

MAGISTRATES COURT OF SOUTH AUSTRALIA (CIVIL DIVISION) Form 5
DEFENCE AND COUNTERCLAIM

Trial Court:

Action No.:

Address:

Telephone:

Fax No.:

Amount Counterclaimed/set off (if any) \$

Court Fee on Filing \$

Service and Other Fees \$

Solicitor's Fee \$

TOTAL CLAIMED \$

OFFICE USE ONLY

Date of Filing:

Date of Posting:

METHOD OF SERVICE (tick):

Registrar

Defendant's Solicitor

Party

PLAINTIFF/S (as on Claim Form):

Solicitor for Plaintiff/s (if any as on claim form):

Name:

Address:

Telephone No.:

Fax No.:

DX No.:

DEFENDANT/S:

Full Name (if known):

Address/es:

E mail

Registered Office, if Body Corporate:

Telephone No.:

Fax No.:

DX No.:

Solicitor for Defendant/s (if any):

Name:

Address/es:

E mail

Telephone No.:

Fax No.:

DX No.:

PLAINTIFF - The Court assumes you will defend a counterclaim. If you admit a counterclaim or part of it, you should file an admission of liability or an offer to save costs. If you admit the counterclaim in full, say so.

PARTICULARS OF DEFENCE - State any part of the plaintiff's claim which is admitted or denied and briefly state any defence. If you admit the claim in full, say so.

PARTICULARS OF COUNTERCLAIM - Briefly state the date, place and circumstances from which the counterclaim arose and the cause of action and the relief sought. Where the counterclaim is for damages, the amount claimed for each head of damages must be given.

There are costs penalties for making an unsuccessful counterclaim.

ADDRESS FOR SERVICE - All documents for the DEFENDANT will be sent to his/her above address (or if he/she has a solicitor, to his/her solicitor) unless notice of another address is filed and served on the PLAINTIFF. The DEFENDANT (or his/her solicitor) must sign and date each page.

Date: / /

Signed:

AFFIDAVIT OF PROOF OF SERVICE

I, _____ of _____

Occupation: _____

MAKE OATH AND SAY that:

I. I did on the _____ day of _____ 20 _____ between the hours of _____ and _____ duly serve the within named defendant _____ with this claim and form 17.

(Please tick the appropriate box)

- By personal service on the person.
- By service on the solicitor acting for the person.
- By leaving it for the person at the address of the place of dwelling or business of the person with someone apparently above the age of 14 years.
- By depositing it for the person at the DX addressed to the DX number of the person or the solicitor acting for the person.
- By leaving it at the registered office of the body corporate.
- By sending it by prepaid post addressed to the strata corporation at its site or its post office box.
- By prepaid post addressed to the community corporation or to the presiding officer, treasurer or secretary at the postal address of the community corporation or by placing it in the community corporation's letterbox.
- By fax directed to the fax number of the person or the solicitor acting for the person during normal business hours on a business day.
- By service on one partner or at the principal place of business of the firm.
- By sending it by prepaid post addressed to the person at -
- (note - unless the court is satisfied that the document served by this method came to the attention of the defendant the plaintiff is not entitled to costs thrown away if the judgment is set aside-rule 106(8))
- By EDX to the EDX address given by that person during normal business hours on a normal business day.
- By
(here describe any other authorised means of service)

II. I served the person at (state the address, DX number, fax number etc.)

III. I necessarily made _____ trips and travelled _____ kilometres for the purpose of effecting the service.

SWORN before me at
the _____ day of _____ 20 _____

Signature: _____
(Person authorised to take Affidavits
(e.g. Justice of the Peace)