

Procedure for designating a lawyer to cross-examine a witness in a family matter

A- Designation upon application:

If the plaintiff's lawyer notes that this is a case where an application could be made or filed, it is suggested that the lawyer notify the other party and the court, at the earliest opportunity, of the intention to make such an application. The application for designation must be sent by the lawyer for the party concerned, or by the court office, to the Commission des services juridiques (the "Commission") before being presented (a copy is sufficient). It is preferable to also provide the following information:

- The name and contact information of the witness;
- The name of the adverse party;
- A copy of the pleading;
- A copy of the application or the minutes of hearing in which the date of presentation of the application for designation is indicated.

The lawyer should contact the department in charge, namely the *Service du Chapitre III*, without delay, by email at lguzman@csj.qc.ca or by telephone at 514-873-3562 ext. 5273.

B- Designation on the court's own initiative:

If the court notes that the party cannot carry out the cross-examination itself and the court wishes to make an order on its own initiative for the designation of a lawyer to cross-examine a witness, the court may direct the clerk of the court to contact the Commission. The clerk should contact the department in charge, namely the *Service du Chapitre III*, without delay, by email at lguzman@csj.qc.ca or by telephone at 514-873-3562 ext. 5273, and provide the following information:

- The name and contact information of the party concerned;
- The name and contact information of the witness or witnesses contemplated in the pleading;
- A copy of the pleading;
- The minutes of hearing ordering a designation.

Where a designation at the court's own initiative takes place, the minutes of the hearing shall indicate that a designation has been made, but that the lawyer will be identified at a later date. The court can specify the identity of the lawyer in a subsequent order. Following such an order, these minutes of hearing can be forwarded by the office of the court to the Commission.

In either of the above situations, if the Commission receives an application for designation, it shall immediately take steps to contact a lawyer (legal aid staff lawyer or lawyer in private practice). The department shall ensure that a lawyer is present on the date scheduled for the presentation of the application or the date determined by the court.

Designated lawyers must do the following:

- They must contact the court if any additional information is needed;
- When they attend in court for the purpose of being designated as the lawyer in the file in question, they must ensure their name is recorded in the minutes of hearing of the application;
- They must send the Commission a copy of the minutes of hearing of their designation in order to obtain the confirmation of their legal aid mandate.

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