



PROCEDURE GUIDE

For

SELF-REPRESENTED LITIGANTS

**FOR GENERAL CIVIL CLAIMS IN THE CIVIL
JURISDICTION OF THE
DISTRICT COURT OF WESTERN AUSTRALIA**

Last updated: 1 July 2019

**DISTRICT COURT
OF WESTERN AUSTRALIA
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Important information for litigants in person

The information provided in this Procedure Guide is designed to inform members of the public about the practice and procedure in the civil jurisdiction of the District Court (“Court”) and increase awareness about Court protocol.

This Procedure Guide does not set out all the information that must be known to commence or defend proceedings in the Court. This information may only be found in:

- The legislation and rules governing the Court.
- The legislation and regulations governing particular types of actions and applications.
- Decisions of the Court and other courts.

The information in this Procedure Guide is provided on the basis that users will assess and verify the information and any representations or statements obtained from the Procedure Guide before use.

The document is up to date as at the date on the front cover. Changes in legislation, rules, regulations and case law after this may impact the accuracy of the material in this Procedure Guide.

The information provided in this Procedure Guide is a general guide only and should not be used, relied on or treated as a substitute for specific professional advice.

Abbreviations

CJEA	<i>Civil Judgments Enforcement Act 2004 (WA)</i>
CJER	<i>Civil Judgment Enforcement Regulations 2005 (WA)</i>
Court	District Court of Western Australia
DCA	<i>District Court of Western Australia Act 1969 (WA)</i>
DC Circular	District Court Circular to Practitioners
DCFR	<i>District Court (Fees) Regulations 2002(WA)</i>
DC Practice Direction	Consolidated Civil Practice Direction
DCR	<i>District Court Rules 2005 (WA)</i>
DC Website	www.districtcourt.wa.gov.au
O	Order (of the RSC)
r	Rule or regulations
RSC	<i>Rules of the Supreme Court 1971 (WA)</i>
s	Section (of an Act)
SCA	<i>Supreme Court Act (WA)</i>

The legislation, regulations and rules set out above are available online at the State Law Publisher website: www.slp.wa.gov.au. They are also available from the District Court website – www.districtcourt.wa.gov.au.

District Court Consolidated Practice Directions and Circulars are available from the District Court website.

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1. Jurisdiction of the Court

1.1 General Civil Jurisdiction

The District Court has jurisdiction in all personal actions where the amount, value or damages sought to be recovered does not exceed \$750,000. The Magistrates Court has jurisdiction up to \$75,000. A personal action claim where the amount to be recovered is \$75,000 or less should be brought in the Magistrates Court.

A personal action is an action for the recovery of debts, personal property, or damages from any cause other than personal injury.

Personal injury actions

The District Court has the same jurisdiction as the Supreme Court in relation to a claim for damages in respect of the death or bodily injury to a person, and in relation to all proceedings under the Law Reform (Contributory Negligence and Tortfeasors Contribution) Act 1947.

Whilst an action for damages for bodily injury arising from a motor vehicle accident could be brought in the Supreme Court, it is usual to bring these actions in the District Court.

1.2 What are some common types of actions commenced in the District Court?

The most common action commenced in the Court is a claim for damages for personal injuries arising out of:

- A motor vehicle accident;
- Medical negligence;
- Workplace injuries – subject to the limitations imposed by the Workers Compensation and Injury Management Act 1981 (WA); and
- Accidents in public places, for example, shopping centres.

Some of the more common types of commercial claims brought to the Court are for:

- Debt recovery;
- Damages for breach of contract, for example, to supply machinery;
- Damages for breach of a contract to purchase land or an apartment off the plan;
- Claims arising out of the sale or purchase of a business; or
- Claims for damages for misleading or deceptive conduct.

1.3 What rules govern the practice and procedure of the Court?

The District Court was established in Western Australia by the District Court of Western Australia Act 1969 (WA) (“DCA”). The DCA allows the Judges of the Court to make rules, which they have done in the District Court Rules 2005 (WA) (“DCR”).

Where the DCR do not deal with an issue, the procedure set out in the Rules of the Supreme Court 1971 (WA) (“RSC”) applies in the Court.

Enforcement of judgments is governed by the Civil Judgments Enforcement Act 2004 (WA) (“CJEA”) and the Civil Judgment Enforcement Regulations 2005 (WA) (“CJER”).

The Court charges fees for some of its services. The fees are set by the District Court (Fees) Regulations 2002 (WA) and the Evidence (Video and Audio Links Fees and Expenses) Regulations 1999 (WA). For more information about the fees charged by the Court, see Part 16 and **Annexure A**. Please note that fees are subject to change at anytime.

The legislation, regulations and rules set out above are available online at the State Law Publisher website: www.slp.wa.gov.au. They are also available from the District Court website – www.districtcourt.wa.gov.au

1.4 How does a general civil action usually proceed?

A general civil action will usually proceed along the following lines (cross referenced to the Parts of this Procedure Guide):

The plaintiff files a writ of summons to commence the action (Part 4).

The defendant files a memorandum of appearance indicating that the defendant intends to defend the action and provides an address for service of documents (Part 5).

The plaintiff files a statement of claim setting out the facts on which their claim is based and the orders sought from the Court (Part 6).

The defendant files a defence, setting out the facts which the defendant wishes to place before the Court in opposition to the plaintiff’s claim. The defendant may also file a counterclaim containing a claim by the defendant against the plaintiff (Part 7).

