

EXPLANATORY NOTES

SUBPOENA (Post-Judgment Examination) (SJ-279A)

The form “Subpoena (Post-Judgment Examination)” enables the judgment creditor to call the debtor before the Court to examine the debtor as to their income and property before executing the judgment. It also enables a third party to be examined with regard to the debtor’s patrimony.

For further information, as well as the contact information for courthouses in the province of Québec, consult the [list of courthouses](#) on the website of the ministère de la Justice.

TYPES OF FORMS

This form is available in dynamic PDF format, meaning the form can be downloaded from www.justice.gouv.qc.ca and completed directly on screen.

- Dynamic PDF:

After completing the form, you must print it on letter-sized paper, i.e. 8.5 inches by 11 inches (215.9 mm by 279.4 mm). Be sure to set your printer to this paper size.

- Paper:

If you complete the form by hand, please write legibly in block letters.

PROCEDURE

Once the form is completed, keep a copy for your files. You must then go to the courthouse to have it signed by the clerk. Subsequently, you must have the subpoena notified to the witness by bailiff.

The person must be called at least five days before the scheduled examination. That time limit may be shortened by the judge or the clerk and the decision to do so must appear on the subpoena, if applicable.

CANADA
PROVINCE OF QUÉBEC
District:
Locality:
File No.:

COURT

Plaintiff
c.

Defendant
and

Party

SUBPOENA
(Post-Judgment Examination)
(a. 269 and following, 688 and 689 C.C.P.)

Nature of the judicial application: _____

At the request of: _____

(name and contact information of the party requesting the calling of the witness)

We order: _____
(name of the witness called to testify under subpoena)

TO ATTEND at court on _____, at _____ o'clock, to testify to everything of which the witness has knowledge in this case with regard to:

income, obligations and debts, any sums owing to the debtor, any property the debtor owns or has owned since incurring the obligation that is the basis for the judgment, and the property affected by the judgment.

the patrimony of _____, the judgment debtor.

AND TO HAVE IN HIS/HER POSSESSION: _____

If the witness testifies in person:
The witness must appear at courtroom _____ of the _____ courthouse located at _____.

If the witness testifies via a technical medium:
by _____
(indicate the technical medium used)

Before this date, the requisite information to enable the witness to testify will be provided to you by

(identify the proper person)

If the witness has received an advance on the indemnities and allowances payable to a witness and fails to attend, the court may order the witness to pay all or part of the costs caused by the failure to attend and may issue an arrest warrant.

Signed at _____, on _____

Judge / Clerk / Lawyer

Judge / Clerk / Lawyer (in block letters)

Signatory's title

THE WITNESS MUST READ THE FOLLOWING INFORMATION

As a witness, you are required to attend at court to testify in the judicial application specified in this subpoena.

If you fail to attend in accordance with the subpoena, you may be compelled to testify, and an arrest warrant may be issued against you by the court. In addition, the court may order you to pay all or part of the costs caused by your failure to attend.

If you are called to testify remotely via a technical medium, please consult the user's guide for the secure platform before the hearing; it is available on the website of the Ministère de la Justice (www.justice.gouv.qc.ca).

You may be called:

- to give an account of the facts of which you have personal knowledge;
- to give an expert opinion;
- to produce a document or other evidence;
- appear for a post-judgment examination as to the debtor's property.

Before testifying, you will have to swear under oath to tell the truth. However, if the disclosure of your address gives cause to fear for your safety, you may ask the court to dispense you from disclosing it.

You have the right to be informed, by the calling party or the calling party's lawyer if the calling party is represented, of the reason you have been called, the subject of your testimony and the order of the proceeding. The name and contact information of the calling party or of the calling party's lawyer if the calling party is represented are specified on the subpoena.

If your presence is no longer required, the calling party must so inform you.

If you are called, you may require the calling party to pay you an advance, covering the first day of attendance at court, on the loss of time indemnity and the travel, meal and overnight accommodation allowances prescribed by government regulation respecting the indemnities and allowances to which you are entitled. However, the calling party is dispensed from this obligation for expenses which it covers directly or if you are a party or if you are otherwise compensated.

If you are called to attend as a witness in the Small Claims Division of the Court of Québec, you will not be compensated, unless the court decides otherwise. The judge may grant indemnities if they are requested at the hearing.

After you have testified, the clerk will certify your presence and determine the amount owed to you by the calling party. You must present this subpoena (in person or via a technical medium) to the clerk along with the proof needed to establish the indemnities and allowances to which you are entitled.

If you testify remotely via a technical medium:

After you have testified, the calling party will give you instructions on how to obtain the indemnities and allowances to which you are entitled under the regulations in force.

This certificate has the force of an enforceable judgment. If the amounts to which you are entitled are not paid, you may immediately pursue payment of them against the calling party.

Employers and their agents are prohibited from taking any of the following actions against an employee on the grounds that the employee was called to attend at court or served as a witness:

- dismissing, suspending or transferring the employee;
- exercising discriminatory measures or reprisals against the employee;
- imposing any other penalty on the employee.

ADDITIONAL USEFUL INFORMATION

STATEMENT OF PRINCIPLE REGARDING WITNESSES

The ministère de la Justice states its commitments with regard to witnesses in the *Statement of Principle regarding Witnesses*. The Statement solemnly reaffirms the primacy of the person in the administration of justice and proclaims the importance of ensuring that persons called to testify are given the respect, information and consideration to which they are entitled.

The *Statement of Principle regarding Witnesses* is available at courthouses and on the website of the ministère de la Justice (www.justice.gouv.qc.ca).

BEFORE THE COURT

- Any person appearing before the Court must be suitably dressed.
- Each party can examine and cross examine the witnesses.
- Witnesses are entitled to the protection of the Court against any intimidation tactics while they are testifying and against any abusive examination.

ALLOWANCES TO WITNESSES

- The indemnity payable to a witness is set at \$90 per necessary day of absence from his or her home or \$45 when that absence does not exceed five hours. (Indemnity updated to January 1, 2015.)
- A witness recognized and declared an expert by the Court is entitled to an indemnity of \$180 per necessary day of absence from his or her home or \$90 when that absence does not exceed five hours. (Indemnity updated to January 1, 2015.)
- No indemnity will be paid to witnesses who, pursuant to acts, orders in council, contracts, understandings or collective agreements, do not suffer a loss of earnings (for example, salary or wages) as a result of being summoned to appear as witnesses.

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Fold here

COURT:

District:

Locality:

File No.:

Fold here

Plaintiff

c.

Defendant

and

Party

SUBPOENA
(Post-Judgment Examination)

The calling party or lawyer is:

Fold here

Fold here