

Preparing for Trial and Trial in Supreme Court

This guidebook provides general information about civil, non-family claims in the Supreme Court of B.C. It does not explain the law. Court staff (and this guidebook) can only give you legal information, not legal advice. They will tell you how to do something, but not whether you should do it or why you might want to do it. Legal advice must come from a lawyer.

Where You Can Get Help With Your Case

Information if You Represent Yourself

The BC Supreme Court Self-Help Information Centre (www.supremecourtsselfhelp.bc.ca) provides legal information, education, and referral services for family and civil (non-family) cases for unrepresented litigants who are involved in civil actions in the Vancouver location of the Supreme Court of British Columbia.

Legal Advice

You may be eligible for free (pro bono) legal advice. Services are listed under *legal advice* on the website for the BC Supreme Court Self-Help Information Centre.

Rules of Court

The Rules of Court govern the conduct of litigation in the Supreme Court of BC. Not only do they ensure fairness to all parties involved in a lawsuit, they will guide you through every step of your case and set time limits for when certain steps must be done. You can find these Rules at the courthouse library, or on the court's website at www.courts.gov.bc.ca. (Once you are on the Supreme Court page, click on the link for Supreme Court Act, Rules and Forms.)

Forms

Official court documents (called court forms) must be used when you bring a dispute to court. You can print out blank forms for use in your lawsuit from the Supreme Court website. Go to www.courts.gov.bc.ca. (Once you are on the Supreme Court page, click on the link for Supreme Court Act, Rules and Forms).

For information about family law claims, go to www.familylaw.lss.bc.ca.

Before you start your claim, you should consider talking to a lawyer to help you understand the law and the procedures that might apply to your case. You may be eligible to obtain free (pro bono) legal advice.

If you do not have a lawyer, you will have to prepare your case and do the legal research to represent yourself. You will have to do all the things a lawyer would do and it will not be easy. You will need to learn about:

- the court system;
- the law that relates to your case;
- what you and the other side need to prove;
- the possible legal arguments for your case.

You will also need to know about the Rules of Court and the forms that must be used in your lawsuit. If you do not understand these things, you might miss something (i.e. a deadline) and hurt your case. If you sue and lose, you might be ordered to pay the costs of the other party.

Preparing for Trial and Trial in Supreme Court

The final stage in an action (a proceeding starting with a writ of summons and statement of claim) is the trial. The trial is your opportunity to go before a judge and tell your story by presenting evidence to the court. There is a whole area of the law that deals with how evidence can be presented to the court. This booklet is intended to give you a general overview of the procedures for the trial process and what you need to do generally to prepare for a trial. It does not cover the law of evidence. It is a good idea to consult a lawyer about the trial process and the evidence you think you need to present to prove your case. A lawyer can explain the law

of evidence and will be able to help you plan for the trial as well as give you information about what you might expect to happen at trial. The courthouse library also has many textbooks about the law of evidence and trial procedure that you may find useful.

Rules 35, 39, 10(1), 23(5), 40 and 40A of the Rules of Court deal with trial procedures. Be familiar with these Rules when you begin trial preparation. You can find copies of these Rules, together with blank copies of any forms referred to in this guidebook, at the locations and on the website listed at the beginning of this guidebook.

Should I choose a jury trial?

In an action, any party can choose to have the trial heard by a judge and jury, except in certain cases. The Rules of Court set out certain matters that cannot be heard by a jury (see Rule 39(25)). Jury trials are not common in civil matters.

Jury trials tend to take longer than trials by judge alone and require that you pay additional costs to the court for the jury. As a result, it can be more expensive and time consuming to have a jury trial. If you are

considering a jury, you should get advice from a lawyer about whether this is an appropriate option for your case.

If you choose to have a jury trial, review Rule 39(26) which sets out how you tell the court and the other parties that you want a jury trial.

Jury trials are not available in fast track litigation (Rule 66) cases or expedited litigation (Rule 68) cases.

