

Practice Direction

Witness summonses

No 11 of 2023

1. Introduction

- 1.1 This practice direction is made pursuant to Rule 4.2 of the Supreme Court Civil Procedure Rules, 2022 (as amended) (the Rules).
- 1.2 This practice direction provides guidance in relation to the issue of witness summonses and related matters.
- 1.3 This practice direction comes into effect on 2 January 2024.

2. Witness summonses – General matters

- 2.1 A witness summons may require a witness to –

- (i) attend court to give evidence,
- (ii) produce documents, or
- (iii) both,

on either a date fixed for the trial or the hearing of any application in the proceedings or such other date as the Court may direct.

- 2.2 A witness summons must be in Form G21. A witness summons which requires a witness to produce documents must identify the documents individually or by reference to a class of documents or things so that it is possible to identify the documents to be produced with sufficient certainty to leave no real doubt in the mind of the witness about what they are required to do.

2.3 The Court may issue a witness summons in aid of an inferior court or of a tribunal. An “inferior court or tribunal” means a court or tribunal which does not have power to issue a witness summons in relation to proceedings before it.

2.4 A mistake in the name or address of a person named in a witness summons may be corrected without an application to vary the summons if the summons has not been served. The corrected summons must be marked “Amended and Re-Sealed” and must be re-sealed by the court office.

3. Issue of witness summonses

3.1 A witness summons is issued on the date entered on the summons by the court office. A separate summons is required for each witness.

3.2 A witness summons may be obtained by filing a praecipe for the issue of a witness summons in the form annexed to this practice direction in the court office and filing at least two copies of the summons for sealing, one of which will be retained on the court file.

3.3 No witness summons may be issued out of the court office without the prior permission of the Court where –

(i) the witness summons will be issued less than twenty-one days before the date of the trial or hearing to which it relates, or

(ii) the witness summons will require the witness to attend the court or tribunal to give evidence or to produce documents on any date except the date fixed for the trial or the hearing of any application.

3.4 An application for permission to issue a witness summons in any of the circumstances mentioned in paragraph 3.3 may be made without notice but must be supported by evidence on affidavit.

4. Service of witness summonses

- 4.1 As a general rule, a witness summons is binding only if it is served at least fourteen days before the date on which the witness is required to attend before the court or tribunal to which it relates. However, the Court may direct, on application, that a witness summons shall be binding notwithstanding that it will be served less than fourteen days before the date on which the witness is required to attend before the court or tribunal. This direction should be obtained before the witness summons is served. An application for such a direction may be made without notice but must be supported by evidence on affidavit.
- 4.2 Personal service is not a prerequisite for a witness summons to be effective under the Rules provided that service of the summons is effected by other means in accordance with Rule 6.2 of the Rules. Nevertheless, personal service of a witness summons will usually be reasonable and therefore allowed upon an assessment of costs.
- 4.3 A witness summons which is otherwise binding and which requires a witness to attend a court or tribunal to give evidence will continue to have effect until the conclusion of the trial or hearing at which the witness's attendance is required. The Court may, in its discretion, release the witness at any time after the witness has given evidence.
- 4.4 Once a witness summons has been served, an affidavit of service should be filed in the court office.

5. Traveling expenses and compensation for loss of time

- 5.1 When a witness is served with a witness summons, he must be offered a sum to cover his travelling expenses to and from the court or tribunal that he is required to attend and compensation for his loss of time.
- 5.2 More particularly, a witness served with a witness summons must be offered

- (i) a sum sufficient to pay for the witness's expenses in travelling to the court or tribunal and in returning to his home or place of work, and
 - (ii) a sum in respect of the period during which earnings or benefit are lost, or such lesser sum as it may be proved that the witness will lose as a result of his attendance at the court or tribunal in answer to the witness summons.
- 5.3 "A witness's expenses in travelling to the court or tribunal and in returning to his home or place of work" includes the cost of reasonable hotel accommodation where the witness does not ordinarily reside in the place where the court or tribunal is located and a meal allowance of \$15.00 per meal.
- 5.4 "A sum in respect of the period during which earnings or benefit are lost" means –
- (i) in the case of an ordinary witness, the sum of \$25.00 per hour or such other amount as the Court may fix, and
 - (ii) in the case of a professional or expert witness, the sum of \$75.00 per hour or such other amount as the Court may fix.
- 5.5 No compensation for loss of time shall be offered or paid to any person in the service of the Government of The Bahamas required to give evidence or to produce documents by virtue of such service.
- 5.6 Unless the Court directs otherwise, no amount offered to be paid to a witness pursuant to Rule 33.6 of the Rules may be paid to that witness if they attend in answer to the witness summons but refuse to give evidence or to produce the documents required by the summons to be produced.



Sir Ian R. Winder
Chief Justice
19 December 2023

ANNEX A – FORM OF PRAECIPE FOR THE ISSUE OF A WITNESS SUMMONS

(Attach General Heading – G1)

REQUEST TO ISSUE A WITNESS SUMMONS

We [the attorney(s)-at-law for] the [insert name of party], request that a witness summons be sealed directing [insert name of witness] of [insert address of witness] to [identify what the witness will be required to do, e.g., give evidence or produce specified documents] before [insert name of court or tribunal] at [insert address] on [insert date and time].

Dated the day of 20....

Signature of [insert name of party]/[insert name of party]’s Attorney

Address of Court Office:

Tel. No.:

Unless the Chief Justice otherwise directs, the court office is open weekdays between 9:30 a.m. and 4:30 p.m. except on public holidays.

[Insert name of party]’s Address for Service:

(Attach Last Page – G2)