

SIMPLIFIED DISCOVERY UNDER THE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT



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Act History



- The Uniform Interstate Depositions and Discovery Act (“UIDDA”) was promulgated in 2007.
 - <https://www.uniformlaws.org/committees/community-home?communitykey=181202a2-172d-46a1-8dcc-cdb495621d35&tab=groupdetails>
- Patterned after Rule 45 of the FRCP due to its simplicity and efficiency.
- Limited to discovery in state courts, the District of Columbia, and U.S. Territories.

States



- The Act has been adopted by most states, along with the District of Columbia, and the U.S. Virgin Islands.
- States that have not adopted the UIDDDA are:
 - Connecticut - has introduced legislation to adopt the UIDDDA
 - Massachusetts
 - Missouri - has introduced legislation to adopt the UIDDDA
 - New Hampshire
 - Texas
 - Wyoming

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2007 | Interstate Depositions and Discovery Act

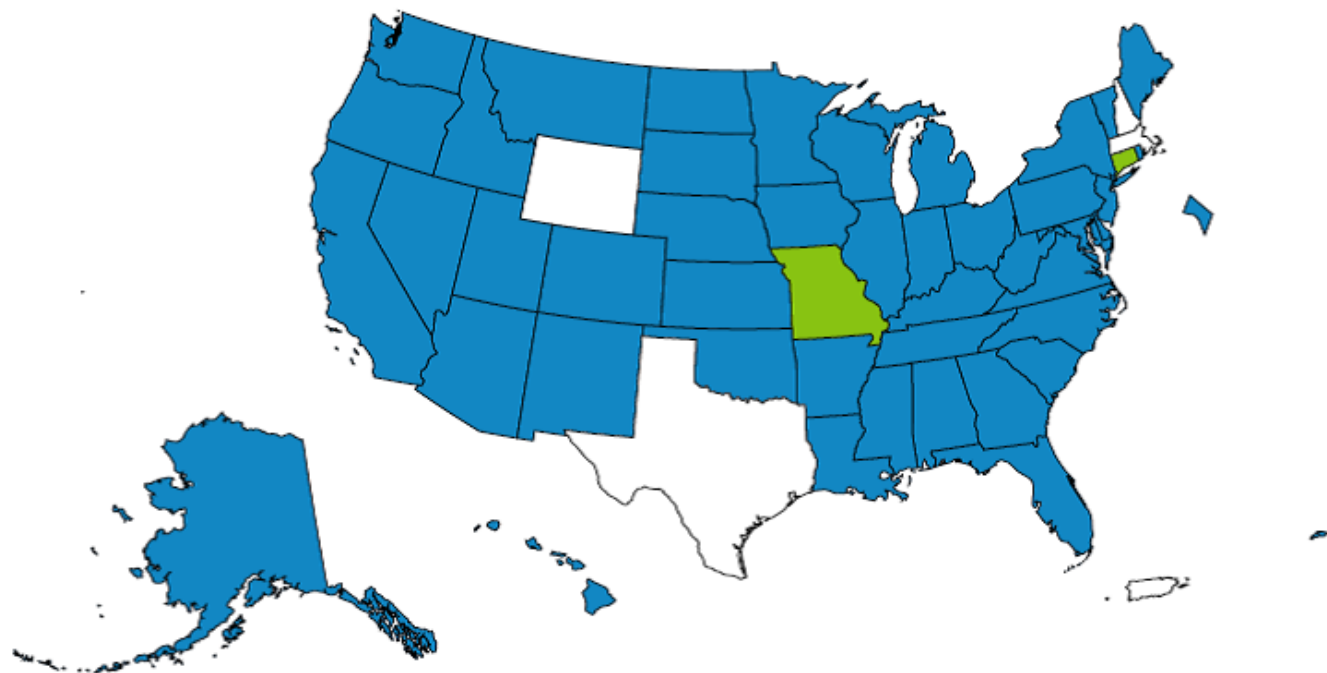
Civil Procedure & Courts

Map

Bill List

Summary

Enactment History



Enactment Map ● Introduced ● Enacted

Goals of the UIDDA

- Make it more efficient and inexpensive to depose individuals and conduct discovery in a state other than the trial state
- Establish a standardized method for discovery in a state other than the trial state

