

## THE CANADIAN MOTOR VEHICLE ARBITRATION PLAN



# Information Sheet

## Getting a Witness to Your CAMVAP Hearing

### Summons or Subpoena:

A summons or subpoena is a form used to notify witnesses that they need to attend a trial, hearing or arbitration to give evidence. If you want to ensure that a witness is present at your CAMVAP hearing to give evidence on your behalf, you may use a summons or subpoena to assist you at your own expense. You must bring it to the attention of the witness (serve it) and give the witness money for travel, meals and accommodation (attendance money) in advance of the hearing.

In Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia and Saskatchewan you may use CAMVAP's **Notice to Witness** as your summons or subpoena if you follow the instructions on p. 2.

In British Columbia, Prince Edward Island, Quebec, Newfoundland, Northwest Territories, Nunavut and the Yukon, you cannot use CAMVAP's form. In Quebec, the Provincial Administrator will provide that province's form. In the remaining provinces and territories you must get the form used by the civil courts. Please see p. 3 for websites that direct you to the form. In all cases, you must serve the form with attendance money as directed by the court or the Rules of Civil Procedure in your province or territory. You may still have to contact the courts or a civil litigation lawyer to verify how to serve the form and how much attendance money to give.

**Important Note:** Each summons or subpoena is at your own expense. Your CAMVAP Arbitrator can order that you be reimbursed up to a maximum of \$100 per case for documented costs in connection with a summons or subpoena. However, if the Arbitrator is satisfied that you abused this power, there can be no reimbursement. Please re-read section 9 of the Agreement for Arbitration, especially sections 9.8 and 9.9 on this point.

### What to Do If You Want Documents:

You don't need to use a summons or subpoena if you just want the other side to produce documents that are relevant to the case. Your CAMVAP Arbitrator has the power to order that these be produced if they are in power or control of the other side. Therefore, if you believe that the other side has documents that are necessary to your case, you should ask the Arbitrator to issue an order that they be produced. If the other side objects, you will be asked to explain how the documents pertain to your case.

# **Using CAMVAP's Notice to Witness (Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia and Saskatchewan only)**

## **Complete the Notice to Witness:**

You must fill in all necessary details including the case name, the date, time and place of the hearing, the witnesses name and address and your own contact information. If there are specific records or documents that you want the witness to bring, you must clearly indicate what they are. You may put all of your witnesses on one form.

## **Get the Arbitrator's Signature:**

In Manitoba, Ontario and Saskatchewan you must also get your CAMVAP Arbitrator to sign the Notice to Witness before you serve it. The Provincial Administrator will ask the Arbitrator to sign it on your behalf at no cost to you.

## **Calculate the Attendance Money:**

Attendance money is money that allows the witness to travel to and from the hearing, provides for meals, and if necessary, provides them with overnight accommodation. However, you don't need to pay attendance money if the witness is already a party to the CAMVAP arbitration. Follow the details on the form to calculate how much attendance money you need and total up the amounts. You will need to give this money to the witness at the time that you serve the form. You should staple the cheque for the attendance money to the Notice to Witness so that it does not get lost or misplaced.

## **How to Serve a Notice to Witness:**

"Serving" a document means bringing it to the attention of the person who is named in it and making sure they have a copy. You must do this personally. The notice cannot be sent by mail or courier or in any other way. It must be placed in the hands of the person you are calling as a witness. Remember: at the same time that you serve the Notice to Witness you must serve attendance money.

Make a written note of the date, time and place you served the Notice to Witness on each witness. Then, if you ever need to establish that there was proper service you will be able to do this under oath.

## **Websites for the provinces which cannot use CAMVAP's Notice to Witness form:**

### ***British Columbia***

Supreme Court Civil Rules, BC Reg 168/2009

<https://www.canlii.org/en/bc/laws/regu/bc-reg-168-2009/latest/bc-reg-168-2009.html>

Form 25 – Subpoena to Witness

### ***Newfoundland/Labrador***

Rules of the Supreme Court, 1986, SNL 1986, c 42, Sch D, Rule 46 Evidence at Trial

<https://www.assembly.nl.ca/legislation/sr/regulations/RulesSc/RulesScForms/Form46.23A.pdf>

Form 46.23A - Subpoena

### ***Northwest Territories/Nunavut***

Rules of the Supreme Court of the Northwest Territories, R-010-96

<https://www.justice.gov.nt.ca/en/files/legislation/judicature/judicature.r8.pdf> (p. 310)

Form 23 Notice to Attend a Hearing

### ***Nunavut***

<https://www.nunavutlegislation.ca/en/consolidated-law/rules-supreme-court-northwest-territories-official-consolidation>

Form 23 Notice to attend at hearing

### ***Prince Edward Island***

<https://www.courts.pe.ca/forms>

Form 53A Summons to Witness (at Hearing)

### ***Quebec***

The Provincial Administrator will provide that province's form to be used to compel the attendance of a witness at an arbitral proceeding.

### ***Yukon***

<https://www.canlii.org/en/yk/laws/regu/yoic-2022-168/latest/yoic-2022-168.html>

Form 25 Subpoena