF EXCHANGE: 1014 Maple Street, Sacramento, CA 95814

Name of responding party.

20 The name and address of each person whose expert opinion Doug Defendant expects to offer in evidence at the trial are:

21 Edward Expert, 15 Harbor Lane, Sacramento, CA 95835, 916-555-4567

List the name, address, and telephone number of each expert you intend to call as a witness at trial.

For any expert who is a party, employee of a party, or expert retained for the purpose of providing opinion testimony at trial, you must write an expert witness declaration.

EXPERT WITNESS DECLARATION

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Doug Defendant declare

Include your name and party designation.

1. I am the defendant, in pro per, in this action.

2. I make this expert witness declaration as required by Code of Civil Procedure §2034.260(c).

3. I am informed and believe that the following facts are true about Edward Expert:

(a) Qualifications:

Describe the expert's qualifications, including education, work history, publications, membership in professional organizations, etc.

Edward Expert is a structural engineer. He was awarded a B.S. degree in engineering from the University of California (Berkeley) in 1990, an M.S. degree in structural engineering from Harvard in 1992, and a Ph.D. degree in structural engineering from UC Berkeley in 1995. He has been employed as a structural engineer from 1995 to the present with Acme Engineering, Inc. He is also an Adjunct Professor of Engineering at the American River College in Sacramento, and is the author of the following books, articles, and treatises:

- "Structural Engineering Basics" (2010), published by TextBook Publishing, Inc.
- "Fatigue Assessment and Service Life Prediction of Existing Wooden Structures," Journal of Structural Engineering, Fall 2011

Dr. Expert is a member of the following professional societies:

- Council of American Structural Engineers
- American Society of Civil Engineers

Describe the general substance of the testimony the expert will give at trial.

(b) General substance of testimony this expert is expected to give:

Dr. Expert was retained by Doug Defendant to review the blueprints of the second-story porch built at plaintiff Paul Sample's residence, to determine the cause of the porch's collapse. Based on his tests and expertise, Dr. Expert formed an opinion that the cause of failure was stress and that this design defect was foreseeable.

(c) This expert's hourly fee for providing deposition testimony is \$200 per hour. This expert's daily fee for providing deposition testimony is \$750.

Provide the expert's fees.

4. Each expert identified in this declaration has agreed to testify at the trial and will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning any opinion and its basis.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except for matters stated on my information and belief, and as to those matters I believe it to be true.

DATED: November 2, 2016

Sign and date.

Doug Defendant, In Pro Per