

**PRACTICE DIRECTION – APPLICATIONS FOR APPEARANCE OF
WITNESS VIA VIDEO CONFERENCING (PC Rule 2)**

Applicable Provincial Court Rule

Applications are governed by Rule 2 of the Provincial Court Rules. This Rule, and Rule 3 – Service of Documents, must be followed in preparing an application for a witness to testify via video conferencing.

Witness Video Evidence s. 714.1, 714.2, 714.3 or 714.4 of the Code

Counsel or a self-represented accused may apply pursuant to sections 714.1, 714.2, 714.3 or 714.4 of the Criminal Code to tender a witness' evidence by means of video technology that permits the witness to testify in the virtual presence of the parties and the Court. A court may grant such an order if it is of the opinion that it would be appropriate in all the circumstances including but not limited to:

- (a) the location and personal circumstances of the witness;
- (b) the costs that would be incurred if the witness had to be physically present; and
- (c) the nature of the witness' anticipated evidence.

Practice Direction

1. The application shall include an explanation of:
 - why it is believed to be appropriate to receive a witness' evidence in this fashion;
 - whether it is a consent or contested application;
 - the cost of personally attending the court proceeding;
 - the general location of and distance the witness must travel and their personal circumstances relevant to the application;

- the nature of the anticipated evidence including but not limited to:
 - Use of photos, diagrams, reports
 - Replaying audio/video recordings
 - the quality of the video connection;
2. A completed copy of The Court Video Appearance Request Form (Appearance of Witness) shall be attached to the application.
 3. The Court shall set a date for oral submissions on the application.
 4. If the application is granted the party who requested to tender evidence by means of video link shall:
 - be responsible for the securing and setting up of the video link;
 - complete, electronically or manually, the ‘Witness Video Appearance’ form located on the Courts website at www.courts.ns.ca under Provincial Court Rules and Forms;
 - ensure that the witness is available at the specified time for testifying;
 - ensure that the witness’ location is conducive to providing evidence including being quiet and free from distraction; and
 - ensure that the oath or affirmation can be taken in a manner that is legally binding on the witness (see Canada Evidence Act s. 40 and Nova Scotia Evidence Act s. 66(1)).