Each party provides a list of the documents in their possession, custody or control to the other side, and permits the other side to inspect and take copies of these documents. This process is known as discovery (Part 8).

A party may apply to the Court for orders to assist in clarifying the assertions in the statement of claim or defence or to obtain information from the other side as to the case it has to meet at trial (Part 8).

When the plaintiff considers the action is ready to be allocated trial dates, the plaintiff files and serves on the other parties an Entry for Trial - DCR Form 1 (Part 10).

After the Entry for Trial the parties are required to attend a settlement conference (known as a pre trial conference) where a Court Registrar will facilitate a discussion between the parties to see if the parties can agree to settle the action without going to trial. In some cases a formal mediation conference is listed (Part 11).

The parties attend a listing conference at which the action is allocated a trial date (Part 12).

The trial is held. A Judge will review all the evidence and publish a written judgment (Part 13).

The successful party enforces the judgment (Part 14), and any costs orders (Part 15).

2. Acting for yourself

2.1 Can I act for myself in a District Court action?

The general rule is that a person has the right to progress an action, or defend an action against them, in person and without the use of a lawyer.

Judges, Registrars and Court staff are only able to provide limited assistance – see Part 3.

There are two exceptions to this general rule. Firstly where the person is under a disability and secondly where the litigant is a corporation. Each is discussed below.

2.2 Can I act for a person under a disability?

An individual who is not a solicitor cannot progress or defend an action on behalf of a person under a disability.

RSC O 70 r 1 defines a “person under a disability” to be an infant, a represented person within the meaning of the *Guardianship and Administration Act 1990* (WA) (“GAA”) or a person “who, by reason of mental illness, defect or infirmity, however occasioned, is declared by the Court to be incapable of managing his affairs in respect of any proceedings to which the declaration relates”.

The GAA grants to the State Administrative Tribunal (“SAT”) the power to make findings as to a person’s capacity to manage their affairs and to make appropriate orders for the representation of people unable to do so. The Court recognises that the expertise in the appointment of representatives of incapable persons resides with the SAT. Accordingly, a person seeking to commence or defend litigation on behalf of an incapable person who is not an infant should first seek a guardianship or administration order pursuant to the GAA. The Court will not usually make a declaration that a person is incapable of managing their affairs for the purpose of making that person a represented person within O 70.

A person appointed to represent an incapable person under the GAA does not need to make an application to act as a next friend, unless the party became a represented person after the action was commenced (RSC O 70 r 3).

A person appointed to represent an incapable person must act by a solicitor. The solicitor must file with the writ or appearance a copy of the order by which the next friend was appointed to represent the incapable person (RSC O 70 r 3).

2.3 Can I act for a corporation of which I am a director?

A corporation can only progress or defend an action in the District Court through a solicitor.

RSC O 4 r 3(2) provides:

2. Except as expressly provided by or under any Act a body corporate may not begin or carry on any such proceedings otherwise than by a solicitor.

RSC Order 12 rule 1(2) provides:

2. Except as expressly provided by any Act, a defendant to such an action which is a body corporate may not enter an appearance in the action or defend it otherwise than by a practitioner.

The Court will not accept documents sought to be filed on behalf of a corporate litigant unless they are filed through a solicitor.

There is a limited discretion in the court to allow a director or other representative (not a lawyer) to appear for the corporation at a court hearing (see DCA s39). A person wishing to appear at a hearing on behalf of a corporate litigant will need to obtain the permission (called obtaining leave) of the Judge or Registrar presiding at the hearing to do so. A person wishing to obtain this leave should write to the Perth Registry of the court not less than 7 days prior to the hearing:

- identifying the action number;
- identifying the hearing date and time;
- notifying the court that they intend to seek leave to appear on behalf of a corporate litigant; and
- setting out the reasons why the judicial officer should grant them leave to represent the party at the hearing, including the reason why the corporate entity has not retained a solicitor to act for them.

A copy of the letter should be sent to each other party.

The letter will be referred to the Judge or Registrar presiding at the hearing.

2.4 Electronic Lodgement of Documents

Litigants in person who are a registered user with the Court can file documents electronically, that is, without the need to attend a Registry (eLodgement). eLodgment is available 24 hours a day, seven days a week, subject to the Courts Rules.

For more information on eLodgement, including how to become a registered user, please go to this link <http://www.districtcourt.wa.gov.au/E/elodgment.aspx?uid=3252-0200-9461-0374>

3. Assistance

3.1 What assistance can I obtain from Court staff?

Court staff can:

- Provide Court forms;
- Provide information about Court practice and procedure;
- Provide information about when a hearing is listed;
- Provide information about Court fees; and
- Provide contact information of other agencies that may assist a litigant.

Court staff cannot:

- Provide legal advice;
- Complete forms for a person;
- Tell a litigant what to write on a form; or
- Tell a litigant what to say in Court

The Judge or Registrar cannot:

- Give legal advice;
- Assist a party to present their case;
- Complete forms for a litigant; and
- Speak directly to litigants other than in open court.

Parties should not send letters directly to a Judge or Registrar, but rather should communicate with them in writing through the Associate to the Judge or Registrar. The contact details of Associates are on the DC Website.

