

SUBPOENA TO ATTEND TO GIVE EVIDENCE AND TO PRODUCE

COURT DETAILS

Court

#Division

#List

Registry

Case number

TITLE OF PROCEEDINGS

[First] plaintiff **[name]**

#Second plaintiff #Number of
plaintiffs (if more than two)

[First] defendant **[name]**

#Second defendant #Number of
defendants (if more than two)

ISSUING DETAILS

Issued at request of **[name]** [role of party eg plaintiff]

#Legal representative [solicitor on record] [firm]

#Legal representative reference [reference number]

Contact name and telephone **[name]** [telephone]

Address for service

ORDER TO THE WITNESS

Name

Address

You are ordered to attend and give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule.

NOTICE TO THE WITNESS

1 Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

2 The last day for service of this subpoena is [date] (see note 1).

[Note: date must be 5 clear days before the earliest date on which the addressee is required to comply with the subpoena or an earlier or later date fixed by the court (UCPR 33.3), unless the subpoena is to be served on a medical expert (see UCPR 31.32) or outside NSW, but in Australia.]

3 Please read notes 1 to 12 at the end of this subpoena.

HOW TO RESPOND

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows:

Date

Time

Place

You must continue to attend from day to day

- unless excused by the court or the person authorised to take evidence in the proceedings, or
- until the hearing of the proceedings are completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below to the address below at the time, date and place specified for attendance and production, or
- by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the address below so that they are received not less than 2 clear days before the date specified for attendance and production.

(See notes 5 – 9.)

DATE TIME AND PLACE AT WHICH YOU MUST ATTEND TO PRODUCE THE SUBPOENA OR A COPY OF IT AND DOCUMENTS OR THINGS

Date

Time

Place

ADDRESS TO WHICH THE SUBPOENA (OR COPY) AND DOCUMENTS OR THINGS MAY BE DELIVERED OR POSTED

[insert registry address]

SCHEDULE

The documents or things you must produce are as follows:

[List the documents or things. Attach another sheet if there is insufficient space.]

[on separate page]

NOTES

Last day for service

- 1 You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for serving the subpoena.

Informal service

- 2 Even if this subpoena has not been served personally on you in accordance with the rules, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

- 3 If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

- 4 You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

- 5 In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified in the subpoena for the purpose, or if more than one address is so specified, to any one of those addresses, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production.
- 6 If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the registrar in writing of your objection and of the grounds of your objection.
- 7 Unless the court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

- 8 If you produce more than one document or thing, you must, if requested by the registrar, produce a list of the documents or things produced.

Production of copy instead of original

- 9 You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

Applications in relation to subpoena

- 10 You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena, and
 - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

- 11 If you are not a party to the proceeding, you may apply to the court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Failure to comply with subpoena—arrest

- 12 Failure to comply with a subpoena without lawful excuse:
- (a) is a contempt of court and may be dealt with accordingly.
 - (b) may lead to your arrest under section 97 Civil Procedure Act or under rules of the court to enforce compliance with a subpoena.