

# H

## Small Claims Court Guide

### Witnesses

This booklet will tell you about the steps required for you to summon a witness. It also explains what you have to do if you are summoned to attend court. A **summons** is when the court requires a person to attend court as a witness at a trial, hearing or examination, to produce documents or other things or to testify before the court.

### How a witness is told to attend court

To summon a witness to court, a party must:

- (a) complete a Notice to Appear as a Witness (Form 10), following the instructions on the form, and
- (b) serve a copy of the summons on the witness at least 5 days before the date the witness is required to attend, and
- (c) pay the witness' costs for transportation and accommodation OR arrange for telephone/video testimony.

A Notice to Appear as a Witness may be served on the witness by mail, registered mail, fax or e-mail.

A Notice to Appear as a Witness is not effective unless the witness' costs for transportation and accommodation OR arrangements for telephone/video testimony are made.

### What if I do nothing?

If you are required to appear as a witness and you don't show up, or if you don't bring the required documents, the party who required you to appear may seek an adjournment and institute civil contempt proceedings against you.

### Travelling expenses

### What if I am a resident of Iqaluit and I am asked to be a witness in Cape Dorset?

The party who has required you to attend the trial must

- a) arrange for you to attend by telephone or videoconference OR
- b) pay your costs of transportation to and accommodation in the community where the trial will be conducted.

If travel costs are not offered, or telephone/video testimony is not arranged, the witness will likely have a defense to any civil contempt proceedings.

### **Summons not always necessary**

If a witness will attend court voluntarily, a summons is not necessary.

### **What a witness served with a Notice to Appear as Witness must do**

A person who is served with a Notice to Appear as a Witness must:

- (a) attend court at the time and place stated on the notice, and
- (b) bring to court any records and other things required by the notice.

### **If a witness does not obey a Notice to Appear as Witness**

As stated earlier, if you decide not to appear as witness, or bring the documents requested, the other party may institute civil contempt proceedings against you.

### **What if I cannot attend court or if I don't have anything to contribute?**

If you are summoned as a witness but you are unable to attend or if you think that you don't have anything to contribute you should contact the Court Registry and let them know. They will be able to help you.

### **Expert Witnesses**

An expert report or testimony from an expert witness is not admissible at trial, unless the Court orders otherwise.

### **How may I get more information?**

This is one in a series of booklets available online or from the Small Claims Court Registry. The titles in the series are:

**A ( pages 1- 4 ) WHAT IS SMALL CLAIMS COURT?**

**B ( pages 1-7 ) MAKING A CLAIM**

**C ( pages 1- 4 ) SERVING DOCUMENTS**

**D ( pages 1 – 5 ) REPLYING TO A CLAIM**

**E (pages 1 – 4 ) GETTING READY FOR COURT - PART 1 - MEDIATION**

**F ( pages 1 – 3 ) GETTING READY FOR COURT – PART 2 - THE TRIAL**

**G ( pages 1 – 3 ) DEFAULT**

**H ( pages 1 – 3 ) WITNESSES**

**CIVIL RULES** - For more detailed information you may want to look at the small claims court rules themselves. The rules have been written for non-lawyers.

The people behind the counter at the Small Claims Registry are helpful. They cannot give legal advice and they cannot fill out your forms for you, but they will gladly answer your questions about Small Claims Court procedures.

The information contained in this booklet is simply an overview of the significant provisions of the Small Claims Rules. The information is not intended to be legal advice. If you have any legal questions, you should see a lawyer.

**Nunavut Legal Aid Offices:**

Maliiganik Tukisiinaikvik (Iqaluit) – (867) 979-5377

Keewatin Legal Services (Rankin Inlet) – (867) 645-2536

Kitikmeot Law Centre (Cambridge Bay) – (867) 983-2906

High Arctic Law Office (Pond Inlet) – (867) 899-8707

**Civil Registry of the Nunavut Court of Justice:**

Main line – (867) 975-6102

Toll free – 1-866-286-0546