How do I schedule a trial?

To have a trial, you or one of the other parties to the action must schedule a date with the court in the registry location where the trial will be heard. To do this, complete and file a form called a notice of trial (Form 35). A copy of the notice of trial is attached to this guidebook. If you are the plaintiff, you can deliver your notice of trial after the time has expired for the delivery of a statement of defence. Any party can deliver a notice of trial after the pleadings are closed. (See Rule 23(5)) for information about when pleadings are considered closed.)

You do not have to schedule the trial date as soon as the pleadings are closed. However, you should keep in mind that the next available trial dates that the court can offer in many locations are generally 12 to 18 months in the future. The time frame for the next available trial dates varies from registry to registry and also depends on how many days you require for your trial.

The trial coordinator in each registry is the person to contact about dates for trials. Each registry has a different practice for booking trial dates, and different documentation is required for trials of different trial lengths, so it is good idea to contact the trial coordinator to find out what you need to do to book a trial date. You will need to contact the trial coordinator to confirm that the dates you want

are available *before* you can file your notice of trial.

You need to have an accurate estimate of how long the entire trial will take before you schedule the trial date with the court. Consider how long you think the trial will take:

- How many witnesses will testify for you?
- How long will it take you to present your evidence?
- How long will it take you to sum up your case for the judge?
- How long will it take you to make arguments about the law applicable to your case?
- How much time will the other party need for their witnesses and case presentation? You will need to consult with them on this.

Before you schedule a trial date, make sure that everyone involved in the trial will be available for the dates you request from the trial coordinator. Your preferred dates may not be available, so be sure to have at least two or three sets of alternate dates in mind.

If you are the party who filed the notice of trial you will also have to prepare and file a document called a trial record.

What is a trial record?

A trial record is a bound book that contains all the pleadings and other documents to be put before the court at the trial. The party who filed the notice of trial must file a trial record at least 14 days, but not more than 30 days, before the first day of trial.

A trial record must include:

- The pleadings (i.e., the statement of claim, statement of defence as well as any third party notice or counterclaim). If any of these documents have been amended, include only the amended pleadings;
- Any particulars delivered pursuant to a demand for particulars, together with the demand (A demand for particulars is a request that a party provide more information about a matter set out in their pleadings. See Rule 19 (16));
- Any order made that relates to the conduct of the trial (for example, an order that the trial be heard in a different registry).

Once you have collected these documents, then:

- Prepare a cover and an index. On the cover put the style of proceeding, the title TRIAL RECORD, and the names, addresses and phone numbers of all parties or their lawyers. Include the date and place of trial in the bottom right hand corner of the cover page. In the index, set out the name of each document, the date the document was filed, and the page number of the document in the trial record.
- Number each page of each document in the top right hand corner.
- Under the page number on the first page of each document in the trial record, include the registry office and the date the document was filed, prepared, completed or made.
- Have the trial record bound.

Once you have prepared and filed the trial record, have it delivered to all other parties to the action. You will also need to complete and file a trial certificate.

What is a trial certificate?

A trial certificate is a short document that sets out:

- that the party submitting the form will be ready to proceed with the trial on the date scheduled;
- the current estimate of the length of the trial; and
- that the party submitting the form has completed all examinations for discovery.

A copy of the trial certificate (Form 37) is attached to this guidebook.

All parties must file a trial certificate at least 14 days but not more than 30 days before the first day of trial. It is very important to file this document. If no party files a trial certificate, your case will be removed from the trial list and you will have to schedule a new trial date.

Attach a list of all the witnesses and time estimates to the trial certificate. This list

should set out the name of every witness who will testify at the trial, the time estimated for each witness on direct and cross examination, and the total time required for each witness. A sample list of witnesses is attached to this guidebook. You will have to consult with the other parties to prepare this document in order

to get information about the witnesses they will call to give evidence.

Once you have prepared and filed the trial certificate, it must be delivered to all other parties to the action.

