Rule 496 and 500C(3)

Form 38

[Title and heading of proceeding]

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS**

To: [name]

 [address]

**You are ordered to produce this subpoena (or a copy of it) and the documents or things specified in the Schedule of documents**. See next page for details.

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

Please read Notes 1 – 14 at the end of this subpoena.

[seal or stamp of the Court]

Dated:

………………………………………………

Signed by an officer acting with the authority of the Registrar

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

**Details of subpoena**

You must comply with this subpoena -

1. by attending to produce this subpoena (or a copy of it) and the documents or things specified in the Schedule of documents below, at the date, time and place specified for attendance and production; or
2. by delivering or sending this subpoena (or a copy of it) and the documents or things specified in the Schedule of documents below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production (*see Notes 3 – 7*).

Date, time and place at which you must attend to produce the subpoena (or a copy of it) and the documents or things specified in the Schedule of documents, 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:

Address, or any address, to which the subpoena (or copy of it) and documents or things may be delivered or posted:

**Schedule of documents**

The documents or things you must produce are as follows:

[List the documents or things. Attach list if insufficient space]

*Notes:*

**Informal service**

1. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements if you have actual knowledge of the subpoena and of its requirements.

**Addressee a corporation**

1. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena through its appropriate or proper officer.

**Production of subpoena, or copy of it, and documents or things by delivery or post**

1. If this subpoena requires production of the subpoena (or a copy of it) and documents or things, instead of attending to produce the subpoena (or a copy of it) and the documents or things, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the documents or things to the Registrar -
2. at the address specified in the subpoena for the purpose; or
3. if more than one address is specified, at any of the addresses -

so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and productions, or if you receive notice of a later date from the issuing party, before the later date or time.

**Objection to inspection**

1. If you object to a document or thing, that is produced in response to the subpoena, being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and the grounds of your objection.
2. Unless the Court otherwise orders, if you do not object to a document or thing, that is produced by you in response to the subpoena, being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

**Materials produced to the Court**

1. If the material you produce to the Court is or includes any original document, the Court will return all of the material to you. You must complete the declaration which is attached to this subpoena and specify your address for the return of this material. If you have elected to produce copies of any subpoenaed documents and declare this when completing your declaration, those copies will be destroyed, without further notice, 4 months after the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

**Production of a number of documents or things**

1. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

1. Unless the subpoena specifically requires you to produce an original, you are encouraged to produce only a copy of any document that the subpoena requires you to produce, and, if possible, to do this in electronic form.
2. Electronic copies of documents can be provided on a memory card or stick in any of the formats mentioned in paragraph 10 below.
3. The copy of a document may be in any of the following formats:
4. a photocopy;
5. in any of the following electronic formats:
6. .doc and .docx – Microsoft Word documents
7. .pdf – Adobe Acrobat documents
8. .xls and .xlsx – Microsoft Excel spreadsheets
9. .jpg – image files
10. .rtf – rich text format
11. .gif – graphics interchange format
12. .tif – tagged image format

**Applications in relation to subpoena**

1. You have the right to apply to the Court -
2. for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
3. for an order with respect to your claim for privilege, public interest immunity, or confidentiality, in relation to any document or thing that is the subject of the subpoena.

**Loss or expense of compliance**

1. 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 respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of Court – arrest**

1. Failure to comply with a subpoena without lawful excuse is a contempt of Court and may be dealt with accordingly.
2. Note 13 is without prejudice to any power of the Court under any Rules of Court (including any Rules of Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena or otherwise) to enforce compliance with a subpoena.

**SUBPOENA TO GIVE EVIDENCE AND PRODUCE DOCUMENTS OR THINGS**

**NOTICE TO ADDRESSEE**

The **addressee** is the person to whom the subpoena is addressed, and who will be the recipient of the subpoena.

You may produce copies of any subpoenaed documents, unless the subpoena specifically requires you to produce originals. A copy of a document may be –

1. a photocopy; or
2. in an electronic form that the issuing party (the party that issued the subpoena) has indicated to you will be acceptable.

**You must complete the Declaration below, attach it to the subpoena (or a copy of the subpoena) and return them with the documents or things that you provide to the Court under the subpoena.**

If you declare that the material you produce is copies of documents, the Registrar may, without further notice to you, destroy the copies after the expiry of 4 months from the conclusion of the proceeding, or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If the material you produce to the Court is, or includes, any original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

**Declaration by addressee**

[tick the relevant option below, (provide your address as appropriate), sign and date]

**All copied documents**

All of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me.

**Some original documents**

Some or all of the material I am providing to the Court in compliance with the attached subpoena is in the form of original documents. Once the material is no longer required, all the material should be returned to me at the following address:

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Date:

……………………………………………….

signed by [name of addressee]

**Addressee**