

MAGISTRATES' COURT GENERAL CIVIL PROCEDURE RULES 2020

FORM 42A

Rule 42.03(1)(a)

SUBPOENA TO ATTEND TO GIVE EVIDENCE

IN THE MAGISTRATES' COURT
OF VICTORIA
AT:

COURT NUMBER:

BETWEEN: *(Plaintiff)*

OF:

AND: *(Defendant)*

OF:

To *[name]*

of *[address]* :

YOU ARE ORDERED to attend to give evidence: see below for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

You should read all of the Notes set out at the end of this subpoena.

The last day for service of this subpoena is: *[date]* . *(See Note 1)*

Date:

[Seal of the Court]

Issued at the request of *[name of party]*
whose address for service is:

Place:

Email:

Details of subpoena

You are required by this subpoena to attend to give evidence and you must attend as follows unless you receive notice of a later date or time from the issuing party, in which case, the later date or time is substituted:

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 this proceeding or until the hearing of the matter is completed.

NOTES

Last day for service

1. Subject to Note 2, 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 service of the subpoena.

Informal service

2. Even if this subpoena has not been served personally on you, 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 requirements of the subpoena unless a sum of money or its equivalent (such as pre-paid travel) sufficient to meet your reasonable expenses of attending, as required by the subpoena and returning after so attending, is provided or tendered to you a reasonable time before the day on which your attendance is required.

Applications in relation to subpoena

5. 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 any claim you may have for privilege, public interest immunity or confidentiality in relation to any evidence you may be required to give under the subpoena.

Loss or expense of compliance

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

Contempt of court—arrest

7. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
8. Note 7 is without prejudice to any power of the Court under section 134 of the *Magistrates' Court Act 1989*.