Do I need to attend a pre-trial conference?

A pre-trial conference is a short meeting (usually about 30 minutes) with a judge or a master to deal with any concerns, scheduling problems, or pre-trial matters that might happen right before the trial. Rule 35(4) provides the court with a very wide range of orders it can make to ensure that the trial proceeds fairly and efficiently. The court can even adjourn a trial at a pre-trial conference. If you have any concerns about the trial, the pre-trial conference is when you should discuss them. The judge or master is there to help you work things out so that the trial goes as smoothly as possible.

Any party can request a pre-trial conference (see Rule 35). Depending on the length of your trial and where it will be held, a pre-trial conference may be mandatory. Contact the trial coordinator in the registry where the action was filed to find out whether you are required to have a pre-trial conference in your case.

Either party can book a pre-trial conference although generally it is the plaintiff who does this. If you want to book a pre-trial conference, call the trial coordinator. Tell him or her when the trial is scheduled to start and that you want to book a pre-trial conference. The trial coordinator will give you some available times. Check with all other parties

to make sure they are available. Once you have a date, call the trial coordinator to confirm the date, and send him or her a requisition (Form 2) setting down the conference. A copy of the requisition to schedule a pre-trial conference is attached to this guidebook.

Once you have filed the requisition, deliver a copy to all other parties.

If your case is an expedited action (under Rule 68) you may choose to have a case management conference. This conference is similar to a pre-trial conference. In expedited litigation you must also attend a trial management conference 15 – 30 days before the start of trial. It is very important that you prepare for and attend the trial management conference. Each party must file and deliver a trial brief to the other party at least 7 days before the trial management conference. At the conference the judge may make orders about how the trial is going to proceed. You can find more information about case management conferences and trial management conferences in the guidebook called *Expedited Litigation in Supreme Court – Rule 68*.

How do I get ready for court?

The most important thing to remember about getting ready for a trial is that you need to be organized. You need to organize your documents, your witnesses and all the law that you want the court to consider in deciding your case. Most importantly, you will need to think about what facts you need to prove to the court and how you will prove them.

It is a good idea to organize all your information for the trial and put it in one place so you can easily find things and can keep everything up to date. You could put it all in a three-ring binder or in a directory folder in your computer. At the very least, your central information source should include:

- the trial date;
- a list of all the things that you must file or do before the trial and the dates on which they must be done, including filing a trial record and trial certificate. (If your trial certificate is not filed in time, you will lose your trial date.);
- a list of all the facts you will need to prove your claim or your defence and how you will prove each fact (for example, by getting a witness to testify about it or presenting a document to the court);
- the names, addresses, phone numbers and schedules of any experts you plan to call;
- the names, addresses and phone numbers of your witnesses;
- the dates when each witness or expert needs to be in court to testify;
- the names, addresses and phone numbers of everyone else involved, including defendants or plaintiffs, or the lawyers acting for them;
- a detailed trial schedule. (If you are going to trial under the fast track rule (Rule 66), you will already have prepared this list. If not, check the information on trial agendas in the guidebook called *Fast Track Litigation in Supreme Court* and prepare a similar document. This will help you estimate how long things will take you at trial.)

One of the most useful things you can do to prepare yourself to conduct your trial is to spend some time sitting in court observing a trial so you have a better understanding of how things work in a courtroom. This will also give you a sense of what to expect and help you familiarize yourself with courtroom protocol. Trials are open to the public and generally are in session from 10:00 to 12:30 am and from 2:00 to 4:00 pm.

What can I use as evidence at trial?

Evidence is what you present to the court to prove the facts that are necessary to your claim or to your defence. Evidence can be given by witnesses who come to court to testify or can be presented to the court in the form of documents. For example, if it is relevant to your case that it was raining on a particular day, you could call as a witness someone who remembers that it was raining that day or you could get weather records from Environment Canada that show what the weather was like on that day. If there is a technical or complex issue in your case that requires the opinion of an expert, you can have an expert present the evidence.

