

**DISTRICT COURT PRACTICE DIRECTIONS TO OPERATE  
IN CONJUNCTION WITH THE DISTRICT COURT CIVIL RULES 2006**

**Part II – Approved Forms**

(These Practice Directions are made by the Chief Judge pursuant to Rule 11.)

These Practice Directions only apply on and after 4 September 2006 and to actions which are governed by the District Court Civil Rules 2006. All Practice Directions made prior to that date are superseded by these Directions except in relation to actions governed by the old Rules for which purpose they continue to apply.

Expressions in the Practice Directions bear the meanings given to them in Rule 4.

These Practice Directions may be referred to as the District Court Practice Directions 2006.

These Practice Directions are the same as the corresponding Supreme Court Practice Directions unless indicated otherwise, and if a Supreme Court Practice Direction is inappropriate, there will be a gap in the sequential numbering.

These Practice Directions have been amended by:

	<i>Date of Operation</i>	
Amendment # 1	1 May 2007	
Amendment # 2	1 January 2008	
Amendment # 3	1 June 2008	
Amendment # 4	1 July 2008	
Amendment # 5	1 January 2009	
Amendment # 6	1 March 2009	
Amendment # 7	1 April 2009	
Amendment # 8	1 November 2010	
Amendment # 9	31 August 2009	<i>[Part I only]</i>
Amendment # 10	23 December 2009	<i>[Part I only]</i>
Amendment # 11	1 May 2010 1 July 2010	<i>paragraphs 1-11, 12(b), 15-17 paragraphs 12(a) and 14</i>
Amendment # 12	1 July 2010	
Amendment # 13	1 October 2010	
Amendment # 14	9 November 2010	<i>[Part I only]</i>
Amendment # 15	1 February 2011	
Amendment # 16	12 September 2011	
Amendment #17	1 April 2012	<i>[Part I only]</i>
Amendment #18	1 December 2012	
Amendment #19	1 May 2013	<i>[Part I only]</i>
<b>Amendment #20</b>	<b>1 July 2013</b>	

## **PART 2 - APPROVED FORMS (Rule 42)**

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**FORM 1**

**FDN** *[computer generated]*

**IN THE SUPREME [DISTRICT] COURT OF SOUTH AUSTRALIA**

**No**

**of**

**BETWEEN**

*[Name] [and Another / Others], [Nature of Party/Parties]*

and

*[Name] [and Another / Others], [Nature of Party/Parties]*

---

*[Document type, eg Summons, Third Party Notice, etc.]*

---

Filed on behalf of the *[Nature of Party/Parties]*, *[Name(s)]* by *[Solicitor]*

*[OR]*

Filed by *[Nature of Party/Parties]* *[Name(s)]*

*[Address] [Mandatory Field]*

*[Telephone]*

*[Mobile]*

*[Facsimile]*

*[DX Box]*

*[Email]*

*['L' Code]*

*['P' Code]*

If the above addresses are not the addresses for service under Rule 58, state the addresses for service.

Settled by:

Date and time of filing or transmission: *[Computer generated if filed electronically]*

**FORM 1A**

**IN THE DISTRICT COURT OF SOUTH AUSTRALIA  
ADMINISTRATIVE AND DISCIPLINARY DIVISION**

No            of

**BETWEEN**

*[Name] [and Another/Others], [Nature of Party/Parties]*

and

*[Name] [and Another/Others], [Nature of Party/Parties]*

---

*[Document type, eg Summons, Application, Complaint etc.]*

---

Filed on behalf of the *[Nature of Party/Parties]*, *[Name(s)]* by *[Solicitor]*

*[OR]*

Filed by *[Nature of Party/Parties] [Name(s)]*

*[Address] [Mandatory Field]*

*[Telephone]*

*[Mobile]*

*[Facsimile]*

*[DX Box]*

*[Email]*

*['L' Code]*

*['P' Code]*

If the above addresses are not the addresses for service under Rule 58, state the addresses for service.

Settled by:

Date and time of filing or transmission: *[Computer generated if filed electronically]*

**FORM 1B**

**IN THE DISTRICT COURT OF SOUTH AUSTRALIA  
CRIMINAL INJURIES DIVISION**

No            of

**BETWEEN**

*[Name] [and Another/Others], [Nature of Party/Parties]*

and

*[Name] [and Another/Others], [Nature of Party/Parties]*

---

*[Document type, eg Summons, Application, etc.]*

---

Filed on behalf of the *[Nature of Party/Parties]*, *[Name(s)]* by *[Solicitor]*

*[OR]*

Filed by *[Nature of Party/Parties]* *[Name(s)]*

*[Address] [Mandatory Field]*

*[Telephone]*

*[Mobile]*

*[Facsimile]*

*[DX Box]*

*[Email]*

*['L' Code]*

*['P' Code]*

If the above addresses are not the addresses for service under Rule 58, state the addresses for service.

Settled by:

Date and time of filing or transmission: *[Computer generated if filed electronically]*

## SUMMONS

Summons issued [by/on behalf of] [Name(s) of Party/Parties] of [Address(es)].

To the [Defendant(s)], [Name(s)], of [Address(es)].

You are advised that the Plaintiff(s) make(s) a claim against you or which may affect you. Details of the claim and orders sought are attached.

If this Summons is accompanied by a Statement of Claim, and you wish to defend the claim, you or your solicitor must:

- (a) file a Notice of Address for Service within 14 days after service of this Summons on you;  
and
- (b) file a Defence within 28 days after service of the Statement of Claim.

If this Summons is not accompanied by a Statement of Claim but by an Affidavit, and you wish to defend the claim, you or your solicitor must:

- (a) file a Notice of Address for Service within 14 days after service of this Summons on you;  
and
- (b) file an answering Affidavit within 28 days after service of the Affidavit relied upon by the Plaintiff.

The Notice of Address for Service, and Defence or answering Affidavit, as the case may be, must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the Website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

If the proceedings were commenced using the Court's electronic filing system, the Notice of Address for Service may be filed electronically through the above Website of the Courts Administration Authority.

If a Notice of Address for Service, and a Defence or answering Affidavit, as the case may be, is not filed within the time stated, orders may be made against you in your absence.

Summons issued pursuant to [Section [No] of the [Act]]

[or] [Rule [No.] of the [Court] Rules].

This Summons has the following statutory endorsements under section [No.] of the [Act] [or] Rule [No] of the [Court] Rules:

(If no statement of claim attached) The orders sought are:

*(set out brief statement of the orders sought)*

[Signed] .....

[Solicitor for the Plaintiff(s)]

[OR]

[Plaintiff(s)]

**NOTES :**

1. **If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.**
2. **If the full name of a party is not known the summons may be endorsed as follows:**  
**“Any better full name of the [Nature of the Party] is not known, and not reasonably ascertainable by, the plaintiff(s)”**
3. **If the plaintiff intends to apply for an authorisation under Rule 81 the summons is to bear the following endorsement under Rule 81(2):**  
**“The plaintiff(s) bring(s) this action as representative(s) of a group of which each member has a common interest being [set out question of law or fact in which there is a common interest] and intends to apply for the necessary authorisation under Rule 81.”**
4. **As to other endorsements which may be required on a summons see Rule 38(3)(a).**



## SUMMONS

Summons issued [by/on behalf of] [Name(s) of Party/Parties] of [Address(es)].

To the [Defendant(s)], [Name(s)], of [Address(es)]

You are advised that the Complainant makes a complaint against you or which may affect you. Details of the complaint and orders sought are [attached/set out below].

If you wish to defend the complaint, you or your solicitor must file a Notice of Address for Service within 14 days after service of this Summons on you.

The Notice of Address for Service may be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the Website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

If the proceedings were commenced using the Court's electronic filing system, the Notice of Address for Service may be filed electronically through the above Website of the Courts Administration Authority.

If a Notice of Address for Service is not filed within the time stated, orders may be made against you in your absence.

Summons issued pursuant to [Section [No] of the [Act]] [or] [Rule [No.] of the District Court Rules 2006].

This Summons has the following statutory endorsements under section [No.] of the [Act] [or] Rule [No] of the District Court Rules 2006:

*(If no details of the complaint and orders sought are attached)*

The particulars of the complaint and the orders sought are:

*(set out brief statement of the orders sought)*

[Signed] .....

[Solicitor for the Complainant]

[OR]

[Complainant]

**NOTES:**

- 1. If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.**
- 2. If the full name of a party is not known the summons may be endorsed as follows:  
“Any better full name of the defendant is not known, and is not reasonably ascertainable”.**

STATEMENT OF CLAIM

Part 1:

The causes of action, the basis of them and the material facts are:-

Part 2:

The remedies sought are:-

Certificate :

This pleading is put forward in accordance with the instructions of the [Nature of Party/Parties], and it complies with the [ ]Court Civil Rules 2006.

[Signed] .....(Solicitor for the party or the party in person)

Print Name :.....

Date .....

(See Practice Direction 3.11)

If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

**SUMMONS (no defendant)**

Summons issued [by / on behalf of ] [Name(s) of Party/Parties], of [Address(es)]

.

The following orders are sought:-

Summons issued pursuant to [Section [No] of the [Act]]

[or] [Rule [No.] of the [Court] Rules].

The above application will be heard by a [Judge/Master] in Chambers at [Place] at [Time] am/pm, on [date] [month] [year].

[Signed].....

[Solicitor for the Plaintiff(s)]

[OR]

[Plaintiff(s)]

**NOTE : If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.**

**SUMMONS UNDER PART XVII  
OF THE REAL PROPERTY ACT 1886**

Summons issued [by/on behalf of] [Name (s) of Party/Parties] of [Address(es)].

To the [Defendant(s)], [Name(s)], of [Address(es)].

The Plaintiff(s) make(s) a claim against you for an order for possession of the following property:

*[Detailed description of property, to include address and certificate of title Volume and Folio reference(s)]*

The detailed facts alleged and orders sought by the Plaintiff(s) are set out in the affidavits filed in the proceedings in support of this summons, copies of which are served herewith.

If you wish to defend the claim, you must attend either personally or by solicitor at [Place of Hearing] on the..... day of.....20.....at.....am/pm, when the matter will be heard.

If no one attends at this time, the order(s) sought, or some other order may be made in your absence.

This Summons is issued pursuant to Part XVII of the *Real Property Act 1886*, and Rule 204 of the [.....]Court Civil Rules 2006.

[Signed].....

*[Solicitor for the Plaintiff(s)]*

[OR]

*[Plaintiff(s)]*

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.



**NOTICE OF SUMMONS TO BE SERVED  
OUTSIDE AUSTRALIA**

To the [*Defendant(s)*], [*Name(s)*] of [*Address(es)*].

TAKE NOTICE that [*Name(s) of Plaintiff(s)*] of [*Address(es) of Plaintiff(s)*] has / have commenced an action against you in the [*Court*] of South Australia by a Summons issued on [*date issued*] in [*Action No.*]. Copies of the Summons and the Statement of Claim are attached hereto.

You must within [*number*] days of the service of this Notice upon you, file a notice of address for service in accordance with the Rules of Court in the Registry of the [*Court*] of South Australia, at [*address*] in the State of South Australia if you wish to defend the action.

If you do not file such a notice of address for service, judgment may be given against you in your absence, without further notice.

[*Signed*].....

[*Solicitor for the Plaintiff(s)*]

[*OR*]

[*Plaintiff(s)*]

**(To be used where directed by the Court or where the law of the place of service does not allow service of a summons.)**

**NOTICE OF** (Insert nature of notice)

(The inapplicable paragraphs of this Form **must** be deleted)

**1. Notice of Address for Service by a Defendant (Rule 59(3))**

The Defendant(s), [*Name(s)*] acknowledge (s) the service of the [*document*] in this action.

**2. Notice of Acting by a Solicitor (Rule 23(1)(b))**

AB, solicitor, now acts for the [*Nature of Party/Parties*] [*Name(s)*].

(Whoever is named here as the solicitor will be the solicitor on the record under Rule 23(1)).

**3. Notice of Acting in Person (Rule 23(2)(a))**

The [*Nature of Party/Parties*] [*Name(s)*] are not longer represented by a solicitor and act in person.

The Address for Service of such [*Nature of Party/Parties*] is shown on Form 1 attached hereto.

[Signed] .....

[*Solicitor for the abovenamed* [*Nature of Party/Parties*] [*Names*] ]

[OR]

[*Name(s)*], [*Nature of Party/Parties*] ]

**NOTE:** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.



**NOTICE OF CHANGE OF SOLICITOR/ADDRESS FOR SERVICE**

(The inapplicable paragraphs of this Form **must** be deleted)

1. **Notice of Change of Solicitor (s 23(2)(b))**

AB, Solicitor now acts for the [*Nature of Party/Parties*], [*Name(s)*].

