

Federal Magistrates Court Rules 2001 – Rule 15A.02
**IN THE FEDERAL MAGISTRATES COURT
 OF AUSTRALIA**
REGISTRY:

File number:
COURT USE ONLY
Documents must be produced to Registry by
Court date
Court time
Court Location

.....
 Applicant

.....
 Respondent

.....
 Other party (if applicable)

Repeat as necessary for additional parties

SUBPOENA

To (name)
 of (address)
 State: Postcode:

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

- attend Court to give evidence (see Part A for details of order)
- attend Court to give evidence and produce documents (see Part B for details of order)
- produce documents to the Court (see Part C for details of order)

TAKE NOTICE: IF YOU FAIL TO OBEY THIS SUBPOENA

- a warrant may issue for your arrest
- you may be liable to pay any costs occasioned by your failure to comply; and
- if the matter relates to proceedings under the *Family Law Act 1975*, 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)

Filed on behalf of
 Prepared by Lawyer's code
 Name of law firm
 Address for service in Australia State Postcode
 Email DX
 Tel Fax Attention 1

Part A. 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 B. 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 on page 3.

Part C. Details of order to produce documents to the Court

You must produce the books, documents and things described in the Schedule on page 3:

Date & 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 Federal Magistrates Court of Australia, 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 11 and 12 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.

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

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.
3.
4.
5.
6.
7.
8.
9.
10.

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

NOTES

Limit on number of subpoenas

1. Unless the Court directs otherwise, a party or independent children's lawyer must not request the issue of more than 5 subpoenas in a proceeding.

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 on the person subpoenaed at least **10 days** before the date for producing documents.

Service of copy of subpoena

5. 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 at least **10 days** before the date for attendance or production under the subpoena.
6. An "interested person" means a person who might reasonably have an interest in the subject matter of the subpoena.

Cost of complying with subpoena

7. The person serving the subpoena must give the person subpoenaed conduct money sufficient for return travel between the place of residence or employment (as appropriate) of the person subpoenaed and the Court. The amount of conduct money must be at least \$25.
8. 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 addition to conduct money) in respect of the loss or expense. If you wish to make such an application, you must, **before complying with the subpoena**, 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

9. 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.
10. Any party or any interested person 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.

Automatic release of documents for inspection or copying (Part C)

11. 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).
12. 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

13. 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.

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

Criminal record means a record of offences for which the person has been found guilty.

Medical record means the histories, reports, diagnoses, prognoses, interpretations and other data or records, written or electronic, relating to the person's medical condition, that are maintained by a physician, hospital or other provider of services or facilities for medical treatment.

Police record means records relating to the person kept by the police, including statements, police notes and records of interview.

Objection by person to inspection of medical records

14. 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.
15. 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

16. Any objection in relation to this subpoena will be heard before a Federal Magistrate or Registrar. The Registrar will advise the parties and the objector of the time and date when the objection will be heard.

**IN THE FEDERAL MAGISTRATES COURT
OF AUSTRALIA**

REGISTRY:

File number:

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:

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;
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.

TO the Registrar, Federal Magistrates Court 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)

(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*)

.....
.....
.....

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*)

.....
.....
.....

Date:

Signature:

Form approved by the Chief Federal Magistrate pursuant to Subrule 2.04(1A) – 30 November 2009

Filed on behalf of

Prepared by Lawyer's code

Name of law firm

Address for service in Australia

State Postcode

Email DX

Tel Fax Attention