This booklet does not cover the law of evidence and the specific rules about how certain facts can be proved. Consult with a lawyer about the law of evidence to find out the proper way to prove the facts necessary to your claim or your defence.

(a) Witnesses

You need to think about whether you need anyone to come to the trial to give evidence. Witnesses can testify about facts that are relevant to the case. They may also testify about certain documents. For example, if you need to prove a signature on a document, you may need to call that person to confirm that they signed the document.

If you decide that you need witnesses, contact them to ask them to attend the trial. If you are uncertain whether a particular witness will show up at the trial, serve him or her with a subpoena. A subpoena is a form that notifies a witness that he or she is required to attend in court to give evidence at a trial and that failure to do so may result in a charge of contempt of court. Prepare the subpoena using Form 21 (a copy of which is attached to this guidebook). According to Rule 40(38),

the subpoena must be served together with the appropriate witness fees. See Schedule 3 of Appendix C of the Rules of Court to find out how much you must pay the witnesses.

There are special rules about how to serve a document. For further information, see Rule 11 and the guidebook called *Starting a Civil Proceeding in Supreme Court*.

When you are preparing your case for trial, you may want to go over the evidence with your witnesses beforehand to let them know the questions they will be asked. You may want to prepare a list of information for you and each of your witnesses to use to get ready for trial. This list should set out:

- the name, address, age, and occupation of the witness;
- his or her education, if necessary;
- his or her experience, if necessary;
- what he or she will testify about.

When you call your witness to give their evidence at the trial, you will ask them questions to have them give the evidence that is relevant to your case. This questioning is called direct examination. Once you have finished asking your witness questions, the other parties have the right to ask the witness questions. This is called cross-examination. You have the right to cross-examine all of the witnesses called by the other parties.

There are many books in the courthouse library that will help you prepare to examine and cross-examine witnesses. Review some of this information before you go to trial. You may also want to consult with a lawyer about this part of the trial.

If your case is an expedited action (under Rule 68) you must deliver a list of witnesses (Form 141) to the other party. This is a list of all the

witnesses you intend to call at trial and a written summary of the evidence you expect each witness will give. You must deliver this list within 60 days of the close of pleadings or when the action first became an expedited action, whichever is later. A person may not be called as a witness unless their name and a summary of the evidence they will give has been made known to the other party. For more information, refer to the guidebook called *Expedited Litigation in Supreme Court – Rule 68*.

(b) Experts and expert reports

Rule 40A is the Rule that deals with the evidence of experts. You can find a copy of this Rule at any courthouse library or on the website set out at the beginning of this guidebook.

Experts can provide an important part of the evidence in some trials and whether you need expert evidence is something you should consider early in the proceedings. Consulting a lawyer may give you a better sense of whether or not an expert is necessary and the lawyer might also help you locate and instruct an appropriate expert.

An expert can give opinion evidence – either in person or by preparing a written report – about any relevant fact that is set out in a pleading. Unlike other witnesses, whose opinions are not admissible at trial, expert opinion is admissible if it provides information to the court that would not normally be within the judge’s knowledge.

Experts are available in every field – for example, medical, mechanical, engineering, accounting, banking. Make sure that the expert you choose will help you present your case and that the cost of that expert is worth the impact on your case. Experts can be expensive. They charge you for reviewing documents, preparing an opinion, and

appearing at trial. These costs add up very quickly.

The advantage of having an expert prepare a report under Rule 40A is that they do not have to go to the trial to give their evidence to the court. If you decide to have an expert prepare a written report, Rule 40A(2) requires that the expert report must be delivered to all parties at least 60 days before the statement is given in evidence at the trial. Generally, it is best to have the report delivered at least 60 days before the day your trial begins. Once the parties have reviewed the report, they may ask that the expert attend at trial so that they can cross-examine him or her.