(Whoever is named here as the new Solicitor will be the Solicitor on the record under R23(1))

2. **Notice of Change in the Address for Service**

The Address for Service of the [*Nature of Party/Parties*], [*Name(s)*] is changed and is now as shown on the attached Form 1.

[*Signed*] .....

[*Solicitor for the [Nature of Party/Parties], [Name(s)]* ]

[**OR**]

[*Name(s), [Nature of Party/Parties]* ]

**NOTE:** If this document is filed electronically, the initials and name(s) of the issuing Solicitor of Party/Parties should be typed in, in lieu of a signature.

**DEFENCE**

In answer to the statement of claim the [*Nature of Party/Parties*], [*Name(s)*]:

- 1 Admits paragraphs (*specify their numbers*) of the statement of claim.
- 2. Pleads the following preliminary issues, special defences and material facts relied upon.

Certificate :

This pleading is put forward in accordance with the instructions of the [*Nature of Party/Parties*], and it complies with the [ ] Court Civil Rules 2006.

[*Signed*] .....(*solicitor for the party or the party in person*)

Print Name

.....

Date .....

(See Practice Direction 3.11)

**If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.**

**REPLY**

In answer to the defence of the [*Nature of Party/Parties*], [*Name (s)*]:

1. Admits paragraphs (*specify their numbers*) of the defence.
2. Does not propose to challenge at the trial paragraphs (*specify their numbers*) of the defence.
3. Pleads the following answers to any special defence and material facts.

[*Plead in successive numbered paragraphs*]

[*If applicable*]

In answer to the counterclaim of the *Nature of Party/Parties*], [ [*Name (s)*]] the *Nature of Party/Parties*], [*Name(s)*] say(s):

[*Plead in successive numbered paragraphs*]

Certificate :

This pleading ..... (as in Form 3)

**CROSS ACTION (COUNTERCLAIM)**

The *[Nature of Party/Parties]*,*[Name(s)]* counterclaim(s) against the *Nature of Party/Parties]*,  
*[Name(s)]*.

**Part 1:**

The facts and basis of the counterclaim are:

**Part 2:**

The orders sought are:

Certificate :

This pleading is put forward in accordance with the instructions of the *[Nature of Party/Parties]*, and it complies with the [ ] Court Civil Rules 2006.

*[Signed]* .....(*Solicitor for the party or the party in person*)

Print  
Name:.....

Date  
.....

(See Practice Direction 3.11)

**If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.**

**CROSS ACTION (CONTRIBUTION NOTICE)**

To the *[Nature of Party/Parties]*, *[Name(s)]*

In this action the *[Nature of Party/Parties]*, *[Name(s)]*, of *[Address(es)]*, claim(s) the following relief against you:

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)], [Nature of Party/Parties]*

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

### THIRD PARTY NOTICE

To the [*Third Party/Parties*], [*Name(s)*] of [*Address(es)*].

This action has been brought by the Plaintiff(s) against the Defendant(s). The Plaintiff's(s') claim against the Defendant(s) is set out in the copy Summons and Statement of Claim or Affidavit(s) attached hereto.

The Defendant(s), [*Name(s)*], claim(s) against you on the grounds contained in the separate Statement of Claim also attached hereto.

If you wish to dispute the Plaintiff's(s') claim against the Defendant, or the Defendant's(s') claim against you, you must file a Notice of Address for Service within 14 days after the service of this Notice upon you and then file a Defence, in accordance with the Rules of Court.

The Notice of Address for Service must be filed at a Registry of the Court. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the Website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

If the proceedings were commenced using the Court's electronic filing system, the Notice of Address for Service may be filed electronically through the above Website of the Courts Administration Authority.

Unless you file a Notice of Address for Service and Defence, you will not be entitled to challenge the Defendant's(s') liability to the Plaintiff(s) and will be taken to have admitted the Defendant's(s') claim against you, and your liability to reimburse or contribute to the amount of judgment in favour of the Plaintiff(s). A judgment in respect of such liability may be given against you without further notice.

[*Signed*]: .....

[*Solicitor for the [Nature of Party/Parties]*]

[*OR*]

[*Name(s)*], [*Nature of Party/Parties*]

**NOTES : 1     If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.**

**AFFIDAVIT**

I [full name, address and occupation of deponent] TAKE AN OATH / MAKE AN AFFIRMATION  
[delete one or the other] AND SAY:

[set out text of affidavit in successive, numbered paragraphs]

Sworn / Affirmed [delete one or the other] by the abovenamed Deponent

at [Place]

on [Date]

.....  
[Signature of Deponent]

Before me

Signature and title of Attesting witness]

[Print Name of Witness]

[ID Number of Witness]

**If this Affidavit is to be filed electronically:**

- 1 The initials and names of the Deponent and attesting witness should be typed in the appropriate space.**

- 2 A signed copy of the original should be retained by the transmitter of the Affidavit – see Rule 47(2).



**Cross-Action (Counterclaim) When Not All Defendants  
To The Counterclaim Are Plaintiffs**

Defence as in Form 9 and Cross-action (Counterclaim) as in Form 11

To [*Names only of Defendants to Counterclaim who are **NOT** Plaintiffs in the action*].

This cross-action has been brought by the defendant(s) against the plaintiff(s) and you. If you wish to dispute the defendant(s)' claim against you, you must file a Notice of Address for Service within 14 days after the service of this Notice upon you and then file a Defence, in accordance with the Rules of Court.

A Notice of Address for Service may be filed at a Registry of the Court. A list of the Registry addresses may be obtained through the Website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

If you do not have a solicitor, you may attend personally at a Registry to do this.

If the proceedings were commenced using the Court's electronic filing system, the Notice of Address for Service may be filed electronically through the above website of the Courts Administration Authority.

Unless you file a Notice of Address for Service and a Defence you will not be entitled to challenge the defendant(s)' claim against you and you will be taken to have admitted the defendant(s)' claim against you. A judgment in respect of such liability may be given against you without further notice.

[Signed] .....

[Solicitor for the [*Nature of Party/Parties*] ]

[OR]

[Name(s), [*Nature of Party/Parties*] ]

**INTERLOCUTORY APPLICATION**

To the *[Nature of Party/Parties]**[Name(s)]*.

The *[Nature of Party/Parties]**[Name(s)]* apply/ies for the following orders or directions:-

*[Set out orders or directions sought]*

Application made pursuant to Section *[No.]* of the *[Act]*

*[or]* Rule *[No.]* of the *[Court]* Rules.

You will be notified separately of the time and place of the hearing of the application.

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)],[Nature of the Party/Parties]*

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

**ELECTRONIC NON-CONTENTIOUS APPLICATION AND MINUTES**

**By consent**

[Mark box]

**Ex parte**

Action title [*Abbreviated*]:

Action No:

Applicant [*Nature of Party/Parties*], [*Name(s)*]:

Date of application:

1 The applicant (s) seek (s) the following specific orders/directions:

[*State specific orders/directions sought*]

2 The grounds/reasons for the orders/directions sought are:

[*State reasons for application or refer to relevant affidavit evidence*]

3 [*Where order is by consent*] The consent is evidenced by: [*Set out how the consent is being given, eg by endorsement on minutes of order, by e-mail from another solicitor dated ..... or otherwise.*]

4 **ORDER MADE:**

.....  
Judge/Master/Registrar

Date:

**NOTE: Draft minutes of order should be attached to the electronic application other than in the case of short or routine orders in the District Court in the following form.**

## MINUTES OF ORDER

Judicial Officer:

*His/Her Honour Judge*.....

*Master*.....

Date of application.....  
[DD/MM/YYYY]

Application made by:.....  
[Party/Parties]

Date(s) of hearing:.....  
[DD/MM/YYYY]

Date of order:.....  
[DD/MM/YYYY]

Appearances:

[Solicitor/Counsel] for the [Nature of Party/Parties, [Name(s)]

THE COURT ORDERS that:

[Insert text of proposed order in sequentially numbered paragraphs and in double space]

**APPLICATION TO REGISTRAR**

The *[Nature of Party/Parties, Name(s)]* request the Registrar to carry out:

*[Specify in separate paragraphs the administrative or minor judicial functions sought]*

Application made pursuant to Section *[no]* of the *[Act]* *[or]* Rule *[no]* of the *[Court]* Rules.

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)],[Nature of the Party/Parties]*

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

**CERTIFICATE BY SHADOW EXPERT**

**Action Heading**

I [*Name of shadow expert*] of [*address*] CERTIFY:

- 1 I understand that it is not my role to provide evidence at the trial of this action;
- 2 I have not been previously engaged in any other capacity to give advice or an opinion in relation to any party's case or any aspect of it.

DATE: [*insert*]

SIGNED : .....  
Shadow Expert

## LIST OF DOCUMENTS

To the *[Nature of Party/Parties]*, *[Name(s)]*.

The *[Nature of Party/Parties]*, *[Name(s)]* make(s) disclosure as follows:

1 The documents which are at present in the possession of such *[Party/Parties]* and directly relevant to any issue arising on the pleadings -

1.1 for which privilege is not claimed are:

*[Numbered list of documents]*

1.2 for which privilege is claimed are:

*[Numbered list of documents specifying grounds on which privilege is claimed]*

2 The documents which have been, but are no longer in possession of the said *[Party/Parties]*, and are directly relevant to any issue arising on the pleadings, are -

*[Numbered list of documents stipulating when they were last in the possession, and what happened to them and where they might be found.]*

3 The *[Nature of Party/Parties]*, by this list of documents, has / have now fully discharged the obligations of such *[Nature of Party/Parties]*, as at the date of delivery of this list, regarding disclosure of documents in this action.

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)], [Nature of the Party/Parties]*

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.



**NOTICE TO PRODUCE**

To the *[Nature of Party/Parties]*, *[Name(s)]*.

You are required to produce and show to the Court at the trial of this action, the following documents which are in your possession:

*[Numbered paragraphs describing each of the documents for which production is sought.]*

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)], [Nature of the Party/Parties]*

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

NOTICE TO ADMIT

To the *[Nature of Party/Parties]*, *[Name(s)]*.

You are required, within 14 days or such other extended time as may be fixed by the Court or agreed between the parties, to respond by:

- (a) denying the assertion and stating the grounds of the denial; or
- (b) stating that the respondent is not in a position to admit or deny the assertion and explaining why the respondent is not in a position to do so; or
- (c) claiming privilege or some other proper ground for refusing to respond to the assertion.

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)], [Nature of the Party/Parties]*

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

**OFFER OF SETTLEMENT**

The *[Nature of Party/Parties]* OFFER pursuant to Rule 187 to settle the action (*or if a particular claim in the action such as costs, specify it*) as follows:

*[Insert terms of offer with precision]*

*[If applicable]* Under Rule 187(5) this offer is accompanied by a payment into Court of \$ .....

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)], [Nature of the Party/Parties]*

**ACCEPTANCE OF OFFER**

The *[Nature of Party/Parties]* ACCEPTS pursuant to Rule 188 the offer made by the *[Nature of Party/Parties]* filed on *[date]* and seeks judgment by consent in terms of that offer.

*[Signed]* .....

*[Solicitor for the [Nature of Party/Parties]]*

*[OR]*

*[Name(s)], [Nature of the Party/Parties]*

**CERTIFICATE OF READINESS FOR TRIAL**

[To be filed by the file principals for the parties]

IT IS CERTIFIED, by [names], the file principal for the [Nature of Party/Parties], [Name(s)] on due enquiry having been made that:

- 1 All pleadings are closed and no party has any intention of filing any further pleading or seeking any amendment of any pleading.
- 2 All particulars ordered or requested have been given as between all parties and no further particulars are sought.
- 3 The parties have made disclosure of all documents in their possession in accordance with the Rules and any order of the Court, and are not aware of any other documents of which discovery should be made.
- 4 No party has any intention of making any further application for disclosure of documents by a stranger to the action, and any such application already made is completed and complied with and no further such application will be made.
- 5 All parties have completed inspection of all documents of which disclosure has been made.
- 6 No party has any intention of seeking to file pre-trial questions for any other party, or, if they have already been delivered, no party has any intention of seeking any better answers.
- 7 All pre-trial questions which have been delivered have been answered.
- 8 All requests to admit assertions have been served and responded to and no party has any intention of bringing a further application about them.
- 9 Except for any subpoena which, on the advice of counsel, should only be made returnable at trial, all subpoenas for the production of documents have been issued, served and complied with the satisfaction of the party issuing the same, except for any matter specifically reserved on the return of any such subpoena for the consideration of the trial Judge.
- 10 Where Rule 159 has been invoked, all material has been filed and served in accordance with that Rule.
- 11 All medical and other expert reports to be used by the parties have been obtained and made available to all parties as required by the Rules. Such reports, the tender of which can be agreed, have been agreed and no direction is sought or thought to be desirable to limit the number of expert witnesses to be called.
- 12 The quantum of special damages have been at \$[amount] [or state any other situation] and all reasonable efforts have been made to agree the quantum of any which remain in dispute.
- 13 Actuarial Certificates will be tendered by consent.
- 14 All interlocutory processes are completed and the action is in all respects ready for trial.

