

## SUBPOENA TO ATTEND TO GIVE EVIDENCE

### 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]

Contact email [email address]

Address for service

### ORDER TO THE WITNESS

Name

Address

You are ordered to attend court to give evidence.

### 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 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 7 at the end of this subpoena.

**DATE TIME AND PLACE AT WHICH YOU MUST 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.

[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 provided to you a reasonable time before the date on which your attendance is required.
- 5 Conduct money may be provided by payment of a sum of money (by way of cash, cheque, or bank cheque) or its equivalent, such as prepaid travel (which can include petrol vouchers), that is sufficient to meet your reasonable expenses of attending court as required by the subpoena and returning after attending. Conduct money may also be provided by an issuing party making an offer to transfer payment by electronic means to meet your reasonable expenses of attending court as required by the subpoena and returning after attending.
- 6 If an offer to pay conduct money by electronic means has been made, non-provision by you of details to facilitate the electronic transfer for payment of conduct money is not an excuse not to comply with this subpoena.
- 7 If conduct money has not been paid by any means an addressee may apply to the court for orders that it be paid.

### Applications in relation to subpoena

- 8 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

- 9 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' expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Failure to comply with subpoena—arrest**

10 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.