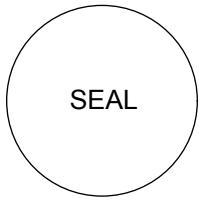


ONTARIO



(Name of court)
at _____
Court office address

Court file number

Form 20A:
Authorization to
Commissioner
Applicant(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Respondent(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

TO: (full legal name and address of commissioner)

THE COURT HAS NAMED YOU A COMMISSIONER to take evidence in this case. A copy of the order naming you is attached.

THE COURT GIVES YOU FULL POWER to take the necessary steps to take the evidence mentioned in the attached order.

If the parties consent, you also have the power to take the evidence of any other witnesses who may be found in (name of province, territory, state or country)

In carrying out your duties under this commission, you must follow,

- (a) the terms of the attached order and
- (b) the instructions set out below.

As soon as an audio recording
 a video recording
 a transcript

of the evidence is finished, you must deliver it to the clerk of the court along with this commission.

Signature

Date of signature

NOTE: Attach the court's order naming the commissioner

INSTRUCTIONS TO COMMISSIONER

1. You are to question the witness(es) according to subrules 20(14), (15), and 23(19) of the *Family Law Rules* to the extent that it is possible to do so. Subrules 20(14), (15), and 23(19) state as follows:

QUESTIONING PERSON OUTSIDE ONTARIO

20. – (14) If a person to be questioned lives outside Ontario and will not come to Ontario for questioning, the court may decide:
- (a) the date, the time and place for the questioning;
 - (b) how much notice the person should be given;
 - (c) the person before whom the questioning will be held;
 - (d) the amount of the witness fee to be paid to the person to be questioned;
 - (e) the method for recording the questioning;
 - (f) where necessary, that the clerk shall issue,
 - (i) an authorization to a commissioner (Form 20A) who is to supervise the questioning outside Ontario, and
 - (ii) a letter of request (Form 20B) to the appropriate court or authorities outside Ontario, asking for their assistance in getting the person to be questioned to come before the commissioner; and
 - (g) any other related matter.

COMMISSIONER'S DUTIES

- (15) A commissioner authorized under subrule (14) shall:

- (a) supervise the questioning according to the terms of the court's authorization, these rules and Ontario's Law of evidence, unless the law of the place where the questioning is to be held requires some other manner of questioning;
- (b) make and keep a copy of the record of the questioning and, where possible, of the exhibits, if any;
- (c) deliver the original record, any exhibits and the authorization to the clerk who issued it; and
- (d) notify the party who asked for the questioning that the record has been delivered to the clerk.

TAKING EVIDENCE BEFORE TRIAL OUTSIDE ONTARIO

23. – (19) If a witness whose evidence is necessary at trial lives outside Ontario, subrules 20(14) and (15) (questioning person outside Ontario, commissioner's duties) apply with necessary changes.

2. The law of Ontario applies to the taking of evidence, unless the law of the province, territory, state or country where you supervise the questioning requires you to follow some other manner of questioning.
3. Before you begin your duties under this commission, you yourself must take the following oath or affirmation:

I, (commissioner's name) _____

swear

affirm

that I will, (a) according to the best of my skill and knowledge, truly and faithfully and without bias to any of the parties to this case, take the evidence of every witness questioned under this commission, and

(b) cause the evidence to be recorded
 recorded and transcribed

and sent to the court.

(In an oath, add the words: "So help me God.")

before me at _____
municipality _____

in _____
province, state or country _____

on _____
date _____
Commissioner for taking affidavits
(Type or print name below if signature is illegible.)

Signature _____

(This form is to be signed in front of a lawyer, justice of the peace, notary public or commissioner for taking affidavits.)

