

Writ of subpoena

(Summoning a witness)

▶ Notice to witness

STATEMENT OF PRINCIPLE REGARDING WITNESSES

The ministère de la Justice has stated its commitments with regard to witnesses in the *Statement of principle regarding witnesses*. That statement solemnly reaffirms the primacy of the person in the administration of justice and proclaims the importance of ensuring that persons summoned to testify are given the respect, information and attention to which they are entitled.

A copy of the *Statement of principle regarding witnesses* is available in courthouses and on the Website of the ministère de la Justice (www.justice.gouv.qc.ca).

IN COURT

- ▶ All persons who appear before the Court must be **suitably dressed**.
- ▶ **You must appear in court** to testify in the case mentioned in the writ of *subpœna*. If you refuse to appear, legal action may be taken against you.
- ▶ At the request of one of the parties, the judge may ask the witnesses to leave the courtroom.
- ▶ Each party may examine and cross-examine the witnesses.
- ▶ Witnesses who fear for their safety may ask the judge, at the time of their identification, that their name and address remain confidential.
- ▶ When you appear, bring this summons with you.
- ▶ In no case may an employer or an employer's agent dismiss, suspend or transfer an employee, practise discrimination or take reprisals against an employee, or impose any other sanction upon an employee on the ground that the latter is summoned or has acted as a witness.

COMPENSATION PAYABLE TO WITNESSES

- ▶ As a witness summoned to the Court of Québec, Civil Division, **Small Claims Division**, you are entitled to compensation only if the judge so specifies in the judgment.
- ▶ If you are required to appear before **other courts of civil jurisdiction**, the party who summons you as a witness must advance to you, for the first day of attendance at court, the loss of time indemnity and the travel, meal and overnight accommodation allowances. The amount of those allowances is set by government regulation. Keep your receipts in order to set the amounts to which you are entitled.
- ▶ After you have testified, present your summons to appear and your receipts to the financial service counter of the courthouse or to any other place indicated to you, in order to set the amounts to which you are entitled under the regulations in force.
- ▶ Compensation must be paid by the party that summoned you as witness. The attorney for that party usually handles payment. If you do not receive it, you may take legal action against the party that summoned you. The determination of the compensation to which you are entitled, also called the "taxation", is equivalent to an executory judgment, as stipulated in article 322 of the Code of Civil Procedure: "A witness in favour of whom taxation has been made may execute for it, as under a judgment, against the party who summoned him". You may call upon the services of an attorney or a bailiff in order to proceed with the execution.
- ▶ Compensation payable to a witness is fixed at \$90 per day of required absence from his or her domicile. It is reduced to \$45 when the absence does not exceed five hours.
- ▶ A witness recognized as and declared to be an expert by the court is entitled to \$180 in compensation per day of required absence from his or her domicile. It is reduced to \$90 when the absence does not exceed five hours.
- ▶ A witness who, in accordance with a collective agreement, an understanding, a contract, a minister's order or a statute, sustains no salary or wage loss, is not entitled to compensation.
- ▶ A witness who sustains no salary or wage loss will be reimbursed only for expenses incurred in travelling, for food and for lodging, in accordance with the regulations.

Canada
PROVINCE OF QUÉBEC
District
Locality
Record N°

COURT

Plaintiff

v.

Defendant

Nature of the case :

We order

TO APPEAR personally before the Court, on pain of the penalties prescribed by law,
at

located at

on _____, room _____, at _____ a.m/p.m.,
to testify as to everything you know about this case.

AND TO BRING :

We have signed

at

on

Judge/Clerk/Attorney

FOR FURTHER INFORMATION, PLEASE CONTACT THE ATTORNEY OR CLERK
NAMED ON THE SUMMONS TO APPEAR

Bend here

N°

COURT

LOCALITY

DISTRICT

Bend here

v.

Plaintiff

Defendant

**WRIT OF SUBPOENA
(Summons to appear)**

FOR FURTHER INFORMATION, YOU MAY
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**RECOVERY OF TAXATION IN CIVIL MATTERS UNDER
THE CODE OF CIVIL PROCEDURE**

1. First seek to recover taxes from the party that summoned you or from that party's attorney.
2. After a reasonable time, you may proceed through a bailiff.

Article 322. *A witness in favour of whom taxation has been made may execute for it, as under a judgment, against the party who summoned him.*

The party summoning you is: Name :

Address :

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