3.2 Whom do I contact in the Court for particular inquiries?

The following tables sets out the contact details of Court staff with particular responsibilities:

General Enquiries - Civil

		Telephone	Facsimile
General Enquiries	Civil Case Management Officer	(08) 9425 2178	(08) 9425 2268
email: civildc@justice.wa.gov.au			
Subpoenaed Items	Court Services	(08) 9425 2418	(08) 9425 2538
Video Link Bookings	Court Services	(08) 9425 2418	(08) 9425 2538
email: courtservicesdc@justice.wa.gov.au			
Transcripts	Customer Support Officer	(08) 9425 2416	(08) 9425 2538
email: courttranscriptdc@justice.wa.gov.au			

3.3 How do I communicate with the Court?

For anything other than a short query, communications with the Court should be in writing. The Court's contact details are:

Post: District Court of WA
500 Hay Street
PERTH WA 6000

Facsimile: (08) 9425 2268

Email: civildc@justice.wa.gov.au

As a general rule, any party contacting the Court must send a copy of the correspondence to each other party. The fact that a copy of the correspondence has been sent to each other party should be apparent on the face of the letter, facsimile or email.

The main exceptions to this general rule are:

- Communications regarding the payment of Court fees; and
- Complaints about Court processes or staff members.

Litigants should carefully consider what is written in any correspondence as letters received by the Court are placed on the relevant Court file and may be searched by other parties or members of the public.

3.4 Where can I go to get legal advice?

It is appreciated that the cost of obtaining legal advice can be expensive. There are however a number of organisations, including those indicated below, which can provide legal advice at minimal or reduced cost:

Law Access administer a no fee referral system. Part of the eligibility criteria I that you must have first approached Legal Aid WA or a Community Legal Centre and be a low income earner. More information on eligibility and how to make an application is available here: <https://www.lawsocietywa.asn.au/law-access/how-to-apply/>

<u>Law Society of WA</u> Level 4, 89 St George's Tce, Perth	9221 4402
<u>Citizens Advice Bureau of WA</u> 25 Barrack Street, Perth	9221 5711
<u>Consumer Credit Legal Service</u> Level 1, 231 Adelaide Terrace, Perth	9221 7066
<u>Sussex Street Community Law Service</u> 29 Sussex Street, East Victoria Park	9625 9500

4. Commencing an action

4.1 What documents do I have to file to commence an action?

A general civil claim is commenced by filing and serving a writ of summons (“writ”). A writ is a document outlining to the Court and to the other party (referred to as the defendant) the basis of the plaintiff's claim. A blank template and a worked example for a writ is at [Annexure C](#).

The writ must either contain an indorsement of claim or a statement of claim (see section 4.3).

An indorsement of claim is a “concise statement of the nature of the claim made, and of the relief or remedy required in the action”: RSC O 6 r 1(1)). An example of an indorsement of claim for repayment under a loan agreement is:

“The plaintiff’s claim is for repayment of \$100,000, together with interest of \$12,000 as at the date of the writ, being money due and owing by the plaintiff to the defendant pursuant to a loan agreement dated 1 April 2009”.

The writ must be filed at the registry of the District Court from which it is to be issued. Refer to section 69 District Court of Western Australia Act 1969.

When the writ is filed the plaintiff must pay the required filing fee. The filing fee is set out in [Annexure A](#). In some cases the filing fee may be waived if you are under the age of 18 years, or reduced: The process is set out in Part 16.

4.2 How do I serve the writ?

Once filed, the plaintiff must arrange personal service of the writ on the defendant (or each defendant if there is more than one) (RSC O9 r 1(1)).

If the defendant is a natural person it is necessary to serve the writ on the defendant personally. Personal service means that the defendant must be given an exact copy (called a true copy) of the writ and allowed the opportunity to inspect the original sealed writ (which should be immediately available for inspection) if he/she wishes to do so.

While it is permissible for a plaintiff to serve the writ, it is recommended that the plaintiff engage the assistance of a professional process server to serve the writ and attend to the necessary documentation.

Within 3 days of service, the original sealed writ must be indorsed with the particulars of service in the place provided for it on the writ. It is important these details are completed within 3 days of service: failure to indorse the writ will mean you are not able to enter judgment in default of appearance.

If the defendant is a company then the writ may be served by posting a copy of the writ to the company at its registered office. The copy should be a complete copy and

it is advisable to photocopy the sealed copy of the writ for the purposes of service to ensure that the defendant receives all the information to which it is entitled.

Where a defendant deliberately evades service of a writ or where a defendant cannot be found, it is open to a plaintiff to make an application to the Court for leave for substituted service (for example, by advertisement in a newspaper). This is made using a chamber summons (Part 9.1) supported by an affidavit (**Annexure H**). A worked example of a statement of claim is on the DC website under the “Representing yourself” / “General civil claims” tabs.

4.3 What is a statement of claim?

A statement of claim is a statement of the facts on which the claim is based and of the type of relief or remedy that the plaintiff claims. The statement of claim must set out in detail the case the plaintiff will make at trial and which the defendant has to meet at trial. The rules governing the content of a statement of claim are set out in RSC O 20.

The statement of claim must be in numbered paragraphs. Each allegation should generally be contained in a separate paragraph.

A defendant may apply to the Court to strike out parts of a statement of claim (RSC O 20 r 19).

The statement of claim may be amended from time to time, though in some cases the leave of the Court must be obtained to make the amendment (RSC O 21).

