

CAMVAP

Canadian Motor Vehicle
Arbitration Plan



Programme d'arbitrage pour
les véhicules automobiles du Canada

PAVAC

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

<http://www.bccls.bc.ca>

On home page, click on 'Court Rules' at top right

Under 'B.C.', click on 'Supreme Court Forms'. Find 'Form 21 – Subpoena'

Prince Edward Island

<http://www.gov.pe.ca/courts/supreme>

Under 'Reference Information', click on 'Forms'

Find 'Form 53A – Summons to Witness (At Hearing)'.

Northwest Territories/Nunavut

<http://www.justice.gov.nt.ca>

On home page, click on 'Legislation'

On left side of next screen, click on 'Rules of Court'

'Under Judicature Act', click on 'Rules of the Supreme Court of the Northwest Territories _ Part 2'

Go to page 89. Find 'Form 23 – NOTICE TO ATTEND AT HEARING'

Newfoundland/Labrador

<http://www.gov.nf.ca>

On home page, click on House of Assembly

Click on 'Statutes & Regulations'

At top right click on 'Table of Regulations'

Click on 'J'

Click on 'Judicature Act'

Click on 'Rules of Supreme Court, 1986 (1986 c 42 Sch D)'

Locate Rule 46. At end of Rule 46 find "Form 46.23A - subpoena'.

Yukon

The Yukon uses the British Columbia forms. Use Form 21 (see BC website) and adapt accordingly.