

Magistrates Court (Civil Jurisdiction) Rules 2004—Form 2

(see s 18 (3))

Ordinary claim

(page 1)

In the Magistrates Court

No of
20

at Canberra

[Between *A.B.*
Plaintiff
] and *C.D.*
Defendant

*(Name and address of defendant to be served
inserted if claim to be served by post)*

To the defendant:

- 1 The plaintiff claims the amount set out below. Particulars of the claim are set out on page 2.

Claim

Court fees

Costs

Service fees

Total amount of claim and costs _____

- 2 If you intend to defend the whole or any part of the plaintiff's claim, you should, within 21 days after service on you of the claim, file a notice of grounds of defence.
- 3 Unless you file such a notice within that time, the plaintiff may proceed with his or her claim and interlocutory judgment maybe entered in your absence. The claim would then proceed to hearing only for the purpose of the assessment of the amount to be recovered by the plaintiff.

- 4 You may at any time before judgment pay the amount claimed to the Registrar together with the costs incurred by the plaintiff before the payment. If you do so you will avoid further costs in the proceedings.
- 5 You may at any time before judgment confess to the whole or part of the plaintiff's claim and you may apply to the court for an order for leave to pay the amount due by instalments. You and the plaintiff may sign and file an agreement as to the amount due and terms of payment. Any order made, or agreement filed, as to instalments will be binding on the plaintiff so long as the instalments are paid when due.

Dated 20 .

Registrar

The plaintiff's legal practitioner is and his
or her office address is
(or the plaintiff's address for service is)

(page 2)

Particulars of plaintiff's claim

The plaintiff's claim is as follows:

Dated _____ 20__ .

Plaintiff

(*or* Plaintiff's legal practitioner)

(page 3)

Affidavit of service

I, _____ of _____ being duly
sworn, say:

On 20 I served _____ at _____

with this claim by—

*(a) delivering a copy of it to that person personally;

*(b) by leaving a copy of it at that person's last known place of residence
(*or* business) with a person apparently resident (*or* employed) at that
place and apparently over the age of 16 years.

Sworn before me at _____ on _____ 20 .

Justice of the Peace

*(Delete whichever is inapplicable)

(page 4)

Application for postal service of claim

I _____ request that the defendant be served with this claim by post, and I certify that—

- (a) I have reason to believe that the claim, if sent to the defendant at the address specified in the claim, will come to the defendant's knowledge within a reasonable time after the date on which the claim would be delivered in the ordinary course of post; and
- (b) I (*or* plaintiff) understand(s) that if judgment is obtained as a result of postal service and is afterwards set aside on the ground that the service did not give the defendant adequate notice of the proceedings, I (*or* the plaintiff) may be ordered to pay the costs of setting aside the judgment.

Dated _____ 20 .

Plaintiff
(*or* Plaintiff's legal practitioner)

Certificate of postal service of claim

I certify that today I served the defendant named in the abovementioned application with the claim by sending a copy of it by prepaid post addressed to the defendant at the address specified in the claim.

Dated _____ 20 .

Registrar

Endnotes

- 1 This form was originally in the *Magistrates Court (Civil Jurisdiction) Act 1982* (the **authorising Act**), schedule 1. Under amendments made by the *Legislation (Consequential Amendments) Act 2001*, the form was omitted from the authorising Act and became a form approved under section 471 of that Act (see amdt 1.2791, amdt 1.2793).
- 2 Under the *Court Procedures Act 2004* A2004-59, pt 8, this form became a form approved under that Act.
- 3 This republication includes amendments made under the Legislation Act, part 11.3 (Editorial changes).

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