

**To be inserted by Court**

Case Number:

Date Filed:

FDN:

## CLAIM

MAGISTRATES COURT OF SOUTH AUSTRALIA  
 CIVIL JURISDICTION  
 MINOR CIVIL

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

**Amount Claimed:**

If applicable

Amount Claimed	\$
Court Fee on Filing	\$
Service Fee <small>(Sheriff service only)</small>	\$
Solicitor's Fee	\$
<b>TOTAL CLAIMED</b>	<b>\$</b>

**Any other relief Claimed:**

If any

Applicant	<b>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</b>		
Name of law firm / solicitor <small>If any</small>	<b>Law Firm</b>	<b>Solicitor</b>	
Address for service	<b>Street Address (including unit or level number and name of property if required)</b>		
	<b>City/town/suburb</b>	<b>State</b>	<b>Postcode</b>
	<b>Country</b>		
	<b>Email address</b>		
Phone Details	<b>Type - Number</b>		

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		
Service	[.....] Sheriff service requested for this Respondent If requested mark with an 'x'		

Duplicate panel if multiple Respondents

**Claim Details**

Mark appropriate sections below with an 'x'

Matter Type:

The Applicant makes this Claim against you as set out in the Statement of Claim below.

This Claim is made under section [number] of the Second-hand Vehicle Dealers Act 1995.

The Applicant makes this Claim against you as set out in the Statement of Claim below.

[.....] The Applicant would consider mediation to assist in resolving this Claim

**Extension of time**

If applicable

The Applicant seeks an extension of time to institute this action pursuant to:

[.....] section 48 of the Limitation of Actions Act 1936

[.....] other:

State section and Act

The grounds for seeking an extension are:

Grounds in separately numbered paragraphs

1.

I request the matter be heard at [location].

**To the Respondent: WARNING****If you wish to defend the claim, you:**

- may file and serve on all parties a Notice of Acting (which will give you access to the file)
  - **must within**
    - **28 calendar** if you are served **within Australia**; OR
    - **30 business days** if you are served **outside Australia**
- from service of this claim file and serve on all parties a defence.**

If you do not do so, after that time **judgment may be entered against you** including orders as to costs. Judgment will allow the person who has obtained judgment to take **enforcement steps**. This may include orders to sell your property.

If you wish to make a counter claim or claim against a third party, you must within the same time file and serve on all parties a counter claim or third party claim as the case may be.

For instructions on how to file a notice of acting and/or defence and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/473>.

**Pre-Action Steps**

Mark with an 'x' the pre-action steps that have been taken

- [.....] Has the Applicant served a notice of claim under the Rules of Court?
- [.....] Have all Respondents served a response under the Rules of Court?
- [.....] Have all parties conferred to attempt to resolve the dispute under the Rules of Court?

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

**Accompanying Documents**

Mark appropriate sections below with an 'x'

Accompanying service of this Claim is a:

- [.....] Multilingual Notice (mandatory)
- [.....] Notice to Respondent Served Interstate (mandatory if address of the respondent to be served is interstate)
- [.....] Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand)
- [.....] Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand)
- [.....] Copy of agreement recorded by Commissioner of Consumer Affairs (mandatory if applicable) (must be filed and served)
- [.....] Copy of repair quotes (mandatory if applicable) (must be filed and served)
- [.....] List of defects (mandatory if applicable) (must be filed and served)

[.....] If other additional document(s) please list them below:

**Note to Parties**

There are usually cost penalties for making an unsuccessful claim or resisting a successful claim.

Because this claim is a 'minor statutory proceeding' within the meaning of section 3(1) of the Magistrates Court Act 1991, if an amount of more than \$12,000 or an order for work of the value of more than \$12,000 is claimed, either party may elect at the first Directions Hearing to remove this matter from the minor civil jurisdiction and then a higher cost scale generally applies and the parties can be represented by a lawyer.

If an amount less than \$12,000 or an order for work of the value of less than \$12,000 is claimed, a lawyer cannot represent any party at the trial (subject to some exceptions in section 38(4)(a) of the Magistrates Court Act 1991) and the minor civil cost scale will generally apply.

**STATEMENT OF CLAIM**

This is a claim for

Mark appropriate sections below with an 'x'

- [.....] repair by the dealer of a defect.
- [.....] payment or reimbursement of the reasonable costs of repairing or completing repairs of a defect.
- [.....] compensation for loss or damage suffered as a result of the dealer's conduct.
- [.....] enforcing the terms of a written agreement reached before the Commissioner.
- [.....] loss or damage as a result of being induced to waive a right to rescind a purchase contract under the Second-hand Vehicle Dealers Act 1995 in respect of a second-hand motor vehicle purchase contract on the        day of        20        between the purchaser *[full name]* and dealer *[full name]*

Legal basis of claim

This claim is made under section [24/33] of the Second-hand Vehicle Dealers Act 1995.

**Complete either Option A or Option B below**

**Option A –**

Summarise your Claim in 100 words or less:

- What happened
- The date(s)
- Why you say the Respondent is legally responsible for the claim

**Option B –**

(If Claim lodged via the Portal, complete and upload a Form 1CS Statement of Claim).

(If Claim lodged over the counter at the Registry, complete the Statement of Claim and Certification below).

**Part 1**

**Introduction by Applicant**

Summary of claim - Summarise the claim in one or two sentences

**Part 2**

**Background/uncontroversial matters**

Facts expected to be agreed in separate numbered paragraphs. Specify the vehicle type; model and registration number; from whom vehicle purchased and purchase date; whether the Commissioner of Consumer Affairs recorded an agreement

1.

**Part 3**

**Other facts forming the basis of the claim**

Other material facts that support the claim in addition to those in Part 2 in separate numbered paragraphs. Be very particular about each matter – eg when did it occur, where did it occur, what occurred. If it is alleged that the vehicle is defective, list the defects in detail. If compensation is sought for other loss and damage, specify the loss and damage in detail and how it was caused

1.

**Part 4**

**Orders sought**

Outline orders sought in separate numbered paragraphs. For a defects claim, specify whether you seek that the dealer repair defects in the vehicle or claim compensation for the cost of someone else fixing the defects in the vehicle

1.

**Certification**

Mark appropriate section below with an 'x'

[.....] As the filing lawyer, I certify that this pleading is filed in accordance with the instructions of the party/parties for whom I act. There is a proper basis for each allegation of fact in the pleading and it complies with the Rules of Court.

[.....] As a Litigant in Person (self-represented), I am responsible for filing this pleading. Each allegation of fact in the pleading is true to the best of my knowledge, information and belief.

.....  
Signature

.....  
Name printed

.....  
Date