

# Subpoena

Family Law Rules ~ RULE 15.17

**Please type or print clearly** and mark [X] all boxes that apply. Attach extra pages if you need more space to answer any question/s.

Filed in:

- Family Court of Australia  
 Family Court of Western Australia  
 Other (specify) \_\_\_\_\_

**Filed on behalf of:**

**Full name:** \_\_\_\_\_

MARK [X] IN THE BOX THAT APPLIES TO YOU

- Applicant  
 Respondent  
 Other (specify) \_\_\_\_\_

**COURT USE ONLY**

Client ID \_\_\_\_\_

File number \_\_\_\_\_

Filed at \_\_\_\_\_

Filed on \_\_\_\_\_

Court location \_\_\_\_\_

The last date for service of this subpoena is (refer to Notes 2, 3 & 4 on page 4)  
\_\_\_\_\_

Documents must be produced to registry  
by: \_\_\_\_\_

**TO**

\_\_\_\_\_

NAME

Address

\_\_\_\_\_  
\_\_\_\_\_  
State Postcode

**YOU ARE ORDERED TO:** (select one box only)

- Attend court to give evidence (see Part B for details of order)  
 Attend court to give evidence and produce documents (see Part C for details of order)  
 Produce documents to the Court (see Part D for details of order).

**TAKE NOTICE: if you fail to obey this subpoena**

- a warrant may be issued for your arrest
- you may be liable to pay any costs occasioned by your failure to comply, and
- the Court may impose a penalty under s.112AD of the *Family Law Act 1975*.

Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Registrar: \_\_\_\_\_

The last date for service of this subpoena is \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (See Notes 2, 3 & 4)

**Please read Notes 1 to 18 at the end of this subpoena**

Filed on behalf of \_\_\_\_\_

Prepared by \_\_\_\_\_

Lawyer's code \_\_\_\_\_

Name of law firm \_\_\_\_\_

Address for service  
in Australia

Street \_\_\_\_\_

State \_\_\_\_\_

Postcode \_\_\_\_\_

Email \_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

## Part A About the parties to the case

### APPLICANT 1

Family name as used now

Given names

### RESPONDENT 1

Family name as used now

Given names

## Part B Details of order to attend court to give evidence

**Date** you must attend court: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**Time** you must attend court: \_\_\_\_\_ AM  PM

**Place** you must attend court: \_\_\_\_\_

You must continue to attend from day to day unless excused by the Court or a registrar or until the hearing of this matter is completed.

## Part C Details of order to attend court to give evidence and produce documents

**Date** you must attend court: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**Time** you must attend court: \_\_\_\_\_ AM  PM

**Place** you must attend court: \_\_\_\_\_

You must continue to attend from day to day unless excused by the Court or a registrar or until the hearing of this matter is completed.

When you attend court, you must produce the books, documents and things described in the Schedule at Part E.

## Part D Details of order to produce documents to the Court

You must produce the books, documents and things described in the Schedule at section E:

**Date and time** for production: On or before \_\_\_\_\_ PM on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**Place:** You must produce the books, documents and things described in the Schedule to an officer of the Court, \_\_\_\_\_ registry, (address of court)

\_\_\_\_\_

State: \_\_\_\_\_ Postcode: \_\_\_\_\_

**Instead of attending court** you may post or deliver the books, documents and things described in the Schedule to the Registry at the 'address of Court' specified above at least 2 days before the date for production specified above.

**See Notes 13 and 14 for automatic release of documents.**

**This subpoena was issued at the request of the issuing party named in the footer on page 1.**

**DO NOT send subpoenaed documents to this person.**

**Subpoenaed documents must be produced to the Court, notwithstanding any objection being made.**

**The Registrar will issue a receipt to the person producing the documents or things.**

## **Part E** Schedule

*(if insufficient space attach list)*

**Books, documents and things you must produce from your possession, custody or control**

1. a copy of this subpoena
- 2.

**NOTE: You may, with the consent of the issuing party, produce a copy, instead of the original of a document.**

Family Law Rules 2004 — Rule 15.17

### Limitations — subpoenas

1. Self-represented parties must obtain permission to request the issue of a subpoena. See rule 15.17 (2) and 15.18.

### Service of subpoena

2. Where this subpoena requires the person to **attend court to give evidence**, the issuing party must serve this subpoena **personally** on the person subpoenaed at least **7 days** before the date for attending court
3. Where this subpoena requires the person to **attend court to give evidence and to produce documents**, the issuing party must serve this subpoena **personally** on the person subpoenaed at least **10 days** before the date for attending court.
4. **Where this subpoena requires the person to produce documents to the Court**, the issuing party must serve this subpoena by **ordinary service** on the person subpoenaed at least **10 days** before the date for producing documents.
5. The named person may reach an agreement with the issuing party in relation to a different **manner of service** of a subpoena to produce documents only.

### Service of copy of subpoena

6. The issuing party must serve by ordinary service a copy of this subpoena on each other party, any interested person and any independent children's lawyer in the proceeding within a reasonable time before attendance or production under the subpoena is required.
7. An 'interested person' means a person who has a sufficient interest in the subpoena.
8. The **issuing party** may reach an agreement with each other party, any interested person and any independent children's lawyer in relation to a different **manner of service**.