According to Rule 40A(5) an expert report must include the following information:

- the qualifications of the expert;
- the facts and assumptions on which the opinion is based; and
- the name of the person primarily responsible for the contents of the report.

An expert can give opinion evidence at a trial without providing a written report in advance. However, you are still required to give notice to all the parties at least 60 days before the trial begins stating that the expert will be giving evidence at the trial. This notice must include a written summary of the evidence you expect the expert will give. If you choose this option, you should send a letter to all parties stating:

- the name of the expert;
- the qualifications of the expert;
- the evidence the expert will be giving; and
- that you will be calling the expert to give evidence at trial.

The other party may also provide expert evidence in the form of an expert’s report and you will need to review that report carefully. You may want to provide that report to your

expert to review and you or your expert may have objections to that report. Rule 40A sets out specific objections that may make an expert's report inadmissible. If you have been served with an expert's report, consider whether it would be useful to ask the expert to attend the trial so you can cross-examine him or her. However, consider this carefully because if the trial judge finds that your cross-examination was not useful, you could be ordered to pay the costs of having the expert come to court.

If your case is an expedited action (under Rule 68) you may only call one expert witness. However, if your expert witness does not have the expertise to respond to the other party's expert you may call one additional expert to respond to the other party's expert. Under Rule 68 the court may appoint a jointly-instructed expert. This is an expert who acts on behalf of both parties. For more information on jointly-instructed witnesses see the guidebook called *Expedited Litigation in Supreme Court – Rule 68*.

(c) Documents

One of the most important things you will need to prepare before the trial is a book of documents. This book will contain all the documents that you will want to present to the court as evidence during the trial. Organize them according to date separated by numbered tabs to make them easy to find. In addition, if documents are more than one page long, number each page. You can enter this book of documents as an exhibit at trial.

Think about how you will prove each of the documents to the court. You may have to call witnesses to prove that certain documents are authentic –that they are what they say they are (for example, that a letter was signed and sent on a particular date). However, before you consider calling a witness to prove a document, you should ask the other party if he

or she agrees that you can present the document to prove a particular fact (for example, that the letter was sent on the date indicated). If they agree, then you may be able to present the document without needing to call a witness.

Notices to admit are useful in getting the other parties to agree to the authenticity of documents (see Rule 31). The guidebook called the *Discovery Process* contains more information about preparing a notice to admit.

You may also want to set out in writing the various agreements you have made with the other parties about the documents. A written document agreement allows you to present your documents without objections about the validity of any of your documents and tells the court the basis upon which documents are being presented. A document agreement can be very simple but should include statements that:

- the documents included in the book are true copies of the originals;
- the documents are signed and dated as indicated;
- they were mailed or faxed or emailed as noted; and
- they were received in good order.

If possible, it helps the court if the parties can agree before the trial to prepare a joint book of documents so that all of the documents are in one place. If the parties agree, this joint book of documents can be entered as an exhibit at the trial. If there are some documents you want to present to the court but the other parties have objected to including them in the joint book of documents, you will have to deal with these documents separately during the trial.

While not strictly necessary, it is a very good idea to prepare one extra book of documents for the judge so that he or she can make notes and highlight the documents, if necessary.

What happens at trial?

Each trial happens in stages as follows:

- Plaintiff's opening – the plaintiff outlines for the judge or jury the factual basis of the claims he or she expects to prove.
- Plaintiff's witnesses – the plaintiff's witnesses give their evidence (this is called direct examination), are cross-examined by the defendant, and then re-examined by the plaintiff, if necessary.
- Defendant's opening – the defendant explains to the judge or jury what his or her evidence will show and what it means to the defence.
- Defendant's witnesses – the defendant calls defence witnesses who give their evidence (direct examination), are cross-examined by the plaintiff, and then re-examined by the defendant's lawyer, if necessary.
- Rebuttal witnesses – once the defendant has finished with his or her witnesses, the plaintiff can call rebuttal witnesses who can give evidence on issues that came up for the first time in the evidence of the defendant's witnesses, but for nothing else. Then the defendant can cross-examine these witnesses.

