

Form 34C

Summons brought pursuant to s 7 of the *Wills Act 1936* and rule 92 for an order authorising the making of a will for a person lacking testamentary capacity

**SOUTH AUSTRALIA
IN THE SUPREME COURT
TESTAMENTARY CAUSES JURISDICTION
No ... of 20 ...**

**In the Matter of A.B.
And
In the Matter of the *Wills Act 1936***

BETWEEN:

**C.D.
Plaintiff**

and

**E.F.
Defendant**

TO THE DEFENDANT: [*name*] of [*address*]

The plaintiff, [*name*] makes a claim against you or which may affect you. Details of the claim and relief sought are contained in the accompanying Affidavit.

Action required

If you wish to defend the claim, you must:

- (a) file an Appearance within 14 calendar days after service of this Summons on you;
and
- (b) file an answering Affidavit within 28 calendar days after service of the Affidavit relied on by the plaintiff on you.

If an Appearance and an answering Affidavit is not filed within the time stated, orders may be made against you in your absence and without further notice.

The Appearance and answering Affidavit must be filed at the Probate Registry of the Court. If you do not have a solicitor, you may attend personally at the Probate Registry 1 Gouger Street Adelaide to do this.

Endorsements

Summons issued pursuant to section 7 of the *Wills Act 1936* and rule 92 of the *Probate Rules 2015*.

This Summons has the following endorsements under section [number] of the [Act/rule number] of the *Probate Rules 2015*:

Orders sought [*delete this section if statement of claim filed*]

On the grounds stated in the accompanying affidavit, the plaintiff seeks the following orders:

- 1 That the plaintiff have permission to make application for an order in the terms set forth in paragraph 2 of this summons.
- 2 That subject to permission being granted the Court approve and authorise the making of a will on behalf of the defendant in the terms of the draft will [being the exhibit “CD3” to the affidavit of C.D. sworn on 20... *or* filed in this matter (*or as the case may be*)] or in such other terms as the Court may deem fit.
- 3 That the costs of and incidental to this application be paid out of the estate of the said A.B.
- 4 Such further or other orders as the Court may think fit.

Accompanying documents

This summons must be accompanied by an Affidavit.

Plaintiff's address

The plaintiff's address for service is:

Place:

Email:

The plaintiff's address is [*if the plaintiff is an individual - place of residence or business; if the plaintiff is a corporation - principal place of business*].

Date:

.....
Signed by [*name*]

Plaintiff/Plaintiff's solicitor [*delete whichever is inapplicable*]

Notes

1. Where a practitioner is acting as agent for a principal practitioner, the name, address and telephone number of that principal practitioner and the L Code and P Code issued by the Law Society of South Australia to such practitioner must be endorsed on the backsheet to the summons - see rule 29(2)(c).
2. Two copies of any summons should be lodged in the Registry. Both copies should be signed, but neither dated. The date will be inserted in the Registry. Duplicates of supporting affidavits are not required.