### Cost of complying with subpoena

9. The person serving the subpoena must give the person subpoenaed conduct money sufficient to meet the reasonable expenses of compliance. The amount of conduct money must be at least \$25. See rule 15.23(1) Family Law Rules 2004.
10. If you are the person subpoenaed and you are not a party in the proceeding and you will incur substantial loss or expense in properly complying with the subpoena, you may apply to the Court for an order that the issuing party pay you an amount in respect of the loss or expense. Before making such an application you may wish to give notice to the issuing party that substantial loss or expense would be incurred in properly complying with the subpoena, including an estimate of the loss or expense.

### Objection to production, inspection or copying of documents

11. The person required by this subpoena to produce documents or things may object to producing a document by completing, filing and serving the attached *Notice of Objection – Subpoena* before the date specified in this subpoena for production. The documents or things identified in the subpoena must be provided to the registry before the date of production, even if the person required to comply with the subpoena lodges a *Notice of Objection*.
12. Any party or any interested person or any independent children's lawyer may object to inspection or copying of a document described in this subpoena by completing, filing and serving the attached *Notice of Objection – Subpoena* before the date specified in this subpoena for production.

**NOTE:** Family Law Rules 2004 — Rule 15.31

### Automatic release of documents for inspection or copying (Part D)

13. Subject to any objection being upheld or an order of the Court and subject to the issuing party filing a notice of request to inspect in the approved form, each party and any independent children's lawyer may, by appointment, inspect all documents produced in response to this subpoena and may take copies of all documents produced in response to this subpoena (other than a child welfare record, medical record, criminal record or police record).
14. A person who inspects or copies a document produced in response to this subpoena must:
  - (a) use the document for the purpose of the proceeding only, and
  - (b) not disclose the contents of the document or give a copy of it to any other person without the Court's permission.

### Child welfare, medical, criminal and police records

15. Child welfare records, medical records, criminal records and police records produced in response to this subpoena will be available for inspection by each party and any independent children's lawyer, but these records will not be available for copying without an order of the Court.

**Child welfare records** are records relating to child welfare held by a State or Territory agency mentioned in Schedule 9 to the *Family Law Regulations 1984*.

*Note:* For child welfare records, there may be restrictions on inspection imposed by protocols entered into between the Court and the relevant child welfare department.

### Objection by person to inspection of medical records

16. If the documents to be produced under this subpoena include a person's medical records, that person may, **before** the date stated for production, notify the Registrar in writing that he or she wants to inspect the records for the purpose of determining whether to object to the inspection or copying of the document by any other party.
17. If such notice is given:
  - (a) that person may inspect the medical records and may, within 7 days after the date stated in the subpoena for production, object to inspection or copying of a document described in this subpoena by completing, filing and serving the attached *Notice of Objection – Subpoena*, and
  - (b) unless otherwise ordered, no other person may inspect the medical records until the later of 7 days after the date stated in the subpoena for production or the hearing and determination of the objection.

### Time and date for hearing an objection

18. Any objection in relation to this subpoena will be heard before a judge or registrar. The Registrar will advise the parties and the objector of the time and date when they will be required to attend court for the hearing and determination of the objection.

# Notice of objection – Subpoena

Any person named in this subpoena or affected by this subpoena who objects to the production or inspection or copying of documents described in this subpoena must:

## TO BE COMPLETED BY THE PERSON FILING THIS NOTICE

File number \_\_\_\_\_

Court date \_\_\_\_\_

Filed at \_\_\_\_\_

Filed on \_\_\_\_\_

Court location \_\_\_\_\_

1. **complete and sign** this *Notice of Objection*
2. **file** this *Notice of Objection* together with a copy of the subpoena at the Court registry before the date for the production of documents required by the subpoena. If you are the person required in the subpoena to provide the documents or things, you are still required to provide these to the court registry prior to the date of production.
3. serve a copy of this *Notice of Objection* together with a copy of the subpoena on the issuing party and all other parties, and
4. **attend Court** on the date set by the Registrar for consideration and determination of this Objection.

## Part A Details of objection

**TO** the Registrar, at (registry) \_\_\_\_\_

**AND TO** the issuing party

**AND TO** all other parties in this proceeding

(Name of person objecting): \_\_\_\_\_

(select **one** box only)

I am the person subpoenaed in the attached subpoena

I have been given a copy of the attached subpoena directed to

(Name of person subpoenaed): \_\_\_\_\_

Filed on behalf of \_\_\_\_\_

Prepared by \_\_\_\_\_

Lawyer's code \_\_\_\_\_

Name of law firm \_\_\_\_\_

Address for service  
in Australia

Street \_\_\_\_\_

State \_\_\_\_\_

Postcode \_\_\_\_\_

Email \_\_\_\_\_

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

**Details of objection continued... (select box or boxes)**

I give notice that I object to the production of some or all of the documents to the Court for the following reasons: *(attach extra page if insufficient space)*

1.

I give notice that I object to the inspection / copying of some or all of the documents produced for the following reasons: *(attach extra page if insufficient space)*

1.

**Part B Signature**

Signature

Signed by (print full name):

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- the applicant
- lawyer for the applicant
- the person objecting
- lawyer for the person objecting

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_