A blank template for a statement of claim is at **Annexure E**. A worked example of a statement of claim is on the DC website under the “Representing yourself” / “General civil claims” tabs.

4.4 By when do I have to file a statement of claim?

The plaintiff may incorporate the statement of claim into the writ, and serve it with the writ. If this does not occur, the plaintiff must file and serve the statement of claim:

- Within 14 days after the defendant has entered an appearance (see Part 5); or
- Any later time permitted by order of the Court.
(RSC O 20 r 1).

If the plaintiff does not file and serve a statement of claim within the specified time, the defendant may apply to the Court to strike out the claim (RSC O 22 r 1).

4.5 Filing and service of Court documents

All court documents must be filed with the Court and served on each other party.

There are three ways in which a party can file documents with the Court:

- (a) by attending the Registry of the Court at 500 Hay Street, Perth (or one of the country circuit registries), during the business hours of 9.00am to 4.00pm;

- (b) by sending the document by post to the Registry,

Post: District Court of WA
500 Hay Street
PERTH WA 6000

- (c) by sending it by facsimile to the District Court at:

Facsimile: (08) 9425 2268

If sent by facsimile, a facsimile cover sheet must be used **(Annexure P)**.

- (d) by email at civildc@justice.wa.gov.au

- (e) By electronic lodgement if you are a registered user – see Part 2.4

There are filing fees for some Court documents. These are set out in **Annexure A**. In some cases the filing fee may be waived, if you are under the age of 18 years, or reduced: The process for which is set out in Part 16.

5. Defending action

5.1 What documents do I have to file to defend an action?

A defendant who wishes to defend an action must file a memorandum of appearance within the time specified in the writ (RSC O 12). Each writ has endorsed on its front the number of days within which the defendant is required to file an appearance in the registry from which that writ was issued. The amount of time varies according to the location of the defendant and increases the further the defendant lives from the registry of issue.

The memorandum of appearance must provide the defendant's geographical address which is generally where the person lives and the defendant's service details which is a postal address where documents can be served by other parties.

A blank template for a memorandum of appearance is at **Annexure D**. A worked example of a memorandum of appearance is on the DC website under the “Representing yourself” / “General civil claims” tabs.

As set out in section 2.2, only a solicitor may file an appearance on behalf of a person under a disability (RSC O 70 r 3).

As set out in section 2.3, a corporation can only defend an action through a solicitor (RSC O 12 r 1(2)).

On the day of filing a memorandum of appearance, the memorandum of appearance must be served on the plaintiff at the plaintiff's address for service of documents shown on the writ. (RSC O12 r 4).

5.2 What happens if I don't file a memorandum of appearance?

Where a defendant does not file a memorandum of appearance within the time specified in the writ, the plaintiff may obtain default judgment against the defendant – see generally Part 7.

5.3 What is a defence?

A defence is a statement of the facts which the defendant says entitles him or her to resist or defend the plaintiff's claim. It must set out in detail the case the defendant will make at trial. The rules governing the content of a defence are set out in RSC O 20.

The defence must be in numbered paragraphs. The defence should refer to the numbered paragraphs of the statement of claim and set out whether the allegation in that paragraph of the statement of claim is admitted or denied. The defendant may introduce other factual matters which he or she believes give rise to a defence. Each allegation should generally be contained in a separate paragraph.

A plaintiff may apply to the Court to strike out parts of a defence (RSC O 20 r 19).

The defence may be amended from time to time, though in some cases leave of the Court must be obtained to make the amendment (RSC O 21).

A blank template for a defence is at **Annexure F**. A worked example of a defence is on the DC website under the “Representing yourself” / “General civil claims” tabs.

5.4 When do I have to file a defence?

The defendant must file the defence:

- If the statement of claim was served separately from the writ, within 14 days of service of the statement of claim.
- If the statement of claim was in the writ, within 14 days after the day on which the appearance had to be filed and served.
- Such other time as permitted by the Court.
(see generally RSC O 20 r 4).

5.5 What happens if I don't file a defence?

If you do not file a defence, the plaintiff may bring an application in the Court seeking orders that default judgment be entered against you – see generally Part 7.

5.6 What if I also have a claim against the plaintiff?

A defendant who has a claim against the plaintiff may commence a counterclaim against the plaintiff.

The counterclaim is usually set out at the end of the defence. It may incorporate parts of the defence by reference to numbered paragraphs of the defence. It is to be set out in the same way as a statement of claim (see section 4.3 above).

An example of a situation in which a counterclaim arises might be where the plaintiff sues the defendant for the cost of paint supplied and delivered and the defendant counterclaims because he or she alleges that the paint was defective and after it was used had to be stripped and replaced with some other paint.

5.7 How do I serve documents on a defendant once an appearance has been filed?

The defendant must set out an address for service of documents in the memorandum of appearance. This will at least contain a postal address to which documents can be sent for service by ordinary prepaid post. It may also contain a fax number or email address which may be used as the address for service.

5.8 Filing and service of Court documents

All court documents must be filed with the Court and served on each other party.

There are three ways in which a party can file documents with the Court:

- (a) by attending the Registry of the Court at 500 Hay, Street, Perth (or one of the country circuit registries), between the business hours of 9.00am to 4.00pm;
- (b) by sending the document by post to the Registry,

Post: District Court of WA
500 Hay Street
PERTH WA 6000

- (c) by sending it by facsimile to the District Court at:

Facsimile: (08) 9425 2268

If sent by facsimile, a facsimile cover sheet must be used **(Annexure P)**.