- 15 The estimated length of trial is *[period]* days.
- 16 The following Judges may possibly be disqualified from hearing the action: *[List Names]*
- 17 The trial book has been delivered to the Registrar.
- 18 All endeavours to resolve the matter other than by trial have been exhausted without success and the parties and their advisers do not believe that the matter can be resolved other than by proceeding trial.

[Signed] ..... *.../.../.....(date)*

*[Solicitor for the [Nature of Party/Parties]]*

[OR]

*[Name(s)], [Nature of the Party/Parties]*

[Signed] ..... *.../.../.....(date)*

*[Solicitor for the [Nature of Party/Parties]]*

[OR]

*[Name(s)], [Nature of the Party/Parties]*

**NOTE: If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.**

Front sheet in Form 1.

## SUBPOENA

To: [name]  
[address]

### YOU ARE ORDERED:

**\*to attend to give evidence—see Section A of this form; or**

**\*to produce this subpoena or a copy of it and the documents or things specified in the Schedule—see Section B of this form; or**

**\*to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule—see Section C of this form.**

*\* Select one only of these three options.*

**Failure to comply with this subpoena without lawful excuse is a contempt of Court and may result in your arrest.**

The last date for service of this subpoena is: (See Note 1)

**Please read Notes 1 to 15 at the end of this subpoena.**

[Seal or authentication]

Date:

Issued at the request of [name of party], whose address for service is:

### A Details of subpoena to attend to give evidence only

---

Date, time and place at which you must attend to give evidence unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place:

---

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

## **B Details of subpoena to produce only**

---

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear days before the date specified for attendance and production. (*See Notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:  
Time:  
Place:

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

The Registrar  
[*Name of Court ... etc. as the case may be*]

---

### **Schedule**

The documents and things you must produce are as follows:  
[*If insufficient space attach list*]

## **C Details of subpoena both to attend to give evidence and to produce**

---

Insofar as you are required by this subpoena to attend to give evidence, you must attend as follows unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:  
Time:  
Place:

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

---

Insofar as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or



- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear days before the date specified for attendance and production.  
(See Notes 5-11)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:  
Time:  
Place:

Address, or any address, to which the subpoena or a copy of it and documents or things may be delivered or posted:

The Registrar  
[Name of Court ... etc. as the case may be]

### Schedule

The documents and things you must produce are as follows:  
[If insufficient space attach list]

#### NOTES

##### **Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

##### **Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

##### **Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

##### **Conduct money**

4. You need not comply with the subpoena insofar as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

##### **Production of subpoena or copy of it and documents or things by delivery or post**

5. Insofar as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified in the subpoena for the purpose or if there more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production or, if you receive notice of a later date or time from the issuing party, before that later date or time.

**Objection to inspection of the document or thing produced**

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

**Production of a number of documents or things**

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.
- 9A. The copy of a document may be:
  - (i) a photocopy; or
  - (ii) in PDF format on a CD-ROM.

**Return or destruction of documents or copies**

10. You may, at the time of production, inform the Court that any document or copy of a document produced need not be returned and may be destroyed.
11. If you have so informed the Court, the Registrar may destroy the document or copy instead of returning it to you.

**Applications in relation to subpoena**

12. You have the right to apply to the Court:
  - (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

13. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness' expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of Court—arrest**

14. Failure to comply with the subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
15. Note 14 is without prejudice to any power of the Court under any Rules of the Court (including any Rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

Front Sheet in Form 1

**SUBPOENA – DECLARATION BY ADDRESSEE**

To: [Name]

[Address]

**Notice to Addressee**

The *Addressee* is the person to whom the subpoena is addressed and who will be the recipient of the subpoena.

You may produce copies of any subpoenaed documents, unless the subpoena specifically requires you to produce originals. A copy of a document may be:

- (a) a photocopy; or
- (b) in PDF format on a CD-ROM; or

**You must complete the Declaration below, attach it to the subpoena or a copy of the subpoena, and return them with the documents or things you provide to the Court under the subpoena.**

If you declare that the material you produce is copies of documents, the Registrar may, without further notice to you, destroy the copies after the expiry of 4 months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If the material you produce to the Court is or includes any original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

**DECLARATION BY ADDRESSEE (SUBPOENA RECIPIENT)**

*[Tick the relevant option below, provide your address as appropriate, sign and date]*

**All** of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me.

**Some or all** of the material I am providing to the Court in compliance with the attached subpoena is an **original** document. Once the material is no longer required, all of the material should be returned to me at the following address:

.....  
.....

*[Signature of addressee]* .....

*[Name of addressee]* .....

*[Date]* .....

**SHORT FORM CLAIM FOR COSTS**

SHORT FORM CLAIM FOR COSTS  
 OF THE [NATURE OF PARTY / PARTIES], [NAME(S)]  
 (Presented under order dated [date] )

TO THE [NATURE OF PARTY / PARTIES], [NAME(S)]

If you wish to dispute any item in this claim you must comply with Rule 271(4) of the District Court Civil Rules 2006 and, within 28 days of service of this claim:

- (1) set out in the appropriate column below, your response to each disputed item; and
- (2) file in the Court and serve on the [Party/Parties presenting claim] a copy of the claim containing such responses.

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<p>[NOTE: 1. It is expected that the completion of this Form will take account of the increases from time to time in the costs contained in the Scales comprising Schedules 1 and 2 of the District Court Civil Rules 2006 – see Rule 264. If more than one rate of costs applied during the period in which the costs were incurred, the amounts claimed for each Item in each relevant period should be set out separately in each of the paragraphs of this Form and the "Amount Claimed" for each Item should be calculated by reference to the fee which was applicable to that Item during each relevant period.</p> <p>2. The numbers in the square brackets below are the Item numbers in Schedules 1 and 2 to the District Court Civil Rules 2006.</p> <p>3. Only relevant portions of this Form are to be used.</p>					
<b>DOCUMENTS</b>					
<p>1. <b>Drawing and Engrossing</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Drawing documents referred to in [1]</i>                      Briefly state the nature of the documentation and the number of pages</p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<p>(i) For the period ..... and (if applicable)</p> <p>(ii) For the period .....</p> <p><i>Drawing documents referred to in [23]</i></p> <p>Briefly state the nature of the documentation and the number of pages</p> <p>(i) For the period ..... and (if applicable)</p> <p>(ii) For the period .....</p> <p><i>Documents partly printed and partly drawn [2]</i></p> <p>Briefly state the nature of the documentation and the number of pages</p> <p>(i) For the period ..... and (if applicable)</p> <p>(ii) For the period .....</p> <p><i>Engrossing [3]</i></p> <p>Briefly state the nature of the documentation and the number of pages</p> <p>(i) For the period ..... and (if applicable)</p> <p>(ii) For the period .....</p> <p><b><i>From 1 July 2011 inclusive [Schedule 2]</i></b></p> <p><i>Drawing documents referred to in [1]</i></p> <p>Briefly state the nature of the documentation and the number of pages</p> <p>(i) For the period ..... and (if applicable)</p> <p>(ii) For the period .....</p> <p><i>Drawing documents referred to in [2]</i></p> <p>Briefly state the nature of the documentation and the number of pages</p> <p>(i) For the period ..... and (if applicable)</p> <p>(ii) For the period .....</p> <p><i>Engrossing [3]</i></p> <p>Briefly state the nature of the documentation and the number of pages</p> <p>(i) For the period ..... and (if applicable)</p> <p>(ii) For the period .....</p>					

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<b>Sub-total for drawing and engrossing</b>					
<p>2. <b>Perusing &amp; Examining</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Perusals [5]</i>  Briefly state the nature of the documentation and the number of pages  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><i>Scanning Documents [6]</i>  Briefly state the nature of the documentation and the number of pages  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>From 1 July 2011 inclusive [Schedule 2]</b>  <i>Perusing documents [4]</i>  Briefly state the nature of the documentation and the number of pages  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><i>Examining documents [5]</i>  Briefly state the nature of the documentation and the number of pages  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>Sub-total for perusing and examining</b></p>			\$		\$
<p>3. <b>Copying etc</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Copying or scanning documents, or receiving emails, faxes or other electronic transmissions</i></p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<p>[4] Briefly state the nature of the documentation and the number of pages (i) For the period ..... and (if applicable) (ii) For the period .....</p> <p><b>From 1 July 2011 inclusive [Schedule 2]</b> <i>Copying or scanning documents, or receiving emails, faxes or other electronic transmissions</i></p> <p>[6] Briefly state the nature of the documentation and the number of pages (i) For the period ..... and (if applicable) (ii) For the period .....</p> <p><b>Sub-total for copying etc</b></p>					
<b>ATTENDANCES AND COMMUNICATIONS</b>					
<p>4. <b>Personal Attendances by Lawyers</b> <b>To 30 June 2011 inclusive [Schedule 1]</b> <i>Attendances referred to in [7]</i> Specify attendances claimed: (eg 5 attendances on plaintiff/defendant to obtain instructions [ ] total 7.5 hours 3 conferences with counsel [ ] total 2.5 hours)</p> <p>(i) For the period ..... and (if applicable) (ii) For the period .....</p> <p><i>Attendances referred to in [8]</i> Briefly summarise attendances claimed and state total number of hours (i) For the period ..... and (if applicable) (ii) For the period .....</p>			\$		\$



Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<p><b><i>From 1 July 2011 inclusive [Schedule 2]</i></b>  <i>Attendances by a lawyer involving skill [7]</i>  Specify attendances claimed:  (eg 5 attendances on plaintiff/defendant to obtain instructions [total 75 units  3 conferences with counsel [total 25 units)  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><i>Attendances by a lawyer not involving skill [8]</i>  Specify attendances claimed:  (eg 2 attendances travelling for site inspection)  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>Sub-total for personal attendances by lawyers</b></p>					
<p>5. <b>Personal Attendances by Non Lawyers</b>  <b><i>To 30 June 2011 inclusive [Schedule 1]</i></b>  <i>Clerk's (other than junior clerk) attendances and travelling time referred to in [10]</i>  Briefly summarise the nature and number of attendances  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b><i>From 1 July 2011 inclusive [Schedule 2]</i></b>  <i>Attendances by a non lawyer employed or engaged by a lawyer [9]</i>  Briefly summarise attendances claimed and state total number of units  (i) For the period ..... and (if applicable)  (ii) For the period .....</p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<b>Sub-total for personal attendances by non lawyers</b>					
<p>6. <b>Other Oral Communications by Lawyers</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Telephone attendances [12]</i>  Specify number of attendances by reference to 6 minute units  (eg 15 x 1 unit, 10 x 2 units)  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><i>From 1 July 2011 inclusive [Schedule 2]</i>  <i>Attendances by telephone, video call etc involving skill [7]</i>  Specify number of attendances by reference to 6 minute units:  (eg 15 x 1 unit, 10 x 2 units)  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><i>Attendances by telephone, video call etc not involving skill [8]</i>  Specify number of attendances claimed by reference to 6 minute units:  (eg 15 x 1 unit, 10 x 2 units)  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>Sub-total for other oral communications by lawyers</b></p>			\$		\$
<p>7. <b>Other Oral Communications by Non Lawyers</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Telephone attendances on matters of substance [13(a)]</i>  Specify number of attendances by reference to 6 minute units  (eg 15 x 1 unit, 10 x 2 units)</p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
(i) For the period ..... and (if applicable) (ii) For the period ..... <i>Short telephone attendances where message left [13(b)]</i> Specify number of attendances (i) For the period ..... and (if applicable) (ii) For the period ..... <b>From 1 July 2011 inclusive [Schedule 2]</b> <i>Attendances by telephone, video call etc [9]</i> Specify number of attendances by references to 6 minute units: (eg 15 by 1 unit, 10 x 2 units) (i) For the period ..... and (if applicable) (ii) For the period ..... <b>Sub-total for other oral communications by non lawyers</b>					
8. <b>Arranging Appointments [10]</b> <b>From 1 July 2011 inclusive [Schedule 2]</b> <i>Arranging appointments, per person ,including all work involved [10]</i> (i) For the period ..... and (if applicable) (ii) For the period ..... <b>Sub-total for appointments</b>			\$		\$
9. <b>Attendances re Affidavits [14]</b> <b>To 30 June 2011 inclusive [Schedule 1]</b> Specify number of attendances (i) For the period ..... and (if applicable) (ii) For the period .....			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<b>Sub-total for affidavits</b>					
<p>10. <b>Attending Hearings</b>  <b>To 30 June 2011 inclusive [Schedule 1]</b>  <i>Lawyer attending in chambers (including pre-trial conferences, conciliation conferences and callovers) [9]</i></p> <p>(i) For the period .....  Specify  (a) total number of short attendances;  (b) total number of ordinary attendances;  (c) total number of protracted attendances and number of hours.</p> <p>(ii) For the period ..... (specify as above).</p> <p><b>From 1 July 2011 inclusive [Schedule 2]</b>  <i>Attending Hearings, including preparation, and when not attending as instructing lawyer for counsel</i></p> <p>A Short [11] Briefly summarise attendances claimed and state total number of attendances  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p>B Ordinary [12]  Briefly summarise attendances claimed and state total number of attendances  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p>C Protracted [13]  Briefly state the nature of the attendances and the hearing time in 6 minute units  (i) For the period ..... and (if applicable)  (ii) For the period .....</p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<b>Sub-total for hearings</b>					
<p>11. <b>Filing and Delivery</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Junior clerks attendances [11]</i>  Briefly summarise the nature and number of attendances  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><i>From 1 July 2011 inclusive [14] [Schedule 2]</i>  Briefly summarise the nature and number of attendances  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>Sub-total for filing and delivery</b></p>			\$		\$
<b>CORRESPONDENCE</b>					
<p>12. <b>Letters and Other Correspondence</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Letters [15(a)]</i>  Specify (eg. 8 x 1 page, 10 x 2 pages etc.)  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><i>Circular letters [15(b)]</i>  Specify number of items after the first  (i) For the period ..... and (if applicable)  (ii) For the period .....</p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<p><b>From 1 July 2011 inclusive [Schedule 2]</b>  <i>Letters, Emails, SMSs or Faxes</i> [15]  Specify number and length of letters and email, SMSs or Fax transmissions  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p>(Eg. 4 x 1.25 pages, 10 x 2.75 pages)  <i>Circular correspondence</i> [16]  Specify number of items after the first  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>Sub-total for correspondence</b></p>					
<p>13. <b>Faxes</b>  <b>To 30 June 2011 inclusive [Schedule 1]</b>  <i>Facsimile transmissions, e-mails and electronic scanning</i> [16]  Specify number of and length of transmissions (eg. 8 x 1 page, 10 x 2 pages etc.)  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>Sub-total for faxes etc</b></p>			\$		\$
<p><b>MISCELLANEOUS</b></p>					
<p>14. <b>Paying Disbursements</b>  <b>To 30 June 2011 inclusive [Schedule 1]</b>  <i>Payment of accounts</i> [17]  Specify number of accounts paid  (i) For the period ..... and (if applicable)  (ii) For the period .....</p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<p><i>From 1 July 2011 inclusive [Schedule 2]</i>  <i>Payment of disbursements [17]</i>  Specify number of disbursements paid  (i) For the period ..... and (if applicable)  (ii) For the period .....</p> <p><b>Sub-total for paying disbursements</b></p> <p>15. <b>Preparation of Trial Books etc</b>  <i>To 30 June 2011 inclusive [Schedule 1]</i>  <i>Copy documents [19]</i>  Specify number of pages and divide into costs periods when necessary  <i>Briefs &amp; Appeal Books [20]</i>  Specify number of pages and divide into costs periods when necessary  <i>Care and consideration in preparation of a brief [21]</i>  Specify number of claims  <i>From 1 July 2011 inclusive [Schedule 2]</i>  <i>Preparation of Trial Books etc [18]</i>  Specify number of pages and divide into costs periods when necessary  <b>Sub-total for preparation of Trial Books etc</b></p>					
<b>TOTAL SOLICITORS FEES</b>			\$		\$
<b>DISBURSEMENTS</b>					
<p><i>Counsel fees</i>  Specify and attach scanned copy of accounts  <b>Total counsel fees</b></p>			\$		\$

Cost Item	No of Pages/Sheets Length of Attendance	Rate Per Page/ Hour/ Unit/Letter/ Attendance	Amount Claimed	Response (eg Agreed, Not Agreed, Agreed in Part)	Offer
<i>Other disbursements</i> Specify and attach scanned copy of accounts <b>Total other disbursements</b>					
<b>TOTAL COSTS AND DISBURSEMENTS</b>			\$		\$

**GST:** State if the costs claimant is not entitled to recover the GST component of its costs as an input tax credit. If the costs claimant is entitled to recover only a portion of the GST component state what proportion is not recoverable.

**NOTE CAREFULLY:** If you do not file and serve a response to this Claim as required by Rule 271 within 28 days of its service on you, you will be taken to have admitted the Claim in full, and judgment may be entered against you for its total amount.



**ITEMISED SCHEDULE OF COSTS FOR ADJUDICATION****(Presented by the [Nature of Party/Parties] pursuant to the judgment/order [dated])**

<b>Amounts disallowed</b>	<b>Date</b>	<b>Item No</b>	<b>Details of Item</b>	<b>Disbursements</b>	<b>Costs</b>

**TOTAL CLAIMED:****LESS TAXED OFF:****ADD ADJUDICATION FEES:****TOTAL ALLOWED AT****NOTE:**

- (1) If there are to be concurrent adjudications between solicitor and client and party and party the Schedule should be in landscape format and the necessary additional columns inserted.
- (2) If the respondent does not file and serve a response to this Schedule as required by Rule 273(2) within 14 days of its service, the Court may on the adjudication, allow an undisputed item without inquiry.

## NOTICE OF APPEAL

The [Party/Parties] appeal[s] to [a Judge]/[the Administrative and Disciplinary Division] of the District Court of South Australia against the [judgment/order/decision] of [a Master of the Court]/[tribunal/agency/other decision maker] dated [day][month][year].

Date of [judgment/order/decision]:

[Master]/[tribunal/agency/other decision maker] appealed from:

[If applicable] Date of grant of permission to appeal:

Respondent[s] address[es]:

[Judgment/order/decision] appealed against:

[Set out text of relevant judgment/order]

The appeal is against [the whole of/the following portion of] the [judgment/order/decision].

[If applicable specify that portion appealed against]

[If applicable] The appellant[s] seek[s] permission for the appeal, on the following grounds:

[If applicable] The appellant[s] seek[s] an extension of time within which to appeal, on the following grounds:

[Specify grounds in successively numbered paragraphs]

The grounds of appeal are:

[Specify grounds in successively numbered paragraphs]

The appellant[s] seek[s] the following orders:

[Set out relief sought in successively numbered paragraphs]

[Signed] .....

[Solicitor for the Appellant(s)]

[OR]

[Appellant(s)]

## NOTES:

1. This notice is to be accompanied by [Form 1/Form 1A], duly completed.
2. The party or parties appealing must serve a copy of the notice of appeal on (all other parties to the appeal/ the proper officer of the tribunal/the Public Advocate), within 2 days of filing the notice of appeal, as required by Rule 287.
3. If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

**NOTIFICATION OF APPEAL FROM A DECISION OF THE GUARDIANSHIP BOARD**

The appellant has appealed to the Administrative and Disciplinary Division of the District Court of South Australia against the decision of the Guardianship Board dated [*day*][*month*][*year*].

The Guardianship Board has identified you as a person who was given notice of the hearing before the Guardianship Board or who was given an opportunity to make submissions at the hearing before the Guardianship Board.

If you wish to attend the hearing of the appeal before the District Court, you should complete the enclosed Notice of Address for Service and return it within 7 days to:

**The Registrar  
District Court of South Australia  
Administrative and Disciplinary Division  
GPO Box 2465  
Adelaide SA 5001**

**NOTE:**

**This notice is to be accompanied by Form 1A, duly completed.**

**TO:**

**THE REGISTRAR  
DISTRICT COURT  
ADMINISTRATIVE AND DISCIPLINARY DIVISION  
GPO BOX 2465  
ADELAIDE SA 5001**

**APPEAL FROM A DECISION OF THE GUARDIANSHIP BOARD**

**DCADD: 00-00**

**APPELLANT:**

*[Details inserted by Registry]*

**NOTICE OF ADDRESS FOR SERVICE**

I wish to be notified at the address below of the hearing date and time of the appeal.

Please print

**NAME:**

**ADDRESS:**

**Signed**.....

**NOTE:**

**If this document is filed electronically, the initials and name should be typed in, instead of a signature.**

**FORM 30 – Inapplicable in the District Court**

**SUMMONS FOR CONTEMPT**

(Part 1 – to be used when the prosecutor is the Registrar.)

**REGISTRAR'S SUMMONS FOR CONTEMPT**

To *[name(s) and address(es) of person(s) summoned]*

You are required to attend before the *[Court]* at *[time]* on *[date][month][year]* at *[place]* on the hearing of this summons, which is issued by the Registrar of the Court, to answer a charge of contempt of Court in that you did, on *[date][month][year]*, *[set out the formulated charge of the alleged contempt]*.

Dated

*[Facsimile Seal]*

*[Name]*

For Registrar

This summons is issued pursuant to Rule *[insert]* of the *[Court]* Rules.

**NOTE: If you fail to attend at the above time and place, orders may be made against you in your absence and you may be punished for contempt of Court.**

(Part 2 – to be used when the prosecutor is a party to the proceedings.)

**SUMMONS FOR CONTEMPT**

To *[name(s) and address(es) of person(s) summoned]*

You are required to attend before the *[Court]* at *[time]* on *[date][month][year]* at *[place]* on the hearing of this summons, which is issued on the application of *[name of party]* to answer a charge of contempt of Court in that you did, on *[date][month][year]*, *[set out the formulated charge of the alleged contempt]*.

Dated

*[Facsimile Seal]*

This summons is issued pursuant to Rule 303(7) of the *[Court]* Rules.

**NOTE: If you fail to attend at the above time and place, orders may be made against you in your absence and you may be punished for contempt of Court.**

This summons is issued at the instigation of *[name of party]*, whose address for service is *[insert address]*.

**SUMMONS FOR EXAMINATION OF JUDGMENT DEBTOR**

To *[full name and address of person summoned]*

You are a judgment debtor in the sum of \$*[amount]* pursuant to a judgment entered on *[date]*; *or*

You are alleged to be a person who may be able to assist with the investigation of the means of a judgment debtor, *[full name of judgment debtor]*, to satisfy a judgment of \$*[amount]* entered against that person on *[date]*.

You are summoned to appear before the *[Court]* Court of South Australia at *[time]* on *[date]* and *[place]* for examination in connection with the payment of such judgment debt and/or to then produce the following documents *[full description of all of the documents required]*.

*[Facsimile Seal]*

*[Name]*

For Registrar

**NOTE:** If you fail to appear, as required by the summons, the Court may, pursuant to section 4(4) of the *Enforcement of Judgments Act, 1991*, issue a warrant for your arrest.

**REQUEST FOR ISSUE OF WARRANT**

To the Registrar of the [Court] Court.

The [Nature of Party/Parties], [Name(s)] request(s) you to issue a [Summons / Warrant / Garnishee] in the form requested against [name of person] of [address] in relation to the judgment entered in this action on [date], which remains [wholly unsatisfied] [or, if partly satisfied, unsatisfied as to the sum of \$[Amount]].

[Signed] .....  
[Solicitor for the [Nature of Party/Parties]]  
[OR]  
[Name(s)], [Nature of the Party/Parties]

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.



**WARRANT OF POSSESSION**

To: The Sheriff of South Australia

In this action, on [date], it was ordered that the Plaintiff(s) [Name(s) of Plaintiff(s)] recover from the Defendant(s), [Name(s) of Defendant(s)] possession of [full description of property, including relevant title reference(s)].

YOU ARE DIRECTED to take whatever lawful steps are necessary to cause the Plaintiff(s) to have possession of the property [or to dispossess the defendant(s) of the property] and to report to this Court concerning your execution of this Warrant and the results and your costs and expenses of doing so.

**Rule 204A Endorsement**

THIS WARRANT MUST NOT BE EXECUTED AFTER [Insert date which is no later than six months after the making of the order for the possession of the land]

OR

THIS WARRANT WAS ISSUED UNDER RULE 204A OF THE DISTRICT COURT CIVIL RULES 2006

[Delete whichever is inapplicable]

[Facsimile Seal]

[Name]

For Registrar

**(As to the difference between the two types of orders see Rule 203.)**

**WARRANT OF ARREST**

To the Sheriff of South Australia

In this action, on [*date*], this court ordered [*set out terms of the order for arrest*]

YOU ARE THEREFORE DIRECTED to arrest [*insert name and address of person to be arrested*]  
pursuant to the order and to bring that person before the court in accordance with the terms of the order.

