Defendant : Instructions for preparing witness statements

There is no set form for witness statements in the Small Claims Division, but here are some suggestions to help you prepare them.

Layout and headings
• Use white A4 paper. • Type if possible, or use neat, clear handwriting in black or blue pen. • Use only one side of the paper .Write the case name, court and case number at the top of the page. • Write the name of the person making the statement. For example:
Meena Vishwana v Fiona Frame trading as Fantastic Florists In the Local Court at Blacktown Case Number SC20xx/766
• Write the name of the person making the statement.
Statement of Fiona Frame
Content
• The statement should be written by the witness using their own words. • Start with the name, address and occupation of the witness. For example:
I, Fiona Frame, of 42 Lancaster Road, Cowra NSW 2974, unemployed, state:
• Next, the role of the witness or the relationship of the witness to a party to the case. For example:
I am the defendant or I am employed by the defendant. or

I was asked by the defendant to prepare this statement.

or

I am the defendant's mother/father/sister/brother/friend.

- Then, the details of what the witness saw, heard, said and did. The content of the statement should be in short, numbered paragraphs. It should refer to all the relevant events, people, places and dates in a logical way.
- If your case is about a contract or agreement you should describe:
    - how, when and where the contract or agreement was made
    - what was in the contract or agreement
    - how and when the contract was carried out or breached
    - when payments were made or failed to be made
    - any financial loss you have suffered.
- If your case is about a car accident you should describe:
    - where, when and how the accident happened
    - why the other driver was at fault
    - the damage to your car and the other driver's car
    - the cost of repairing your car.

Conversations

- If the witness writes about a conversation that is important for the case, it should be set out in speech marks as accurately as possible. If you cannot remember exactly what was said you can say "words to the effect of". For example:

On 14 April 20xx I phoned Meena Vishwana. I said words to the effect of “I am looking for someone to build and maintain a website for my shop, and also to do general computer maintenance and troubleshooting. Meena replied with words to the effect of "We should meet and talk about what you want and then I can give you a quote".

Documents

- If the witness refers to a document it should be attached to the statement. Each document attached should be given a letter of the alphabet.

- There is no rule that says you must attach your documents (photos, sketches, quotes) to the statement, however, it is a good idea to do this. This is also a neater way of presenting evidence at court, and it is easier to refer to at the hearing. For example:

A copy of my letter to Meena Vishwana dated 23 April 20xx is attached and marked with the letter A.

- If you do not attach your documents to your statement, you must still file them at the court and give copies to the other party within the time ordered by the Court (usually 14 days before the hearing).
- Witness statements should not include opinions or beliefs, or arguments about the law.

Generative artificial intelligence disclosure

- Insert paragraph regarding your use of generative artificial intelligence (AI) and fill out what applies to you. You should check the Uniform Civil Procedure Rules 2005 (Rules) and the Local Court of NSW Practice Note on Generative Artificial Intelligence (Practice Note) before using a generative artificial intelligence (AI) program such as ChatGPT to prepare your document.
- Under the Rules and Practice Note, you must not use AI in your witness statement and must include a disclosure that AI was not used to generate the content, unless in exceptional circumstances and you have sought permission from the court.
- You must not put any confidential information about your matter into an AI program. If you are unsure or feel the court should let you use AI due to exceptional circumstances, get legal advice.

Signature

- The witness should sign and date the statement at the end.