- (d) by email at civildc@justice.wa.gov.au
- (e) By electronic lodgement if you are a registered user – see Part 2.4

There are filing fees for some Court documents. These are set out in **Annexure A**. In some cases the filing fee may be waived, if you are under the age of 18 years, or reduced: The process for which is set out in Part 16.

6. Other pleadings and parties

6.1 What other pleadings may be required?

In most instances it is not necessary for a plaintiff to respond to a defence. However where the defendant raises new issues that were not included in the statement of claim, it is often necessary for the plaintiff to respond to those allegations in a document called a reply.

A reply must be filed and served on the defendant within 14 days of the service of the defendant's defence.

If the defendant has served a counterclaim with his defence it is necessary for the plaintiff to file a defence to that counterclaim. That defence to counterclaim must also be filed within 14 days of the date of service of the counterclaim.

6.2 Can other parties be added to the action besides the plaintiff and defendant?

The general rule for litigation is that all parties whose presence is before the Court is required in order to ensure that all matters in dispute in the action may be effectually and completely determined ought to be joined as a party to the action.

The plaintiff can add other defendants. The defendant can add other parties - referred to as third parties – whom he or she alleges are responsible for the losses claimed by the plaintiff against the defendant. There are detailed rules governing the addition of further parties, set out in RSC O 18 and O 19.

For more information about third party proceedings, see the Civil Consolidated Practice Directions and Circulars.

7. Determination of a claim without a full trial

7.1 What can I do if the defendant does not file a memorandum of appearance?

If the defendant does not file an appearance within the time required the plaintiff is entitled to apply for a default judgment (see generally RSC O 13). A blank template for a default judgment is at **Annexure G**. A worked example of default judgment is on the DC website under the “Representing yourself” / “General civil claims” tabs.

Before a default judgment can be entered it is necessary for the plaintiff to prove that the defendant has been properly served with the writ. This is done by filing an affidavit of service. A blank template affidavit is at **Annexure H**. A worked example of an affidavit is on the DC website under the “Representing yourself” / “General civil claims” tabs.

Where the claim is for an amount of money that can be ascertained by calculation or fixed by a scale of charges or other positive data, then it is usually the case that the default judgment can be given for the amount of the claim.

Where the claim is not for a fixed amount of money, but is for an award of damages, the form of the default judgment will be for damages to be assessed. There will need to be a hearing at which the amount of the damages is assessed.

7.2 What can I do if the defendant does not file a defence?

If the defendant does not file and serve a defence within the specified time, you may apply, by Chamber Summons, to the Court for orders that judgment be entered against the defendant. The application must be supported by an affidavit.

7.3 Can I get a default judgment set aside?

A defendant against whom an order for default judgment has been made can apply to have the default judgment set aside (see generally RSC O 13 r 10, O 22 r 10).

7.4 What is summary judgment?

Both the plaintiff (see Order 14 RSC) and the defendant (see Order 16 RSC) have the opportunity to apply to the Court for a judgment on the basis that the defendant has no defence or alternatively the plaintiff’s claim is unsustainable.

Either application must be brought within 21 days after the appearance or any later time approved by the Court. This time limit exists to ensure that the parties do not undertake a lot of work to ready the action for trial, only to have one or other of them claim that there is a basis for a summary judgment.

An application for summary judgment is made by filing and serving a chamber summons. A blank template chambers summons is at **Annexure I**. A worked example of a chamber summons is on the DC website under the “Representing yourself” / “General civil claims” tabs.

An application by either a plaintiff or a defendant for summary judgment must be supported by an affidavit verifying the facts upon which the cause of action or the defence is based. A blank template affidavit is at **Annexure H**. A worked example of an affidavit is on the DC website under the "Representing yourself" / "General civil claims" tabs.

The general procedure for a chamber summons set out in section 9.1 applies to a chamber summons seeking summary judgment.

In order to be successful, an application for summary judgment must first comply with the technical rules set out in RSC O 14 and O 16. If these rules are not complied with, the application may be dismissed without consideration of the merits of the claim or defence.

In the event that the summary judgment application is successful, judgment will be entered there and then in terms of the successful application. The judgment may relate to the whole or only a part of the action; however that will depend on the circumstances.

8. Obtaining information from the other parties

8.1 What is discovery?

Discovery is a Court process that requires each party to prepare a list of documents relevant to the action which either are or have been in that party's possession, power or custody, and then to verify the correctness of that list with an affidavit.

To comply with the discovery obligation, each party must file and serve:

- (a) a list of discoverable documents; and
- (b) an affidavit verifying the list.

A blank template for a list of discoverable documents is at **Annexure J**. A blank template for a verifying affidavit is at **Annexure K**. A worked example of each document is on the DC website under the "Representing yourself" / "General civil claims" tabs.

It is important to understand that even if a document is no longer in the party's possession it must nonetheless be referred to and its present whereabouts, if they can be ascertained, disclosed. Likewise, even if a document is not in the actual physical possession of a party it may nonetheless be held by another person on that party's behalf (eg by an accountant). Documents that are held by accountants or other agents of a party, are regarded as being in that party's possession and must be discovered.

In some circumstances a party is entitled to claim privilege in respect of the discovery of certain documents. Privilege arises in respect of documents that pass between solicitor and client for the purposes of giving instructions and obtaining legal advice. Privileged documents need to be identified in the list but need not be shown to other parties to the action.