Benefits



- Efficient
 - Established a clerical procedure to obtain discovery state subpoenas
- Inexpensive
 - Eliminated the need to obtain local counsel
- Minimized Judicial Oversight
 - Eliminated the need for a commission, letter rogatory, etc.
- Provides clear rules for discovery

Definitions



■ Subpoena

- Can require a person to:
 - (A) attend and give testimony at a deposition;
 - (B) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or
 - (C) permit inspection of premises under the control of the person
- Includes subpoena duces tecum
- Does not include inspection of a person

■ Foreign subpoena

- A subpoena issued under authority of a court of record of a foreign jurisdiction
 - *i.e.*, the trial state subpoena

STEPS BY ATTORNEY



- Check to make sure that the state in which you wish to conduct discovery has enacted UIDDA
 - Caveat: Alabama, Georgia, Utah, and Virginia require reciprocity before a trial state attorney can use the UIDDA
- Issue the Foreign Subpoena per the trial state's rules
 - Many states allow attorneys to issue subpoenas
- Obtain a copy of the appropriate Subpoena form from the discovery state where the discovery is to occur

STEPS BY ATTORNEY



- Prepare the discovery state Subpoena incorporating the same terms from Foreign Subpoena
- Present (file/deliver) the discovery state Subpoena and Foreign Subpoena to the state clerk of the court where the discovery is to take place
 - Must pay any required filing fees
 - Can use a process server or local attorney to handle the filing
 - Some states allow attorneys to prepare and issue Subpoenas

THE GOOD NEWS AND THE BAD NEWS

- Does *not* constitute an appearance in the discovery state
 - The out-of-state attorney is not required to be licensed in the state where discovery is sought
- Strict adherence to the laws and rules of the discovery state must be maintained
 - Failure to do so may put the out-of-state attorney in a position of having an unenforceable subpoena

CLERICAL STEPS



- Discovery state clerk issues an identical Subpoena for use the discovery state
 - Issue means to sign, stamp, and assign a case or docket number
 - The discovery state Subpoena must contain or be accompanied by a document that contains the contact information for all counsel of record, and of any party not represented by counsel

FINAL STEPS



- Discovery state process server (or other allowed agent) serves the discovery state Subpoena on the deponent per the discovery state law
 - The Subpoena served must contain or be accompanied by a document containing the contact information of all counsel and any unrepresented party
- Discovery must occur in same county from which the discovery state Subpoena was issued

Miscellaneous



- UIDDA does not change or repeal any trial state law that still requires a commission or letters rogatory to take a deposition in a foreign jurisdiction
- Does repeal any law in a discovery state that requires a commission or letter rogatory from a trial state before discovery can occur in that discovery state

UIDDA Discovery



- The discovery permitted under the UIDDA must comply with the discovery state laws
 - Discovery state has a significant interest in protecting its residents from unreasonable or unduly burdensome discovery
 - Includes substantive, evidentiary, procedural, and conflict of laws
- Discovery procedure must be the same as if the case was originally filed in the discovery state

Enforcing UIDDA Subpoenas



- Motions/applications regarding the deponent must be brought under the discovery state rules, including motions/applications to:
 - Enforce Subpoena
 - Obtain a protective order
 - Quash Subpoena
 - Modify Subpoena
- Jurisdiction will be the discovery state court
- Evidentiary objections will be determined under the discovery state laws
- Will require an attorney to be admitted to practice in the discovery state

Motions in Trial State



- Discovery motions brought by *a party* may be brought in the Trial State
- Including Motions/Applications for:
 - Protective orders
 - Evidentiary objections
 - Quash Subpoena
 - Modify Subpoena

Conclusion

- UIDDA enhances attorneys' practices
- Eases access to out-of-state witnesses and documents
- CLLA members benefit from being part of a nationwide legal network under the UIDDA