Once all of this has happened, your evidence is complete. Now it is time to sum up.

- Plaintiff's argument – the plaintiff presents arguments about the evidence, its

relevance, the case authorities and the statutes that are relevant to the case (you should have copies of the case authorities and statutes available for the other party and the court). The argument should include a request for costs in the event that the claim succeeds.

- Defendant's argument – the defendant does the same.
- In a very few cases, the plaintiff may reply to the defendant's argument.
- In even rarer cases the defendant may be allowed to give further reply (this is called surreply) to the plaintiff's reply.
- In complex cases, written summaries of your argument can be provided to the court. In some of these cases, the judge might ask the parties to submit written arguments instead of doing it in person or as well as doing it in person. The judge may set time limits for when written arguments are to be submitted.

After the arguments are completed, the judge may give judgment right away or, in many cases, will reserve (delay) judgment and provide written reasons for judgment at a later date.

For definitions of common court terms, see the guidebook called:

Common Supreme Court Terms

This guidebook is part of a series, *Guidebooks for Representing Yourself in Supreme Court*, produced by:



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Appendix 1: NOTICE OF TRIAL

FORM 35 (RULE 39 (2))

[insert style of proceeding, including registry number]

NOTICE OF TRIAL

TAKE NOTICE that the trial of this proceeding has been set down for hearing at the courthouse

At **[insert location of courthouse, e.g., 800 Smithe Street, Vancouver, British Columbia]**

on **[insert day, month, year]**

at the hour of **[insert time, e.g. 10:00 a.m. or 2:00 p.m.]**

Registrar **[(1)]**

Nature of action **[set out the nature of the action (2)]**

The place of trial set out above is the place of trial **[insert either: “set out in the statement of claim” or “set out in the order of this Honourable Court dated (insert date of order)”]**:
[(3)]

All solicitors of record and unrepresented parties of record in this action agree that not more than **[insert number of days of trial]** is a reasonable time for the hearing of all evidence and argument in this action.

[or]

There is disagreement as to the estimate of a reasonable time for the hearing of all evidence and argument in this action. The estimates of the solicitors of record and of the unrepresented parties of record are as follows:

insert estimates of each party as follows:

(a) plaintiff – number of days

(b) defendant – number of days

I undertake to pay all hearing fees payable under Appendix C, Schedule 1, Item 14.

Dated **[Insert date signed]**

[Insert your name (4)]

Full name, address and telephone number of party or solicitor having conduct of action:

[set out your full name, then address, telephone and fax number]

Full names, addresses and telephone numbers of all solicitors having conduct of action and unrepresented parties of record for contact by the registry.

[set out full names, then address, telephone and fax numbers of every other party, represented or unrepresented, to the action]

(1) The Registrar signs here to confirm that the trial is booked at that date, time and place.

(2) For example: breach of contract, bankruptcy, debt, motor vehicle.

(3) Include only the statements regarding time estimates which applies to your case.

(4) Generally, the notice of trial is filed by the plaintiff. In certain circumstances, a defendant will file the notice of trial.

Appendix 2: TRIAL CERTIFICATE

Form 37 (Rule 39 (19))

[insert style of proceeding, including registry number]

TRIAL CERTIFICATE [(1)]

I, [(2)], certify:

1. I will be ready to proceed on the scheduled trial date **[state date trial is scheduled to commence] at [state place of trial: e.g., Vancouver, British Columbia].**
2. My current estimate is that the trial will last **[set out number of days]** days.
3. I have completed all examinations for discovery. **[(3)]**
4. If the action is settled before trial, I will give the District Registrar prompt notice of the settlement.
5. I will give the District Registrar prompt notice of any proposed adjournment of the trial.