It is possible to challenge the validity of a claim that a document is privileged. An application of this type is brought by way of a chamber summons and is listed before a Registrar. The application should be supported by an affidavit setting out the facts upon which the applicant relies.

More information about discovery in the Court is set out in:

- RSC O 26
- DCR r 46
- Civil Consolidated Practice Directions and Circulars

8.2 When do I have to give discovery?

Each party has to give discovery within 60 days after the filing of the first defence in the action (DCR r 46(4)) or such other time set by the Court.

8.3 How does inspection of documents work?

Each party is entitled to examine and obtain copies of all non-privileged documents held by each other party.

The parties giving discovery must provide the other parties with a reasonable opportunity to inspect the documents. It is the right of a party to attend and examine the originals of all discovered documents for which privilege is not claimed. In most instances however parties are content to accept photocopies of original documents rather than be given the opportunity to attend and inspect the originals.

Each party can request the other to provide copies of discovered documents. A law firm may charge for copying the discovered documents.

8.4 How do I find out more about the other side's case?

In some instances a defendant or plaintiff may consider that the information provided by a statement of claim or defence is not sufficiently precise and that further information should be provided.

In such circumstances a 'Request for Further and Better Particulars' is prepared and served on the other side. This document should identify the paragraph in the statement of claim or defence of which further particulars are required and set out with precision what details the requesting party considers should be given.

The Request for Further and Better Particulars must be made within 21 days of service of the statement of claim or defence to which it relates but the Court may extend the time. An application to extend should be by chamber summons – see section 9.1.

If the request is not responded to or is only partly answered it is possible to apply to the Court for an order compelling the other side to answer the request.

8.5 What are interrogatories?

In some circumstances the parties to the action are entitled to put a set of questions, called 'Interrogatories', to the other side. These questions must be answered on oath, that is, by affidavit.

In actions for damages or personal injury a limited category of interrogatories may be asked without the leave of the Court. This category of questions is set out in DCR r 47. The questions must be served within 75 days of the first defence being filed.

In all other instances a party wishing to interrogate another party must prepare a set of proposed interrogatories and apply to the Court by chamber summons for leave to administer those interrogatories to the other side. If the parties agree that interrogatories may be administered it is not necessary to apply to the Court.

The answers to interrogatories may be tendered as evidence at trial.

The rules relating to interrogatories are set out in RSC O 27 and DCR r 47.

8.6 How will I know how much money the other side is claiming?

A party to an action that claims damages is required by the DCR to file and serve particulars of damages.

The particulars of damages must be filed within 60 days after the day the defence (or if there is more than one defendant, the first defence) is filed (DCR r 45C).

If the case is not a personal injuries action, the particulars of damages must set out in detail any amount of money claimed, the justification for claiming it, and how it is calculated.

If the case is a personal injuries action, the particulars of damages must set out in detail the amount of money claimed for each different head of damages. More information about the types of damages that may be claimed is set out in DCR r45C(3).

An example set of particulars of damages is set out in Civil Consolidated Practice Directions and Circulars.

8.7 How do I seek other orders to help me progress or defend the action?

A party who wishes to obtain orders from the Court to assist it to progress or defend the action may file a chamber summons. The chamber summons must set out the orders sought by the party. Chamber summonses are dealt with in section 9.1.

If an action has been listed by the Court for a directions hearing, a party may seek specific directions from the Court. To do so, the party must file and serve a minute of proposed orders on each other party, at least 2 clear days prior to the directions hearing (DCR r34(2)).

Annexure L is a blank template for a minute of proposed orders. A worked example of a minute of proposed orders is on the DC website under the “Representing yourself” / “General civil claims” tabs.

9. Applications to the court prior to trial

9.1 What is a chamber summons?

A chamber summons is an application by a party to the Court requesting the Court to make certain orders in the action prior to the trial of the action. **Annexure I** is a blank template for a chamber summons. A worked example of a chamber summons is on the DC website under the “Representing yourself” / “General civil claims” tabs.

The Court has published a series of standard orders on its website. Parties are encouraged to use these standard orders in chamber summonses.

In many cases, the party making the application will need to file and serve an affidavit with the chamber summons. A blank template affidavit is at **Annexure H**. A worked example of an affidavit is on the DC website under the “Representing yourself” / “General civil claims” tabs.

9.2 What is a directions hearing?

A directions hearing is a hearing listed by the Court for the purpose of the Court making orders to progress the action. A directions hearing may sometimes be referred to as a case management hearing. The main rules governing directions hearings and case management hearings are DRC r 24, r 26, r 27, and r 31-34.

In commercial matters, once the first appearance is filed, the parties will be summoned to attend a case management hearing. In the District Court, a “commercial matter” is any action commenced by writ where the remedy sought is other than damages for personal injury. For more information about commercial matters, see Civil Consolidated Practice Directions and Circulars.

If an action has been listed by the Court for a directions hearing or a case management hearing, a party may seek specific directions from the Court. To do so, the party must file and serve a minute of proposed orders on each other party, at least 2 clear days prior to the directions hearing (DCR r34(2)).

Annexure L is a blank template for a minute of proposed orders. A worked example of a minute of proposed orders is on the DC website under the “Representing yourself” / “General civil claims” tabs.

