

## NOTICE OF MOTION EXAMINATION ORDER

### COURT DETAILS

Court Write 'Local Court'  
#Division Write 'Small Claims Division'  
#List Delete or leave blank  
Registry Write court where statement of claim was filed  
Case number Write case number from statement of claim

**TITLE OF PROCEEDINGS** This section should be completed with the same details as in the 'TITLE OF PROCEEDINGS' section of the statement of claim form.

[First] plaintiff

#Second plaintiff #Number of  
plaintiffs (if more than two)

[First] defendant

#Second defendant #Number of  
defendants (if more than two)

### JUDGMENT DETAILS

Date of judgment to be enforced Write the date the court made the judgment

### FILING DETAILS

Person seeking orders Write your name, then 'plaintiff (**judgment creditor**)'  
#Filed in relation to Delete or leave blank  
#Legal representative Delete or leave blank  
#Legal representative reference Delete or leave blank  
Contact name and telephone Write your name and telephone number  
Contact email Write your email address

### PERSON AFFECTED BY ORDERS SOUGHT

**#[name]** [if judgment debtor is an individual, role of party eg defendant] (**judgment debtor**)  
Write **Defendant's name, then** 'defendant' (**judgment debtor**)'

Delete if judgment debtor a company

OR

**#[name]** [if judgment debtor is a company, capacity of person sought to be examined]

Write **name of authorised officer of company, then** '(capacity of authorised officer eg Director/Chief Executive Officer/Public Officer) of defendant (**judgment debtor**)'

Delete if judgment debtor is an individual

## **HEARING DETAILS**

This motion is to be dealt with in the absence of the parties.

[on separate page]

## ORDERS SOUGHT

- 1 Write the name of judgment debtor or officer of company attend court to be examined as to whether any and, if so, what debts are owing to him #her #the company] and whether [#he #she #the company] has any and, if so, what other property or other means of satisfying the judgment.
- 2 Write the name of judgment debtor or officer of company produce the following documents:

[List the documents that you want the defendant (judgment debtor) to bring to court. This should include documents that will show you the judgment debtor's financial position such as pay slips, pay summaries, income tax assessments, bank statements, credit card statements, loan statements for individuals or audited accounts, annual reports, monthly income and expense statements, Business Activity Statements, tax returns, bank statements for companies. You should also give dates or periods for the documents you want. For example: Income tax assessment for 20xx/20xx, bank statements for the period October – December 20xx. You can write the list on a separate page if it is long.]

## SIGNATURE

Signature of legal representative Delete or leave blank

#Signature of or on behalf of party Sign in this space once you have completed the form if not legally represented

Capacity [eg solicitor, authorised officer, role of party] Write 'Plaintiff'

Date of signature Write the date you signed the form

[on separate page]

## AFFIDAVIT

Name Write your name  
Address Write your address  
Occupation Write your occupation  
Date Write the date you signed the affidavit

I [#say on oath #affirm]: Delete the word 'oath' or 'affirm', whichever does not apply.

- 1 #I am the judgment creditor. Delete if judgment creditor is a company  
#I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit]. Delete or if judgment creditor is a company, give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit, for example "I am the Director of the judgment creditor".
- 2 #No payments have been made to reduce the judgment debt. OR  
#Payments of \$ [write the amount paid by the judgment debtor, if any] have been made to reduce the judgment debt.
- 3 The amount outstanding on the judgment (including any prior enforcement costs but excluding interest after judgment under section 101 of the Civil Procedure Act 2005) as at the date of this affidavit is [\$Write the amount of the judgment, plus any enforcement costs paid, less any payments made by the judgment debtor]
- 4 Interest payable under section 101 of the Civil Procedure Act 2005 is [\$Write the amount of interest between the date of the judgment and the date of signing the notice of motion]
- 5 The amounts claimed for costs for the issue of this order are:  

|                 |  |
|-----------------|--|
| Filing fees     | \$ Write the filing fee  |
| Service fees    | \$ Write the amount for service if you paid someone to serve this document. The maximum you can claim for service fees is what the Office of the Sheriff would charge. You can check the current amount on the <a href="#">Local Courts</a> website. |
| Solicitors fees | \$ Leave blank   |
| TOTAL           | \$ Add up the amounts and write the total  |
- 6 #An examination notice was served on the judgment debtor on [write the date the examination notice was given to or posted to the judgment debtor]

- 7 #The judgment debtor has not completed and returned the examination notice.  
[Delete if judgment debtor did complete and return examination notice.](#)
- 8 #The judgment debtor has [[failed to provide any or sufficient answers to the questions specified in the examination notice](#) [failed to produce any or sufficient documents for inspection by the \(role of party\)\]\]. \[Delete whichever does not apply\]\(#\) A copy of the examination notice provided by the judgment debtor is annexed.  
\[#\\[Applicable only if the judgment was entered in the Supreme Court.\\]Leave to issue an examination order should be granted for the following reasons: Delete.\]\(#\)  
\[\\[set out reasons\\]\]\(#\)](#)
- 9 #The judgment debtor has not, within the previous 3 months, provided any or sufficient answers, or produced any or sufficient documents in response to any previous examination notice.
- 10 #The judgment debtor lives or works at a location within 30 kilometres of the registry at which judgment was entered.  
[#The judgment debtor lives or works at a location more than 30 kilometres from the registry at which judgment was entered. I seek that the examination be conducted at \[write the location of court within 30 km from judgment debtor's home or place of business\]. Delete which is appropriate depending on location of where debtor lives. If the debtor is more than 30kms from the court where judgment was entered, you should pick a court no more than 30kms from where the judgment debtor lives or works.](#)
- 11 #The following information is relevant in determining the appropriate venue for the examination:  
[Provide your reasons for the court you have chosen for the examination eg closest court to judgment debtor's home or business.](#)  
[#The judgment debt is not stayed by an order of the court or by an instalment order. Delete if there is a stay of enforcement or current instalment order.](#)
- 12 OR  
[#An instalment order was made on \[date\] but that instalment order has ceased to have effect for the following reason:Explain what has happened since the instalment order was made. For example, the judgment debtor has failed to make any instalment payments since \(date\). Delete this option if no instalment order has been made.](#)

#SWORN #AFFIRMED at [Write the town/suburb where affidavit signed](#)  
[Delete 'sworn' or 'affirmed' whichever does not apply](#)

Signature of deponent [Sign in this space once you have completed the affidavit](#)  
[Deponent is person who signs an affidavit](#)

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Name of witness [Your signature needs to be witnessed – write their name here witness](#)

Address of witness [Write the address of the witness](#)

Capacity of witness [\[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public\] \[Delete whichever does not apply\]\(#\)](#)

[Your witness will need to fill out these details and should know what to include](#)

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 [#I saw the face of the deponent. \[OR, delete whichever option is inapplicable\]](#)  
[#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.\\*](#)
- 2 [#I have known the deponent for at least 12 months. \[OR, delete whichever option is inapplicable\]](#)  
[#I have confirmed the deponent's identity using the following identification document:](#)

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[Identification document relied on \(may be original or certified copy\) †](#)

Signature of witness [Your witness needs to sign here](#)

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Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

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[\* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[† "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011.]

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.