Dated **[Insert date signed]**

[Insert your name(4)]

THIS TRIALCERTIFICATE is filed by **[insert your name, address, phone and fax number]**.

(1) All parties should file a trial certificate certifying their readiness for trial.

(2) If an unrepresented party is filing the certificate, it should say: I, your name, the plaintiff/defendant, certify.

(3) If all discoveries are not complete and all parties have agreed to continue them, use language such as: I will have completed all examinations for discovery by [insert date]. Trial Division will likely call you about this and you will want to confirm the dates for completion of discoveries and that all parties have agreed to this.

(4) Insert your name if you are acting on own behalf.

Appendix 3: LIST OF WITNESSES AND TIME ESTIMATES

[insert style of proceeding, including registry number]

[FILE THIS DOCUMENT TOGETHER WITH THE TRIAL CERTIFICATE]

LIST OF WITNESSES AND TIME ESTIMATES

Name of Witness	Direct Examination	Cross Examination	Total Hours & Minutes for Each Witness
[insert name of each witness]	[insert time required for direct examination]	[insert time required for cross examination]	[insert total time required for each witness]
Total Hours and Minutes for All Witnesses	[total number of hours]		

Dated [Insert date signed]

[Insert your name]

THIS LIST OF WITNESSES AND TIME ESTIMATES IS filed by [insert your name, address, phone and fax number].

Appendix 4: REQUISITION

FORM 2 (RULE 64 (9))

[insert style of proceeding, including registry number]

REQUISITION

Required

BY CONSENT. Pre-trial conference scheduled for 30 minutes on

[set out day, date, and time of pre-trial conference]

Dated **[Insert date signed]**

_____ **[Insert your name]**

THIS REQUISITION is filed by **[insert your name, address, phone and fax number]**.

Appendix 5: SUBPOENA

FORM 21 (RULES 28 (5), 38 (3), 40 (34), 40 (39))

[insert style of proceeding, including registry number]

SUBPOENA

To **[insert name and address of person being subpoenaed (1)]**:

TAKE NOTICE that you are required to attend to testify as a witness at the time, date, and place set out below. You are also required to bring with you all documents in your possession or control relating to the matters in question in this proceeding **[set out, where applicable, any required physical objects (2)]**:

Please note the provisions of the Rules of Court reproduced on this subpoena.

Time **[insert the time (3)]**

Date **[insert day/month/year]**

Place **[insert location of the appearance (4)]**

Dated **[Insert date signed]**

[Insert your name]

THIS SUBPOENA is prepared by **[insert your name, address, phone and fax number]**.

Rules 2 (5) and 56 (4) of the Rules of Court state in part:

“2 (5) Where a person, contrary to these rules and without lawful excuse,

(a) refuses or neglects to obey a subpoena or to attend at the time and place appointed for his or her examination for discovery, then

(f) where the person is the plaintiff, petitioner, or a present officer of a corporate plaintiff or petitioner, or a partner in or manager of a partnership plaintiff or petitioner, the court may dismiss the proceeding, and

(g) where the person is the defendant, respondent or a third party or a present officer of a corporate defendant, respondent or third party, or a partner in or manager of a partnership defendant, respondent or third party, the court may order the proceeding to continue as if no appearance had been entered. . . .

56 (4) A person who is guilty of an act or omission described in Rule 2 (5), or Rule 40 (19), in addition to being subject to any consequences prescribed by those rules, is guilty of contempt of court and subject to the court’s power to punish contempt of court.”

(1) Make sure this is a physical address and not just a mailing address. If the party does not want to appear, you will need to have the subpoena personally served and will need a physical location to do this.

(2) The sentence should state: “and the following physical objects:” Set out the precise physical objects required.

(3) If the subpoena is for appearance at a trial, you may want the person to appear in the morning or in the afternoon. Be specific.

(4) Indicate the precise location where the party is required to attend. If at the courthouse, give the address and the courtroom number if you know it. If not, state another place in the courthouse where the party can get the courtroom number.