[*Facsimile Seal*]

[*Name*]

For Registrar

**WARRANT OF SALE**

To: The Sheriff of South Australia

In this action the [*Nature of Party/Parties*], [*Name(s)*] of [*Address(es)*] is/are, pursuant to a judgment or order dated [*date*], indebted to the [*Nature of Party/Parties*], [*Name(s)*] as follows:

Balance of judgment sum .....\$

Costs .....\$

Interest under Rule 261 to date of warrant .....\$

Costs and expenses of this warrant .....\$

Total .....\$

**YOU ARE DIRECTED:**

- (1) To sell such of the personal and real property of the [*Nature of Party/Parties*], [*Name(s)*], as are within the State of South Australia in order to satisfy the unsatisfied judgment, interest and costs and further interest accruing under Rule 261 after the date of this warrant, until you receive payment of the monies which are the subject of this warrant and all of your expenses and fees relating to its execution.
- (2) To report to this Court concerning your execution of this warrant and the results.

[*Facsimile Seal*]  
 [*Name*]  
 For Registrar

**NOTICE OF CLAIM TO PROPERTY SUBJECT TO EXECUTION**

To the Sheriff of South Australia

I/we, [name(s) and address(es)] claim to have an interest in the property mentioned below and seek that you give effect to such claim. This notice is given pursuant to section 16(2) of the *Enforcement of Judgments Act 1991*.

Particulars of the property are:

[Set out full details of the property in which the interest is claimed]

Particulars of interest claimed are:

[Set out full details of the nature of the claim(s)]

**NOTE:** If notice relates to more than one item of property, separately identify each item and the details related to it.

DATED:

[Signed] .....

[Solicitor for the [Nature of Party/Parties]]

[OR]

[Name(s)],[Nature of the Party/Parties]

**NOTE :** If this document is filed electronically, the initials and name(s) of the issuing Solicitor or Party/Parties should be typed in, in lieu of a signature.

**FORM 38 - Inapplicable in the District Court**

**FORM 39 - Inapplicable in the District Court**

**OTHER DOCUMENTS**

*[Any other documents to be filed in an action, for which no specific form is prescribed, may utilise this full text form. It may also be used to electronically file any document for which a form is prescribed, but in respect of which no other electronic template is currently available on the Courts Administration Authority website. This form must be accompanied by Form 1, duly completed, and its content must comply with the general format and substance requirements prescribed by the Rules of Court.]*

**FORM 41 - Inapplicable in the District Court**

**FREEZING ORDER**

**To:** [*name of person against whom the order is made*]

**IF YOU**

**(A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**

**(B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU TO ABSTAIN FROM DOING,**

**YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.**

**TO:** [*name of person against whom the order is made*]

This is a “*freezing order*” made against you on [*insert date*] by Judge [*insert name of Judge*] at a hearing without notice to you after the Court was given the undertakings set out in Schedule A to this order and after the Court read the affidavits listed in Schedule B to this order.<sup>1</sup>

**THE COURT ORDERS:**

**INTRODUCTION**

- 1 (a) The application for this order is made returnable immediately.  
(b) The time for service of the application, supporting affidavits and originating process is abridged and service is to be effected by [*insert time and date*]<sup>2</sup>
- 2 Subject to the next paragraph, this order has effect up to and including [*insert date*] (“**the Return Date**”). On the Return Date at [*insert time*] am/pm there will be a further hearing in respect of this order in the District Court, Victoria Square, Adelaide.<sup>3</sup>
- 3 Anyone served with or notified of this order, including you, may apply to the Court at any time to vary or discharge this order or so much of it as affects the person served or notified.
- 4 In this order:

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<sup>1</sup> The words “without notice to you” and “and after the Court has read the affidavits listed in Schedule B to this order” are appropriate only in the case of an order made without notice to the respondent.

<sup>2</sup> Paragraph 1 is appropriate only in the case of an order made without notice.

<sup>3</sup> Paragraph 2 is appropriate only in the case of an order made without notice.



- (a) “applicant”, if there is more than one applicant, includes all the applicants;
  - (b) “you”, where there is more than one of you, includes all of you and includes you if you are a corporation;
  - (c) “third party” means a person other than you and the applicant;
  - (d) “unencumbered value” means value free of mortgages, charges, liens or other encumbrances; and
  - (e) if you are ordered to do or not to do something you must do it or not do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions or with your encouragement or in any other way.
- 5
- (a) If you are ordered not to do something, you must not do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions.
  - (b) If you are ordered not to do something, you must not do it yourself or through directors, officers, partners, employees, agents or others acting on your behalf or on your instructions or with your encouragement or in any other way.

## **FREEZING OF ASSETS**

*[For order limited to assets in Australia]*

- 6
- (a) You must not remove from Australia or in any way dispose of, deal with or diminish the value of any of your assets in Australia (“Australian assets”) up to the unencumbered value of AUD\$ (“the Relevant Amount”).
  - (b) If the unencumbered value of your Australian assets exceeds the Relevant Amount, you may remove any of those assets from Australia or dispose of or deal with them or diminish their value, so long as the total unencumbered value of your Australian assets still exceeds the Relevant Amount.

*[If the Court makes a worldwide order, the following additional paragraph (c) also applies.]*

- (c) If the unencumbered value of your Australian assets is less than the Relevant Amount, and you have assets outside Australia (“ex-Australian assets”):
  - (i) You must not dispose of, deal with or diminish the value of any of your Australian assets and ex-Australian assets up to the unencumbered value of your Australian and ex-Australian assets of the Relevant Amount; and
  - (ii) You may dispose of, deal with or diminish the value of any of your ex-Australian assets, so long as the unencumbered value of your Australian assets and ex-Australian assets still exceeds the Relevant Amount.

[For either form of order]

7 For the purposes of this order:

- (1) your assets include:
  - (a) all your assets, whether or not they are in your name and whether they are solely or co-owned;
  - (b) any assets which you have the power, directly or indirectly, to dispose of or deal with as if it were your own (you are to be regarded as having such power if a third party holds or controls the asset in accordance with your direct or indirect instructions); and
  - (c) the following assets in particular:
    - (i) that the property known as [title/address] or, if it has been sold, the net proceeds of the sale;
    - (ii) the assets of your business [known as [name]] [carried on at [address]] or, if any or all of the assets have been sold, the net proceeds of the sale; and
    - (iii) any money in account [numbered account number] [in the name of] at [name of bank and name and address of branch].
- (2) the value of your assets is the value of the interest you have individually in your assets.

#### **PROVISION OF INFORMATION<sup>4</sup>**

8 Subject to paragraph 9, you must:

- (a) at or before the further hearing on the Return Date (or within such further time as the Court may allow) to the best of your ability inform the applicant in writing of all your assets in [Australia] [world wide], giving their value, location and details (including any mortgages, charges or other encumbrances to which they are subject) and the extent of your interest in the assets;
- (b) within [ ] working days after being served with this order, swear and serve on the applicant an affidavit setting out the above information.

- 9
- (a) This paragraph 9 applies if you are not a corporation and you wish to object that compliance with paragraph 8 may tend to incriminate you or make you liable to a civil penalty;
  - (b) This paragraph 9 also applies if you are a corporation and all of the persons who are able to comply with paragraph 8 on your behalf and with whom you have been able to communicate, wish to object that compliance may tend to incriminate them respectively or make them respectively liable to a civil penalty;

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<sup>4</sup> See Practice Direction 4.6.14

- (c) You must, at or before the further hearing on the Return Date (or within such further time as the Court may allow), notify the applicant in writing that you or all the persons referred to in (b) wish to take such objection and identify the extent of the objection;
- (d) If you give such notice, you need comply with paragraph 8 only to the extent, if any, that it is possible to do so without disclosure of the material in respect of which the objection is taken; and
- (e) If you give such notice, the Court may give directions as to the filing and service of affidavits setting out such matters as you or the persons referred to in (b) wish to place before the Court in support of the objection.

## **EXCEPTIONS TO THIS ORDER**

10 This order does not prohibit you from:

- (a) paying [up to \$..... a week/day on] [your ordinary] living expenses;
- (b) paying [\$..... on] [your reasonable] legal expenses;
- (c) dealing with or disposing of any of your assets in the ordinary and proper course of your business, including paying business expenses bona fide and properly incurred; and
- (d) in relation to matters not falling within (a), (b) or (c), dealing with or disposing of any of your assets in discharging obligations bona fide and properly incurred under a contract entered into before this order was made, provided that before doing so you give the applicant, if possible, at least two working days written notice of the particulars of the obligation.

11 You and the applicant may agree in writing that the exceptions in the preceding paragraph are to be varied. In that case the applicant or you must as soon as practicable file with the Court and serve on the other a minute of the proposed consent order recording the variation signed by or on behalf of the applicant and you, and the Court may order that the exceptions are varied accordingly.

12 (a) This order will cease to have effect if you:

- (i) pay the sum of \$..... into Court; or
  - (ii) pay that sum into a joint bank account in the name of your lawyer and the lawyer for the applicant as agreed in writing between them; or
  - (iii) provide security in that sum by a method agreed in writing with the applicant to be held subject to the order of the Court.
- (b) Any such payment and any such security will not provide the applicant with any priority over your other creditors in the event of your insolvency.
- (c) If this order ceases to have effect pursuant to (a), you must as soon as practicable file with the Court and serve on the applicant notice of that fact.

## **COSTS**

- 13 The costs of this application are reserved to the judge hearing the application on the Return Date.

## **PERSONS OTHER THAN THE APPLICANT AND RESPONDENT**

### **14 Set off by banks**

This order does not prevent any bank from exercising any right of set off it has in respect of any facility which it gave you before it was notified of this order.

### **15 Bank withdrawals by the respondent**

No bank need inquire as to the application or proposed application of any money withdrawn by you if the withdrawal appears to be permitted by this order.

*[For world wide order]*

### **16 Persons outside Australia**

- (a) Except as provided in subparagraph (b) below, the terms of this order do not affect or concern anyone outside Australia.
- (b) The terms of this order will affect the following persons outside Australia:
- (i) you and your directors, officers, employees and agents (except banks and financial institutions);
  - (ii) any person (including a bank or financial institution) who:
    - (A) is subject to the jurisdiction of this Court; and
    - (B) has been given written notice of this order, or has actual knowledge of the substance of the order and of its requirements; and
    - (C) is able to prevent or impede acts or omissions outside Australia which constitute or assist in a disobedience breach of the terms of this order; and
  - (iii) any other person (including a bank or financial institution), only to the extent that this order is declared enforceable by or is enforced by a court in a country or state that has jurisdiction over that person or over any of that person's assets.

*[For world wide order]*

### **17 Assets located outside Australia**

Nothing in this order shall, in respect of assets located outside Australia, prevent any third party from complying or acting in conformity with what it reasonably believes to be its bona fide and properly incurred legal obligations, whether contractual or pursuant to a court order

or otherwise, under the law of the country or state in which those assets are situated or under the proper law of any contract between a third party and you, provided that in the case of any future order of a court of that country or state made on your or the third party's application, reasonable written notice of the making of the application is given to the applicant.

## SCHEDULE A

### UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT

- (1) The applicant undertakes to submit to such order (if any) as the Court may consider to be just for the payment of compensation (to be assessed by the Court or as it may direct) to any person (whether or not a party) affected by the operation of the order.
- (2) As soon as practicable, the applicant will file and serve upon the respondent copies of:
  - (a) this order;
  - (b) the application for this order for hearing on the return date;
  - (c) the following material insofar as it was relied on by the applicant at the hearing when the order was made:
    - (i) affidavits (or draft affidavits);
    - (ii) exhibits capable of being copied;
    - (iii) any written submission; and
    - (iv) any other document that was provided to the Court.
  - (d) a transcript, or, if none is available, a note, of any exclusively oral allegation of fact that was made and of any exclusively oral submission that was put, to the Court;
  - (e) the originating process, or, if none was filed, any draft originating process produced to the Court.
- (3) As soon as practicable, the applicant will cause anyone notified of this order to be given a copy of it.
- (4) The applicant will pay the reasonable costs of anyone other than the respondent which have been incurred as a result of this order, including the costs of finding out whether that person holds any of the respondent's assets.
- (5) If this order ceases to have effect<sup>5</sup> the applicant will promptly take all reasonable steps to inform in writing anyone who has been notified of this order, or who he has reasonable grounds for supposing may act upon this order, that it has ceased to have effect.
- (6) The applicant will not, without permission of the Court, use any information obtained as a result of this order for the purpose of any civil or criminal proceedings, either in or outside Australia, other than this proceeding.
- (7) The applicant will not, without permission of the Court, seek to enforce this order in any country outside Australia or seek in any country outside Australia an order of a similar

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<sup>5</sup> For example, if the respondent pays money into Court or provides security, as provided for in paragraph 12 of this Order.

nature or an order conferring a charge or other security against the respondent or the respondent's assets.