You may take this oath or affirmation before any person listed in section 45 of *Ontario's Evidence Act* who is authorized to take affidavits or to administer oaths or affirmations outside Ontario. Section 45 of the *Evidence Act* states:

- 45. Oaths, etc., administered outside Ontario.** – (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before:
- (a) a judge;
 - (b) a magistrate;
 - (c) an officer of a court of justice;
 - (d) a commissioner for taking affidavits or other competent authority of the like nature;
 - (e) a notary public;
 - (f) the head of a city, town, village, township or other municipality;
 - (g) an officer of any of Her Majesty's diplomatic or consular services, including an ambassador, envoy, minister, chargé d'affaires, counsellor, secretary, attaché, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul, and acting consular agent;
 - (h) an officer of the Canadian diplomatic, consular or representative services, including, in addition to the diplomatic and consular officers mentioned in clause (g), a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counselor and secretary; or
 - (i) a Canadian Government trade commissioner or assistant trade commissioner, exercising his or her functions or having jurisdiction or authority as such in the place in which it is administered, sworn, affirmed or made, is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.
- (2) *Idem.* – An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside Ontario before a notary public for Ontario or before a commissioner for taking affidavits in Ontario is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made in Ontario before a commissioner for taking affidavits in Ontario.
- (3) *Admissibility.* – A document that purports to be signed by a person mentioned in subsection (1) or (2) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him or her, and on which the person's office is shown below his or her signature, and
- (a) in the case of a notary public, that purports to have impressed thereon or attached thereto his or her official seal;
 - (b) in the case of a person mentioned in clause (1) (f), that purports to have impressed thereon or attached thereto the seal of the municipality;
 - (c) in the case of a person mentioned in clause (1) (g), (h) or (i), that purports to have impressed thereon or attached thereto his or her seal or the seal or stamp of his or her office or of the office to which he or she is attached.
- is admissible in evidence without proof of his or her signature or of his or her office or official character or of the seal or stamp and without proof that he or she was exercising his or her functions or had jurisdiction or authority in the place in which the oath, affidavit, affirmation or statutory declaration was administered, sworn, affirmed or made.

4. The party who wants the witness to be questioned must:

- (a) give at least _____ days notice of the date for the questioning; and,
- (b) where the attached order says so, pay the witness appearance money.

5. You must arrange:

- (a) to have the evidence recorded in a manner set out in the attached order; and
- (b) where the order says so, to have it transcribed.

You must administer the following oath or affirmation to the person who records the evidence in shorthand and, where necessary, to the person who transcribes any written, audio or video recording of the evidence:

You swear
 affirm

that you will truly and
accurately

record
 transcribe
 record and transcribe

all questions put to all witnesses and their answers in keeping with the directions of the commissioner.
(In an oath, add the words: "So help you God.")

6. To each witness whose evidence you take, you must administer the following oath or affirmation:

You swear
 affirm

that the evidence that you are about to give about the matters in dispute between the parties in this case shall be the truth, the whole truth, and nothing but the truth. (*In an oath, add the words: "So help you God."*)

7. Where any witness does not understand the language in which he or she is being questioned or is deaf or mute, his or her evidence must be given through an interpreter. You must first administer the following oath or affirmation to the interpreter:

You swear
 affirm

that you understand the _____

language and the language in which the examination is to be conducted and that you will truly interpret the

oath
 affirmation

to all witnesses, all questions put to the witness and the answers of the witness, to the best of your skill and understanding. (*In an oath, add the words: "So help you God."*)

8. You must:

- (a) fill out the certificate on the next page;
- (b) make a copy of
 - (i) the audio or video record of the evidence,
 - (ii) any transcript of the evidence, and
 - (iii) where possible, any exhibits;
- (c) keep copies in your care until the court finishes this case;
- (d) mail or deliver the originals, together with this commission and your certificate, to the clerk of the court; and
- (e) immediately notify the party who asked for this questioning that the material has been sent to the clerk of the court.

COMMISSIONER'S CERTIFICATE

My name is *(full legal name)*

and I certify that:

- I administered the proper oath
 affirmation

to *(name)*

who was the person who recorded the evidence by shorthand.
 transcribed the evidence.

- I administered the proper oath
 affirmation

to *(name of witness(es))*

whose evidence was taken and recorded.

- I administered the proper oath
 affirmation

to *(name of interpreter)*

who was the interpreter through whom the evidence was given.

- The evidence of the witness(es) was properly taken and accurately recorded.
 recorded and transcribed.

Commissioner's signature

Date of signature