

FORM 34C

COMMISSION

(General Heading - Form 4A or 4B)

(court seal)

COMMISSION

TO: (name and address of commissioner)

YOU HAVE BEEN APPOINTED A COMMISSIONER for the purpose of taking evidence in this proceeding now pending in this court by order of the court made on (date), a copy of which is attached.

YOU ARE GIVEN FULL AUTHORITY to do all things necessary for taking the evidence mentioned in the order authorizing this commission. (Where the commission is issued under Rule 36, add: You are also authorized, on consent of the parties, to take the evidence of any other witnesses who may be found in (name of province, state or country).)

You are to send to this court a transcript of the evidence taken, together with this commission, forthwith after the transcript is completed.

In carrying out this commission, you are to follow the terms of the attached order and the instructions contained in this commission.

THIS COMMISSION is signed and sealed by order of the court.

(Date)

Issued by _____
Registrar

Address of court office

The registrar is to attach to this commission a copy of Rules 34 and 36 and section 63 of *The Evidence Act*.

INSTRUCTIONS TO COMMISSIONER

1. This commission is to be conducted in accordance with Rules 34 and 36 of the Manitoba *Queen's Bench Rules*, a copy of which is attached, to the extent that it is possible to do so. The law of Manitoba applies to the taking of the evidence.

2. Before acting on this commission, you must take the oath (or affirmation) set out below. You may do so before any person authorized by section 63 of *The Evidence Act*, of Manitoba, a copy of which is attached, to take affidavits or administer oaths or affirmations outside Manitoba.

I, _____, swear (or affirm) that I will, according to the best of my skill and knowledge, truly and faithfully and without partiality to any of the parties to this proceeding, take the evidence of every witness examined under this commission, and cause the evidence to be transcribed and forwarded to the court. (In an oath, conclude: So help me God).

Sworn (or Affirmed) before me at the (City, Town, etc.) of _____, in the (Province, State, etc.) of _____, on (date).

signature of commissioner

(signature and office of person
before whom oath or affirmation is taken)

3. The examining party is required to give the person to be examined at least ____ days notice of the examination and, where the order so provides, to pay attendance money to the person to be examined.
4. You must arrange to have the evidence before you recorded and transcribed. You are to administer the following oath (or affirmation) to the person who records and transcribes the evidence:

You swear (or affirm) that you will truly and faithfully record and transcribe all questions put to all witnesses and their answers in accordance with the directions of the commissioner. (In an oath, conclude: So help you God).

On consent of the parties, or where the order for this commission provides for it, the examination may be recorded by videotape or other similar means.

5. You are to administer the following oath (or affirmation) to each witness whose evidence is to be taken:

You swear (or affirm) that the evidence to be given by you touching the matters in question between the parties to this proceeding shall be the truth, the whole truth, and nothing but the truth. (In an oath, conclude: So help you God).

6. Where a witness does not understand the language or is deaf or mute, the evidence of the witness must be given through an interpreter. You are to administer the following oath (or affirmation) to the interpreter:

You swear (or affirm) that you understand the _____ language in which the examination is to be conducted and that you will truly interpret the oath (or affirmation) to the witness, all questions put to the witness and the answers of the witness, to the best of your skill and understanding. (In an oath, conclude: So help you God.)

7. You are to attach to this commission the transcript of the evidence and the exhibits, and any videotape or other recording of the examination. You are to complete the certificate set out below, and mail this commission, the transcript, the exhibits and any videotape or other recording of the examination to the office of the court where the commission was issued. You are to keep a copy of the transcript and, where practicable, a copy of the exhibits until the court disposes of this proceeding. Forthwith after you mail this commission and the accompanying material to the court office, you are to notify the parties who appeared at the examination that you have done so.

CERTIFICATE OF COMMISSIONER

I, _____, certify that:

1. I administered the proper oath (or affirmation) to the person who recorded and transcribed the evidence, to the witness the transcript of whose evidence is attached and to any interpreter through whom the evidence was given.
2. The evidence of the witness was properly taken.
3. The evidence of the witness was accurately transcribed.

(Date)

signature of commissioner