The Court has published a series of standard orders on its website. Parties are encouraged to use these standard orders in any minute of proposed orders for a directions hearing.

9.3 Can the parties agree on the orders sought?

The parties can agree on the orders sought from the Court and file a minute of consent orders.

The process for filing consent orders is set out in Civil Consolidated Practice Directions and Circulars.

Annexure M is a blank template for a minute of consent orders. A worked example of a minute of consent orders is on the DC website under the “Representing yourself” / “General civil claims” tabs.

9.4 Are there specific rules for building and engineering disputes?

There are specific rules for the provision of information in building and engineering disputes.

DCR r 45D provides that a plaintiff in an action in which a claim is made under a building or engineering contract must apply to the Court for specific directions for the progress of the action. If a directions hearing has already been listed, this application may be made filing and serving a minute of proposed orders. If there is no directions hearing listed, the application must be made by chamber summons.

The application must be made within 75 days after the day the defence (or if there is more than one defendant, the first defence) is filed.

The purpose of the directions hearing is to determine whether orders should be made for the filing of a “Scott Schedule”. A Scott Schedule is a statement of the issues of fact and law that the plaintiff contends will need to be determined at trial in a tabular format.

For more information about Scott Schedules, see Civil Consolidated Practice Directions and Circulars.

9.5 How do I get expert evidence before the Court?

As a general rule, the parties require the leave of the Court to be allowed to adduce expert evidence at the trial of the action (DCR, Part 5A).

The exception is that a party wishing to adduce medical evidence in an action for personal injuries need not obtain leave, but must comply with the disclosure obligations in DCR r47E.

The usual orders required from the Court to obtain leave to adduce expert evidence are on the Court’s website. The orders are also set out in Civil Consolidated Practice Directions and Circulars.

Persons giving expert evidence in the District Court must comply with the Code of Conduct issued by the Court (DCR r 48). The Code of Conduct is Annexure B to the DC Consolidated Practice Direction.

As part of the process for listing an action for trial, the parties will be required to file and serve indexes of expert reports they are going to rely on at trial.

For more information about expert evidence, see:

- DCR r 45E, r 48
- DC Practice Direction

- Civil Consolidated Practice Directions and Circulars.

10. Case management

10.1 What is case management?

Case management refers to the process by which the Court manages actions to ensure that they are conducted and concluded efficiently, economically and expeditiously, consistent with the ultimate aim of the Court which is the effective delivery of justice outcomes.

The specific outcomes of case management in the District Court are to:

- Promote the just resolution of litigation.
- Facilitate the timely resolution of litigation at a cost affordable to parties and proportionate to the value and complexity of what is in issue.
- Maximise the efficient use of scarce judicial and administrative resources.
- Ensure that, where a case proceeds to trial, the issues are clearly defined, evidence is presented in an efficient manner and the materials for the Judge are complete and well organised.
- Avoid undue delay, and efficiently dispose of the business of the Court.
- Maintain public confidence in the administration of justice by the District Court.

The case management regime of the Court is in two broad parts. The first is that the DCR impose a number of obligations on parties to serve, and in some cases file, documents prior to entry for trial, as follows:

Time	Party required to take action	Rule	Action
Within 60 days of first defence	Party claiming damages	45C	File and serve particulars of damages
Within 60 days of first defence	All parties	46	Give discovery
Within 75 days of first defence	Plaintiff in an action on building or engineering contract	45D	Apply for directions as to the filing of a Scott Schedule
Within 120 days of first defence	Plaintiff	37	File and serve Entry for Trial

The second is that the Court directs the parties to attend directions hearings or case management hearings at which orders are made progressing the action.

More information about case management in the Court is set out in Civil Consolidated Practice Directions and Circulars.

10.2 How do I enter an action for trial?

Under the DCR, the action is to be entered for trial within 120 days after first defence is filed. The date for Entry for Trial may be extended by the Court, either by Consent Order, or on application by a party.

An action is entered for trial by filing and serving a Form 1. **Annexure N** is a blank template for a Form 1 Notice of Entry for Trial. You have the responsibility of serving the Entry of Trial on the defendant.

A worked example of a Notice of Entry for Trial is on the DC website under the “Representing yourself” / “General civil claims” tabs.

Prior to entering the action for trial, the plaintiff will need to obtain the unavailable dates for the pre trial conference from the other parties. This information is then inserted into the Form 1. More information about pre trial conferences is set out in section 11.1.

If a party is not able to enter the action for trial, it should seek an order from the Court extending the entry for trial milestone. This can be sought by:

- (a) chamber summons;
- (b) orders at a directions hearing; or
- (c) a consent order.

10.3 What if I don’t enter the action for trial within the timetable?

If the action is not entered for trial within the time allowed, the Court will issue a Form 2 notice of default (DCR r 38).

If that form is not complied with, the action is taken to be inactive and is placed on the Inactive Cases List (DCR r 44, r 44D). If that occurs, the Court will send to the parties a notice advising that the action has been placed on the Inactive Cases List, and of the effect of DCR r 44E and r 44G.

More information about cases on the Inactive Cases List is set out in section 10.4.

10.4 What is the Inactive Cases List?

The Inactive Cases List is a list of cases which are not being progressed in accordance with the timetables set by the Court.

An action may be placed on the Inactive Cases List in one of three ways:

- (a) breach of the entry for trial milestone (DCR r 44, r 44D);
- (b) by order of the Court (DCR r 44C, r 44D);
- (c) if no document has been filed in the action for 12 months (DCR r 44A, r 44D).