[(8) The applicant will:

- (a) on or before [date] cause an irrevocable undertaking to pay in the sum of \$..... to be issued by a bank with a place of business within Australia, in respect of any order the court may make pursuant to undertaking (1) above; and
- (b) immediately upon issue of the irrevocable undertaking, cause a copy of it to be served on the respondent.]<sup>6</sup>

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<sup>6</sup> See Practice Direction 4.6.17

**SCHEDULE B<sup>7</sup>**

**AFFIDAVITS RELIED ON**

<b>Name of Deponent</b>	<b>Date affidavit made</b>
(1)	
(2)	
(3)	

**NAME AND ADDRESS OF APPLICANT'S LEGAL REPRESENTATIVES**

The applicant's legal representatives are:

*[Name, address, reference, fax and telephone numbers both in and out of office hours and e-mail]*

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<sup>7</sup> Schedule B is appropriate only in the case of an order made without notice



**SEARCH ORDER**

**TO:** [*name of person against whom the order is made*]

**IF YOU (BEING THE PERSON BOUND BY THIS ORDER):**

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THE ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU TO ABSTAIN FROM DOING,**

**YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.**

**TO:** [*name of person against whom the order is made*]

This is a “*search order*” made against you on [*insert date*] by Judge [*insert name of Judge*] at a hearing without notice to you after the Court was given the undertakings set out in Schedule B to this order and after the Court read the affidavits listed in Schedule C to this order.

**THE COURT ORDERS:**

**INTRODUCTION**

- 1 (a) the application for this order is made returnable immediately.  
(b) the time for service of the application, supporting affidavits and originating process is abridged and service is to be effected by [*insert time and date*].
- 2 Subject to the next paragraph, this order has effect up to and including [*insert date*] (“**the Return Date**”). On the Return Date at [*insert time*] am/pm there will be a further hearing in respect of this order in the District Court, Victoria Square, Adelaide.
- 3 You may apply to the Court at any time to vary or discharge this order; including, if necessary, by telephone to [*insert*].
- 4 This order may be served only between [*insert time*] am/pm and [*insert time*] am/pm [on a business day]<sup>8</sup>.

---

<sup>8</sup> Normally the order should be served between 9.00 am and 2.00 pm on a business day to enable the respondent more readily to obtain legal advice.

- 5 In this order:
- (a) “applicant” means the person who applied for this order, and if there is more than one applicant, includes all the applicants;
  - (b) “independent computer expert” means the person (if any) identified as the independent computer expert in the search party referred to in Schedule A to this order;
  - (c) “independent lawyer” means the person identified as the independent lawyer or in the search party referred to in Schedule A to this order;
  - (d) “listed thing” means any thing referred to in Schedule A to this order;
  - (e) “premises” means the premises and any of the premises identified in Schedule A to this order, including any vehicles and vessels that are under the respondent’s control on or about the premises or that are otherwise identified in Schedule A;
  - (f) “search party” means the persons identified or described as constituting the search party in Schedule A to this order;
  - (g) “thing” includes a document;
  - (h) “you”, where there is more than one of you, includes all of you and includes you if you are a corporation;
  - (i) any requirement that something be done in your presence means:
    - (A) in the presence of you or of one of the persons described in 6 below; or
    - (B) if there is more than one of you, in the presence of each of you, or, in relation to each of you, in the presence of one of the persons described in 6 below.
- 6 This order must be complied with by you by:
- (a) yourself; or
  - (b) any director, officer, partner, employee or agent of yourself; or
  - (c) any other person having responsible control of the premises.
- 7 This order must be served by, and be executed under the supervision of, the independent lawyer.

### **ENTRY, SEARCH AND REMOVAL**

- 8 Subject to paragraphs 10 to 20 below, upon service of this order you must permit members of the search party to enter the premises so that they can carry out the search and other activities referred to in this order.
- 9 Having permitted members of the search party to enter the premises, you must:
- (a) permit them to leave and re-enter the premises on the same and the following day until the search and other activities referred to in this order are complete;
  - (b) permit them to search for and inspect the listed things and to make or obtain a copy, photograph, film, sample, test or other record of the listed things;
  - (c) disclose to them the whereabouts of all the listed things in the respondent’s possession, custody or power, whether at the premises or otherwise;
  - (d) disclose to them the whereabouts of all computers, computer disks and electronic information storage devices or systems at the premises in which any documents among the listed things are or may be stored, located or recorded and cause and permit those documents to be printed out;

- (e) do all things necessary to enable them to access the listed things, including opening or providing keys to locks and enabling them to access and operate computers and providing them with all necessary passwords;
- (f) permit the independent lawyer to remove from the premises into the independent lawyer's custody:
  - (i) the listed things or things which reasonably appear to the independent solicitor to be the listed things and any things the subject of dispute as to whether they are listed things; and
  - (ii) the copies, photographs, films, samples, tests, other records and printed out documents referred to above; and
- (g) permit the independent computer expert (if there is one) to search any computer and make a copy or digital copy of any computer hard drive and permit the independent computer expert (if any) or the independent lawyer to remove any computer hard drive and computer from the premises as set out in paragraphs 20 and 21 below.

### **RESTRICTIONS ON ENTRY, SEARCH AND REMOVAL**

- 10 This order may not be executed at the same time as a search warrant (or similar process) is executed by the police or by a regulatory authority.
- 11 You are not required to permit anyone to enter the premises until:
  - (a) the independent lawyer serves you with copies of this order and any affidavits referred to in Schedule C (confidential exhibits, if any, need not be served until further order of the Court); and
  - (b) you are given an opportunity to read this order and, if you so request, the independent lawyer explains the terms of this order to you.
- 12 Before permitting entry to the premises by anyone other than the independent lawyer, you, for a time (not exceeding two hours from the time of service or such longer period as the independent lawyer may permit):
  - (a) may seek legal advice;
  - (b) may ask the Court to vary or discharge this order;
  - (c) (provided you are not a corporation) may gather together any things which you believe may tend to incriminate you or make you liable to a civil penalty and hand them to the independent lawyer in (if you wish) a sealed envelope or container; and
  - (d) may gather together any documents that passed between you and your lawyers for the purpose of obtaining legal advice or that are otherwise subject to legal professional privilege or client legal privilege, and hand them to the independent lawyer in (if you wish) a sealed envelope or container.
- 13 Subject to paragraph 22 below, the independent lawyer must not inspect or permit to be inspected by anyone, including the applicant and the applicant's lawyers, any thing handed to the independent lawyer in accordance with subparagraphs 12(c) and (d) above and the independent lawyer must deliver it to the Court at or prior to the hearing on the Return Date.
- 14 During any period referred to in para 12 above, you must:
  - (a) inform and keep the independent lawyer informed of the steps being taken;
  - (b) permit the independent lawyer to enter the premises but not to start the search;
  - (c) not disturb or remove any listed things; and

- (d) comply with the terms of paragraphs 25 and 26 below.
- 15 Any thing the subject of a dispute as to whether it is a listed thing must promptly be handed by you to the independent lawyer for safekeeping pending resolution of the dispute or further order of the Court.
- 16 Before removing any listed things from the premises (other than things referred to in the immediately preceding paragraph), the independent lawyer must supply a list of them to you, give you a reasonable time to check the correctness of the list, and give you and the applicant's lawyers a copy of the list signed by the independent lawyer.
- 17 The premises must not be searched, and things must not be removed from the premises, except in the presence of you or of a person who appears to the independent lawyer to be your director, officer, partner, employee, agent or other person acting on your behalf or on your instructions.
- 18 If the independent lawyer is satisfied that full compliance with the immediately preceding paragraph is not reasonably practicable, the independent lawyer may permit the search to proceed and the listed things to be removed without full compliance.
- 19 The applicant's lawyers and the independent lawyer must not allow the applicant in person to inspect or have copies of any thing removed from the premises nor communicate to the applicant information about its contents or about anything observed at the premises until 4.30 pm on the return date or other time fixed by further order of the Court.

## **COMPUTERS**

- 20 (a) If it is expected that a computer will be searched, the search party must include a computer expert who is independent of the applicant and of the applicant's lawyers ("the independent computer expert").
- (b) Any search of a computer must be carried out only by the independent computer expert.
- (c) The independent computer expert may make a copy or digital copy of the computer hard drive and remove that copy or digital copy from the premises.
- (d) The independent computer expert may search the computer or the copy or digital copy of the computer hard drive at the premises and/or away from the premises for listed things and may copy the listed things electronically or in hard copy or both.
- (e) The independent computer expert must as soon as practicable and, in any event, prior to the hearing on the return date, deliver the copy or digital copy of the computer hard drive and all electronic and hard copies of listed things to the independent solicitor, together with a report of what the independent computer expert has done including a list of such electronic and hard copies.
- (f) The independent lawyer must, at or prior to the hearing on the return date, deliver to the Court all things received from the independent computer expert and serve a copy of the latter's report on the parties.
- (g) If no independent computer expert has been appointed, but the independent lawyer considers it necessary to remove a computer from the premises for safekeeping or for the purpose of copying its contents electronically and printing out information in documentary form, the independent solicitor may remove the computer from the premises for that purpose and cause that purpose to be achieved.
- 21 (a) Unless you are a corporation, you are entitled to object to paragraphs 20(b) to (f) on the ground that they might tend to incriminate you or make you liable to a civil penalty.

- (b) You are entitled to object to paragraphs 20(b) to (f) on the ground that the computer contains material that is otherwise privileged.
- (c) Upon communicating any objection under para (a) or (b) to the independent lawyer paragraphs 20(b) to (f) become inoperative to the extent that you have objected to them. In that event, if the applicant's lawyer communicates to the independent lawyer that the applicant proposes to contest the objection:
  - (i) the independent computer expert shall remove the computer hard drive (or, if that is not practicable, the computer) from the premises and deliver it into the custody of the independent lawyer who shall deliver it to the Court at or prior to the Return Date.
  - (ii) on the Return Date or on another date, the applicant may apply to the Court for orders to similar effect as paragraphs 20(b) to (f) and if you object, the Court may adjudicate upon your objection.

### **INSPECTION**

- 22 Prior to the Return Date, you or your lawyer or representative shall be entitled, in the presence of the independent lawyer, to inspect any thing removed from the premises and to:
- (a) make copies of the same; and
  - (b) provide the independent lawyer with a signed list of things which are claimed to be privileged or confidential and which you claim ought not to be inspected by the applicant.

### **PROVISION OF INFORMATION**

- 23 Subject to paragraph 24 below, you must:
- (a) at or before the further hearing on the Return Date (or within such further time as the Court may allow) to the best of your ability inform the applicant in writing as to:
    - (i) the location of the listed things;
    - (ii) the name and address of everyone who has supplied you, or offered to supply you, with any listed thing;
    - (iii) the name and address of every person to whom you have supplied, or offered to supply, any listed thing; and
    - (iv) details of the dates and quantities of every such supply and offer.
  - (b) within [ ] working days after being served with this order, make and serve on the applicant an affidavit setting out the above information.
- 24
- (a) This paragraph 24 applies if you are not a corporation and you wish to object that compliance with paragraph 23 may tend to incriminate you or make you liable to a civil penalty.
  - (b) This paragraph 24 also applies if you are a corporation and all of the persons who are able to comply with paragraph 23 on your behalf and with whom you have been able to communicate, wish to object that compliance may tend to incriminate them or make them liable to a civil penalty.
  - (c) You must, at or before the further hearing on the Return Date (or within such further time as the Court may allow), notify the applicant in writing that you or all the persons referred to in (b) wish to take such objection and identify the extent of the objection.

- (d) If you give such notice, you need comply with paragraph 23 only to the extent, if any, that it is possible to do so without disclosure of the material in respect of which the objection is taken.
- (e) If you give such notice, the Court may give directions as to the filing and service of affidavits setting out such matters as you or the persons referred to in (b) wish to place before the Court in support of the objection.

### **PROHIBITED ACTS**

- 25 Except for the sole purpose of obtaining legal advice, you must not, until 4.30 pm on the Return Date, directly or indirectly inform any person of this proceeding or of the contents of this order, or tell any person that a proceeding has been or may be brought against you by the applicant.
- 26 Until 4.30 pm on the Return Date you must not destroy, tamper with, cancel or part with possession, power, custody or control of the listed things otherwise than in accordance with the terms of this order or further order of the Court.

### **COSTS**

- 27 The costs of this application are reserved to the Judge hearing the application on the Return Date.

## SCHEDULE A

### Premises

The premises located at *[insert address or addresses]* including any vehicle or vehicles under the respondent's control on or about those premises.

