

**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:
 - whether the witness' credibility is in issue;
 - 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 including how the requirement to travel for court will personally affect the witness;
 - If the witness is under the age of 18 or a person with a disability, whether an application is being made under s. 486.2(1) of the *Criminal Code* to testify outside the courtroom;
 - 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));
 - where feasible, ensure the witness testifies from a local courtroom.