### Listed Things

- 1
- 2
- 3

### Search Party

- 1 The independent lawyer: *[insert name and address]*
- 2 The applicant's solicitor or solicitors:
  - (a) *[insert name and address]* [or description eg a partner or employed lawyer of A, B and Co].
  - (b) *[insert name and address]* [or description eg a partner or employed lawyer of A, B and Co].
  - (c) *[insert name and address]* [or description e.g. a partner or employed lawyer of A, B and Co].
- 3 Other members of the search party:
  - (a) *[insert name and address]* in the capacity of [*e.g. an independent computer expert*]
  - (b) *[insert name and address]* in the capacity of [*insert capacity*]

## SCHEDULE B

### UNDERTAKINGS GIVEN TO THE COURT

#### Undertakings given to the Court by the applicant:

- (1) The applicant undertakes to submit to such order (if any) as the Court may consider to be just for the payment of compensation (to be assessed by the Court or as it may direct) to any person (whether or not a party) affected by the operation of the order.
- (2) The applicant will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.
- (3) The applicant will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.
- (4) If the applicant has not already done so, as soon as practicable the applicant will file an application for hearing on the Return Date and an originating process [in the form of the draft produced to the Court].
- [(5) The applicant will insure the things removed from the premises against loss or damage for an amount that reasonably appears to the applicant to be their full value.<sup>9</sup>]
- [(6) The applicant will:<sup>10</sup>
  - (a) on or before [*insert date*] cause a written irrevocable undertaking to pay in the sum of \$[*insert amount*] to be issued from a bank with a place of business within Australia, in respect of any order the Court may make referred to in the undertaking as to damages contained in paragraph (1) above; and
  - (b) immediately upon issue of the irrevocable undertaking to pay, cause a copy of it to be served on the respondent.]

#### Undertakings given to the Court by the applicant's solicitor

- (1) The applicant's lawyer will pay the reasonable costs and disbursements of the independent lawyer and of any independent computer expert.

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<sup>9</sup> Depending on the nature of the things likely to be removed and their likely value, and the likely particular risks of their being lost or damaged, this undertaking or a more elaborate one may be required.

<sup>10</sup> See Practice Direction 4.3.19.



- (2) The applicant's lawyer will provide to the independent lawyer for service on the respondent copies of the following documents:
  - (a) this order;
  - (b) the application for this order for hearing on the Return Date;
  - (c) the following material in so far as it was relied on by the applicant at the hearing when the order was made:
    - (i) affidavits (or draft affidavits)
    - (ii) exhibits capable of being copied (other than confidential exhibits);
    - (iii) any written submission; and
    - (iv) any other document that was provided to the Court.
  - (d) a transcript, or, if none is available, a note, of any exclusively oral allegation of fact that was made and of any exclusively oral submission that was put, to the Court; and
  - (e) the originating process, or, if none was filed, any draft originating process produced to the Court.
- (3) The applicant's lawyer will answer to the best of his or her ability any question as to whether a particular thing is a listed thing.
- (4) The applicant's lawyer will use his or her best endeavours to act in conformity with the order and to ensure that the order is executed in a courteous and orderly manner and in a manner that minimises disruption to the respondent.
- (5) The applicant's lawyer will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.
- (6) The applicant's lawyer will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.
- (7) The applicant's lawyer will not disclose to the applicant any information that the solicitor acquires during or as a result of execution of the search order, without the permission of the Court.
- (8) The applicant's lawyer will use but endeavour to follow all directions of the independent lawyer.

### **Undertakings given to the Court by the independent lawyer**

- (1) The independent lawyer will use his or her best endeavours to serve the respondent with this order and the other documents referred to in undertaking (2) of the above undertakings by the applicant's solicitor or solicitors.
- (2) Before entering the premises, the independent lawyer will:
  - (a) offer to explain the terms and effect of the search order to the person served with the order and, if the offer is accepted, do so; and
  - (b) inform the respondent of his or her right to take legal advice.
- (3) Subject to undertaking (4) below, the independent lawyer will retain custody of all things removed from the premises by the independent lawyer pursuant to this order until delivery to the Court or further order of the Court.
- (4) At or before the hearing on the Return Date, the independent lawyer will provide a written report on the carrying out of the order to the Court and provide a copy to the applicant's lawyers and to the respondent or the respondent's lawyers. The report will attach a copy of any list made pursuant to the order and a copy of any report received from an independent computer expert.
- (5) The independent lawyer will use his or her best endeavours to act in conformity with the order and to ensure that the order is executed in a courteous and orderly manner and in a manner that minimises disruption to the respondent.
- (6) The independent lawyer will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.
- (7) The independent lawyer will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.

### **Undertakings given to the Court by the independent computer expert**

- (1) The independent computer expert will use his or her best endeavours to act in conformity with the order and to ensure that the order, so far as it concerns the independent computer expert, is executed in a courteous and orderly manner and in a manner that minimises disruption to the respondent.
- (2) The independent computer expert will not, without permission of the Court, use any information, document or thing obtained as a result of the execution of this order for the

purpose of any civil or criminal proceeding, either within or outside Australia, other than this proceeding.

- (3) The independent computer expert will not inform any other person of the existence of this proceeding except for the purposes of this proceeding until after 4.30 pm on the Return Date.
- (4) The independent computer expert will use best endeavours to follow all directions of the independent lawyer.

**SCHEDULE C**

**AFFIDAVITS RELIED ON**

**Name of Deponent**

**Date affidavit made**

(1)

(2)

(3)

**NAME AND ADDRESS OF APPLICANT'S LAWYERS**

The Applicant's solicitors are: *[Insert name, address, reference, fax and telephone numbers both in and out office hours].*

**NOTICE TO DEFENDANTS FOR ISSUE OF WARRANT OF POSSESSION**

To [name(s)] defendant(s)

The plaintiff intends to apply to the Registrar of the District Court for the issue of a warrant of possession to give effect to the order for possession made on (*insert date*) of the property known as (*insert address of property*).

If, having regard to the circumstances which have occurred since the making of the order for possession, you wish to contend that there is good and sufficient reason why the warrant should not be issued, you must within 10 days of the date of this notice:

- (a) file in the District Court and send to the plaintiff(s) a completed request for a hearing in the form of the attached Form 46; and
- (b) file in the District Court and serve on the plaintiff(s) an affidavit or affidavits deposing to the facts upon which you will seek to rely at the hearing.

In that event, the Court will convene an urgent hearing and send notice of it to you. You should attend at that hearing in person or by a lawyer.

Address for service of plaintiff(s): (*insert address*)

Dated.....day of..... 20...

.....  
Plaintiff(s) or solicitor for the plaintiff(s)

**NOTE:** If you oppose the issue of the warrant, and it is issued, you may be liable to pay the legal costs of the plaintiff(s) of the hearing (- add if applicable - which will be added on to the amount which has to be repaid under the mortgage).

**NOTICE TO OCCUPIERS FOR ISSUE OF WARRANT OF POSSESSION**

This notice is given to you as an occupier of *(insert address of the property)*. By an order of the District Court made on *(insert date of order)*, the Court ordered that possession of the property be given to the plaintiff(s). The plaintiff(s) intend(s) to apply to the Registrar of the District Court for the issue of a warrant of possession to give effect to the order for possession. The execution of such a warrant will mean that you will be evicted from the property.

If, having regard to the circumstances which have occurred since the making of the order for possession, you wish to contend that there is good and sufficient reason why the warrant should not be issued and that you should not be evicted from the property, you must within 10 days of the posting of this notice to you:

- (a) file in the District Court and send to the plaintiff(s) a completed request for a hearing in the Form 46 attached; and
- (b) file in the District Court and send to the plaintiff(s) an affidavit or affidavits deposing to the facts upon which you will seek to rely at the hearing.

In that event, the Registrar will convene an urgent hearing and send notice of it to you. You should attend at that hearing in person or by a lawyer.

Address for service of plaintiff(s): *(insert address for service)*

Dated.....day of..... 20...

.....

Plaintiff(s) or solicitor for plaintiff(s)

**NOTE:** If you oppose the issue of the warrant, and it is issued, you may be liable to pay the legal costs of the plaintiff(s) of the hearing.

**REQUEST BY DEFENDANT/OCCUPIER FOR HEARING  
TO OPPOSE ISSUE OF WARRANT OF POSSESSION**

I (*insert full name*) a defendant/occupier of the premises request a hearing before the Court to oppose the issue of a warrant of possession.

The names of the persons who are occupiers of the premises are: (insert names)

Address for service of notices: (*in addition to the business or residential address, insert postal, fax and/or e-mail address*)

Dated ..... 20 ...

.....

Defendant/Occupier

**CERTIFICATE OF COMPLIANCE WITH RULE 204A(3)**

The plaintiff(s) apply(ies) for the issue of a warrant of possession to give effect to the order for possession made in this action on *(insert date)*.

I *(insert full name)* *(plaintiff(s) or solicitor for the plaintiff(s))* certify:

- (1) On ..... 20... notice in the Form 44 attached was duly sent by prepaid post to *(each/of)* the defendant(s);
  
- (2) On ..... 20... a notice in the Form 45 attached was duly sent by prepaid post to the occupiers of *(insert address of premises)*; and
  
- (3) There is no reason why a warrant of possession should not now issue.

Dated.....20....

.....  
Plaintiff/Solicitor for the Plaintiff(s)



**REQUEST FOR SERVICE ABROAD OF JUDICIAL DOCUMENTS AND CERTIFICATE**

**Part 1 Request for service abroad of judicial documents**

**Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15<sup>th</sup> of November 1965**

Identity and address of the applicant on whose behalf the forwarding authority requests service
---

Identity and address of receiving authority [ <i>Central Authority/additional          authority</i> ]
---

The undersigned forwarding authority has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, ie:

[*identity and address*] .....  
.....

- (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention\*.
- (b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5\*): .....
- (c) by delivery to the address, if the addressee accepts it voluntarily (second paragraph of Article 5)\*.

The receiving authority [*Central Authority/additional authority*] is requested to return or to have returned to the applicant a copy of the documents – and of the annexes\* - with a certificate as provided in \*Part 2 of this Form on the reverse side.

*List of documents*

.....  
.....

Done at ....., the .....  
Signature or stamp (or both) of forwarding authority

\*Delete if inappropriate.

**Part 2 Certificate**

**Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15<sup>th</sup> of November 1965**

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention:

1. that the documents listed in Part 1 have been served\*

-the (*date*) .....

-at (*place, street, number*) .....

-in one of the following methods authorised by Article 5:

(a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention\*,

(b) in accordance with the following particular method\*:

(c) by delivery to the addressee, who accepted it voluntarily\*.

The document referred to in the request, has been delivered to:

-[*identity and description of person*] .....

-relationship to the addressee [*family, business or other*] .....

2. that the document has not been served, by reason of the following facts\*: .....

.....  
.....

In conformity with the second paragraph of Article 12 of the Convention, the forwarding authority is requested to pay or reimburse the expenses detailed in the attached statement\*.

**Annexes**

Documents returned: .....  
.....  
.....

In appropriate cases, documents, establishing the service: .....  
.....  
.....

Done at....., the .....  
Signature or stamp (or both).

\*Delete if inappropriate.

**SUMMARY OF THE DOCUMENT TO BE SERVED**

**Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, the 15<sup>th</sup> November 1965**

(Article 5, fourth paragraph)

**Identity and address of the addressee [*Central Authority/additional authority*]:**

**IMPORTANT**

THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE SUMMARY OF THE DOCUMENT TO BE SERVED WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY, IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.

IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.

ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO .....

**SUMMARY OF THE DOCUMENT TO BE SERVED**

Name and address of the forwarding authority.....

.....

Particulars of the parties .....

.....

**\*\*JUDICIAL DOCUMENT**

Nature and purpose of document .....

.....

Nature and purpose of the proceedings and, when appropriate, the amount in dispute

.....  
.....  
.....

Date and Place for entering appearance .....

.....

Court in which proceedings pending/judgment given .....

.....

\*\*Date if judgment (if applicable) .....

Time limits stated in the document .....

.....

Front Sheet in Form 1.

**APPLICATION TO THE COURT BY THE COMMISSIONER OF POLICE**

*Serious and Organised Crime (Unexplained Wealth) Act 2009* (“the Act”)

1. The Commissioner of Police applies to the District Court for:
  - (a) the making of a monitoring order under s 14 of the Act;
  - (b) directions on a monitoring application under Rule 316A(3);
  - (c) the making of an examination and/or production order under s 15 of the Act;
  - (d) the issue of a warrant (other than by telephone) under section 16(1) of the Act;
  - (e) an order declaring that property is property for the purposes of the *(Enforcement of Judgments Act 1991)* under s 19(2) of the Act;
  - (f) the making of a restraining order under s 20 of the Act.

*[Delete such of (a), (b), (c), (d), (e) and (f) as are not applicable]*

2. The terms of the orders sought are:

*[Set out the terms of the order[s] sought or refer to an annexed document containing the terms of the order[s] sought].*

3. The application is supported by an affidavit or affidavits of *[names of deponents]* made on *[insert dates]*.

4. The grounds upon which the application is made are:

*[Set out the grounds].*

Dated            day of                            20....

.....  
(Signature of applicant)

**WARRANT FOR SEARCH AND SEIZURE***Serious and Organised Crime (Unexplained Wealth) Act 2009*

1. On an application made on [*insert date*] by the Commissioner of Police, I ....., a Judge of the District Court of South Australia, am satisfied that there are proper grounds for the issue of a warrant under section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* in relation to identifying, tracing, locating or valuing the wealth of [*insert name of defendant*].
2. The Court now issues this warrant authorising [*Insert names of police officer(s)*]:
  - (a) to seize documents and other articles relevant to identifying, tracing, locating or valuing the wealth of [*insert name of defendant*];
  - (b) to search [*insert name of person*] and to seize any document or article suspected on reasonable grounds to be a document or article relevant to identifying, tracing, locating or valuing the wealth of [*insert name of defendant*];
  - (c) to search premises situated at [*identify premises*] and to seize any document or article suspected on reasonable grounds to be a document or article relevant to identifying, tracing, locating or valuing the wealth of [*insert name of defendant*].

*[Delete such of (a), (b) and (c) as are not applicable].*
3. The powers conferred by the warrant are subject to the following conditions/limitations:
4. This warrant may be executed between the hours of [*Insert period having regard to s 17(2) of the Serious and Organised Crime (Unexplained Wealth) Act 2009*].

*[If the warrant is issued under section 16(4)(d) of the Act, paragraphs 5, 6, 7 and 8 must also be completed]*

5. The facts justifying the issue of this warrant are:
6. The terms of the warrant are:
- (a) [set out the terms of the warrant]; or
- (b) [as stated in paragraphs 2-4 above].
- [Delete whichever is inapplicable]
7. The warrant was issued by Justice \_\_\_\_\_ at \_\_\_\_\_ am/pm on the ..... day of .....20....
8. Signed by [insert name, identifying number and signature of the applicant] at ..... am/pm on the .....day of.....20....

.....  
(Judge of the District Court)

Dated.....20....at ...am/pm

**Note:** Section 17 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* provides:

- (1) A warrant authorises any police officer, with assistants the officer considers necessary—
- (a) to seize documents and other articles relevant to identifying, tracing, locating or valuing a person's wealth referred to in the warrant;
- (b) if the warrant authorises the search of a person—to search that person and seize anything suspected on reasonable grounds to be a document or other article relevant to identifying, tracing, locating or valuing a person's wealth;
- (c) if the warrant authorises the search of premises—to enter and search the premises and anything in the premises and seize anything suspected on reasonable grounds to be a document or other article relevant to identifying, tracing, locating or valuing a person's wealth.



- (2) A warrant must not be executed between the hours of 7 o'clock in the evening and 7 o'clock in the following morning unless the judicial officer by whom the warrant is issued expressly authorises its execution between those hours.
- (3) A police officer, or a person assisting a police officer, may use such force as is reasonably necessary for the execution of the warrant.
- (4) A police officer who executes a warrant
  - (a) must prepare a notice in the prescribed form containing—
    - (i) the officer's name and rank; and
    - (ii) the name of the judicial officer who issued the warrant and the date and time of its issue; and
    - (iii) a description of anything seized under the warrant; and
  - (b) must, as soon as practicable after execution of the warrant—
    - (i) in the case of a warrant authorising search of a person—give the notice to the person;
    - (ii) in any other case—give the notice to the occupier of the premises or leave it in a prominent position on those premises.
- (5) A warrant, if not executed at the expiration of 1 month from the date of its issue, then expires.

Front Sheet in Form 1

NOTICE OF OBJECTION

*Serious and Organised Crime (Unexplained Wealth) Act 2009*

1. On *[insert date]* the Court in Action No *[insert]* made a restraining order under the *Serious and Organised Crime (Unexplained Wealth) Act 2009* against this objector.

2. The objector objects to the restraining order/the following parts of the restraining order *[Delete whichever is inapplicable]*.

*[If the objection is to particular parts of the restraining order, those parts should be identified]*.

3. The grounds of objection are: *[set out grounds]*

4. The objector relies on the following affidavits in support of the objection *[list affidavits]*.

Dated .....20.....

.....  
(Signature)

.....  
Name of Objector

This Notice of Objection is listed for a directions hearing

on the .....day of .....20.....at.....am/pm.

.....  
(Registrar)

Notes:

1. Section 24(2) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires the grounds of objection to be stated fully and in detail in the notice of objection.

APPLICATION TO THE COURT FOR AN UNEXPLAINED WEALTH ORDER

Front Sheet in Form 1

Serious and Organised Crime (Unexplained Wealth) Act 2009 (“the Act”).

- 1 The Crown Solicitor applies to the Court for:
  - (a) the making of an order under Section 9 of the Act;
  - (b) directions on the application under Rule 316A (19).
  
- 2 The components of the defendant’s wealth to which the application relates are as follows:  
     [set out the components]
  
- 3 The application is supported by affidavits of [names of deponents] made on [insert dates]
  
- 4 The grounds relied upon are: [set out grounds]
  
- 5 The terms of the order (s) sought are: [insert terms]
  
- 6 The making of this application was authorised by the Director of Public Prosecutions on [insert date].

Dated ..... 20.....

.....  
(Signature of applicant)  
(Address)

Hearing set for ..... at ..... in the District Court at Adelaide  
for directions.

Registrar.

**APPLICATION FOR FIXING COSTS**

1. I, [full name and address of applicant], apply under [state the law upon which the applicant relies] for an adjudication of the following costs [describe the costs by reference to dates, accounts etc].
  
2. The person who is liable to pay the costs is [set out the full name and address of that person or say “the applicant”].
  
3. The person to whom any such costs are payable is [set out the full name and address of the party or say “the applicant”].
  
4. Annexed are copies of the accounts issued by the person for the costs to which the application relates.
  
5. The costs in issue are to be adjudicated [on the applicable Scale] [pursuant to an arbitration agreement dated \_\_\_\_\_ (copy annexed)]. [Delete whichever is inapplicable]
  
6. [If applicable] The person liable to pay the costs accepts them as fair and reasonable to the extent of \$ \_\_\_\_\_ .

Dated the      day of                      20....

.....  
(Signature of applicant)

## PLAINTIFF'S/DEFENDANT'S/THIRD PARTY'S LITIGATION PLAN

### Case Overview

1. Provide a brief (no more than 1-2 pages) outline of the party's case, including an identification of each cause of action [defence] relied upon, the relief sought in respect of each, and a statement of the principal issues arising in the proceedings.

### Necessary/Desirable Parties

2. (a) Is the party satisfied that all persons who should be parties to the proceedings have been joined? Yes/No
- (b) If not, the other persons who should be joined are: *[insert details]* and the reasons they should be joined are: *[insert a succinct statement of reasons]*.

### Offers of Settlement before Action

3. (a) Has the plaintiff complied with Rule 33? Yes/No
- (b) Has the defendant complied with Rule 33? Yes/No

### Mediation/Settlement Conference

4. The Court assumes that the parties will attempt to resolve their dispute through a settlement conference or through mediation.
  - (a) Is the party's preference for a settlement conference or a mediation? If the party does not propose that either occur, then set out the reason(s) why.
  - (b) Is there any good reason why the settlement conference or mediation cannot be held early (ie, within two months)? If so, what is it?
  - (c) If there is to be an early settlement conference or mediation, should further interlocutory steps be suspended until this has occurred? If not, then why not, and what steps is it suggested should be taken?

## Pleadings

5. (a) Have the pleadings closed? Yes/No
- If not, the further or amended pleadings which are intended are [*insert or attach details, including the draft of any proposed amendments*].
- (b) Does the party intend to make any application for strike out/further particulars in relation to another party's pleading? Yes/No
- If yes, the paragraphs in respect of which the application is to be made are [*insert*].

## Disclosure of Documents

6. Rule 136 of the *District Court Civil Rules 2006* requires that the parties disclose the documents which are, or which have been, in the party's possession and which are directly relevant to any issues raised in the pleadings (sub-r (1)(a)). However, r 136(1)(b) contemplates that the Court may make an order as to the documents to be disclosed.
7. If the party contends that the Court should order disclosure on a basis other than that contained in r 136(1)(a) (for example, disclosure only of particular categories of documents, or of those documents to which reference has been made in a pleading, upon which the party itself intends to rely at trial, which may be detrimental to the party's case, or which may be of assistance in proof of another party's case), then set out the nature of the disclosure sought and give a brief statement of why such disclosure is appropriate.
8. Does the party propose that all parties make disclosure electronically? Yes/No
- If yes, the protocol which the party proposes under Practice Direction 2.1 for such disclosure is [*insert details or attach a separate document*].

## Expert Reports

9. The Court expects the parties to obtain any expert reports in a timely way.
- (a) Has the party already obtained a report(s) from an expert(s) in relation to the litigation? Yes/No
- If yes, the expert(s) from whom the reports have been obtained are [*insert names of expert(s)*].

- (b) Does the party intend to obtain a report/further report from an expert or further expert, as the case may be? Yes/No

If yes, identify the expert by name (if known) and field of expertise, state precisely the issue or issues upon which the expert opinion is to be sought and state whether the expert has already been instructed and, if so, when. If the expert has not already been instructed, when will the expert be instructed?

- (c) If the party considers that it will not be able to comply with the time fixed by Rule 160(2) within which expert reports are to be obtained and served, the party should set out the basis for that expectation and indicate the time by which it expects the experts will have completed their reports.

### Other Interlocutory Steps

10. (a) Does the party propose to invoke any available interlocutory procedure, or to take any interlocutory steps, in order to prepare for trial? Yes/No

If yes, the procedural steps which the party proposes to invoke or take are [*insert a succinct statement identifying each interlocutory step proposed and stating why that step is necessary*].

- (b) When does the party propose to take the procedures or steps?
- (c) State in relation to each step the time which the party requires for the taking of that step.

**Note 1. The Court expects as many as possible of the interlocutory steps to be undertaken simultaneously. The parties should complete this part of the Litigation Plan with this expectation in mind.**

**Note 2. The Court expects that the parties will invoke only those procedures, and take only those steps, which are reasonably necessary in order to prepare the proceedings for trial. The parties should expect that the Court will require them to justify any proposed procedures or steps by reference to this criterion.**



## **Trial**

11. The Court expects that the parties will ordinarily be ready to proceed to trial within 9 months from the date of issue of the proceedings. Does the party contend that the trial should occur earlier or later than this? If so, identify when it is contended that it should occur, and explain why it is appropriate or necessary that the trial occur at that time.
12. What is the party's estimate of the likely length of trial?

## **Proposed Directions**

13. Set out the party's proposed directions for the progress of the matter through to trial.

**Note 1. The Court intends that the parties will prepare their Litigation Plans with such insertions, modifications and additions as are necessary so as to provide a complete statement of the interlocutory steps required or contemplated by the party before the trial.**

**Note 2. The parties are expected to ensure that the length and detail of their Litigation Plans is in proportion to the amount in dispute in the litigation, and to the nature and extent of the issues involved.**

## HISTORY OF AMENDMENT

The Forms have been amended as indicated in the table below, and are current as from 1 December 2012.

Form Number		Effective Date
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
1A	ins am6	1 March 2009
1B	ins am11	1 July 2010
2	am am2	1 January 2008
	am am3	1 June 2008
	sub am16	12 September 2011
2A	ins am6	1 March 2009
7	sub am2	1 January 2008
	sub am6	1 March 2009
8	sub am2	1 January 2008
13	am am2	1 January 2008
	am am3	1 June 2008
	am am16	12 September 2011
15	ins am2	1 January 2008
22	am am16	12 September 2011
25	am am13	1 October 2010
	am am16	12 September 2011
26	sub am5	1 January 2009
	am am11	1 May 2010
	am am15	1 February 2011
26A	ins am11	1 May 2010
27	am am1	1 May 2007
	am am3	1 June 2008
	sub am16	12 September 2011
28	am am1	1 May 2007
29	sub am6	1 March 2009
29A	ins am6	1 March 2009
29B	ins am6	1 March 2009
31	sub am15	1 February 2011
34	am am11	1 May 2010
36	am am1	1 April 2009
42	ins am1	1 May 2007
43	ins am1	1 May 2007
44	ins am7	1 April 2009
45	ins am7	1 April 2009
46	ins am7	1 April 2009
47	ins am7	1 April 2009
48	ins am10	1 November 2010

49	ins am10	1 November 2010
50	ins am11	1 May 2010
51	ins am11	1 May 2010
52	ins am11	1 May 2010
53	ins am11	1 May 2010
54	ins am15	1 February 2011
55	ins am 18	1 December 2012
	<b>am am 20</b>	<b>1 July 2013</b>