Where an action is placed on the Inactive Cases List, the Court must give all parties a notice that this has occurred and of the effect of r 44E and r 44G. DCR r 44E is discussed below.

If a case is on the Inactive Cases List, only the following types of documents may be lodged (DCR r 44E):

- (aa) a Form 1AA memorandum of Appearance
- (a) a Form 1 Entry for Trial (which may be lodged by any party – r 38(2));
- (b) a consent order finalising the action;
- (c) a summons for an order under Rule 44F(3);
- (c) a summons for an order dismissing the action for want of prosecution; or

any document that relates to a document listed above.

Lodging a Memorandum of Appearance will not, in itself, change the status of the action.

DCR r 44G provides that an action that is on the Inactive Cases List for 6 months is taken to have been dismissed for want of prosecution. Parties will be given notice if this occurs (but no warning that it is about to occur).

Where an action is dismissed pursuant to r 44G, the parties may apply to the Court for consequential orders, for example, as to costs or the disposition of a counterclaim.

11. Settlement and mediation

11.1 What is a pre trial conference and when is it held?

A pre trial conference is a meeting between the parties at the Court's mediation suite, where with the assistance of a Registrar of the Court, the parties try to settle the action. At a pre-trial conference the parties must, in good faith, attempt to settle the case or, failing settlement, to resolve as many of the issues between them as possible and to identify the issues to be tried (DRC r 40(3)).

A pre trial conference is held about a month or so after the action has been entered for trial. Once the Form 1 Notice of Entry for Trial has been lodged, a pre-trial conference will be listed and the allocated date stated on the Entry of Trial document. If you are the plaintiff you have the obligation to serve all the parties with a copy of the Entry of Trial, so they are notified of the date of the pre-trial conference.

Unless otherwise ordered, a party must attend a pre-trial conference in person or, if the party is a body corporate, by an agent who is authorised by the body to conduct settlement negotiations and to settle the case (DCR r 40(1)).

The pre trial conference is a confidential meeting. Evidence of anything said or any admission made in the course of a pre-trial conference is not admissible at the trial of the case (DCR r 41(1)).

For more information about pre trial conferences, see:

- DCR r 39 to r 41.
- Civil Consolidated Practice Directions and Circulars.

11.2 What happens at a pre trial conference?

Pre-trial conferences take place on Level 1, District Court Building, 500 Hay St, Perth. Most pre-trial conferences are listed to start between 9.30am and 11.00am. There is a comfortable waiting area and facilities for obtaining refreshments. Smoking is not permitted in the building.

Since a pre-trial conference might run for several hours, it is necessary for long-stay parking to be utilised. It is not appropriate for children to be brought to a pre-trial conference, so parties with young children should ensure that they have made suitable child-care arrangements.

On the day of the conference, parties arriving without their lawyers should attend at the reception desk, where the pre-trial conference secretary will assist them.

Though each pre-trial conference is unique, it is usual for the parties (through their lawyers, unless they are acting in person) to start by discussing matters relating to the action between themselves. Interview rooms are available for this process.

If the parties themselves are unable to reach a negotiated settlement, the matter will usually proceed before a Registrar. Registrars of the Court are independent judicial officers. They are qualified lawyers with many years' experience as mediators.

The Registrar will conduct the formal pre-trial conference as they consider appropriate in the circumstances. The parties will be given an opportunity to explain their individual positions and to give details of any settlement proposals. It is not unusual for the Registrar then to speak with each party (and their lawyers) privately. If a settlement is achieved, documents consenting to judgment for the agreed amount can often be signed on the spot. In some cases, it will be necessary for further paperwork to be processed.

Parties without legal representation should note that the Registrar will explain any relevant procedural requirements. A Registrar cannot give legal advice.

If an action cannot be settled at the pre-trial conference, it will usually be adjourned to a listing conference for the allocation of trial dates (as to which, see Part 12).

For more information about pre trial conferences, see:

- DCR r 39 to r 41.
- Consolidated Practice Directions and Circular.

11.3 What is a mediation conference?

A mediation conference is a conference which the Court directs the parties to attend for the purpose of attempting to settle an action or, failing settlement, to resolve as many of the issues between them as possible.

A mediation differs from a pre trial conference in that:

- It will be listed for at least half a day.
- It will be given a dedicated Registrar for its duration.
- Registrars will use formal mediation techniques than are commonly used with a pre trial conference.

If the parties wish, the Court can direct that the mediation take place before a private mediator whom they choose and pay for.

For more information about mediations, see:

- DCR r 35 to r 35A.
- Civil Consolidated Practice Directions and Circulars.

11.4 When will the Court list a mediation conference?

The Court will list a mediation conference in two broad circumstances. The first is prior to entry for trial. This tends to occur in commercial matters. As part of its case management oversight, the Court will ask the parties at directions hearings whether the action is ready to be listed for a mediation conference. If the parties are ready, the Court will make the orders listing the mediation conference at the directions hearing.

The second is at a pre trial conference. If the parties or the Registrar are of the view that more time and attention is required for the settlement discussions than is available at the pre trial conference, then they can request the Court to list a mediation conference at the pre trial conference.

For more information about mediations, see:

- DCR r 35 to r 35A.
- Civil Consolidated Practice Directions and Circulars.

12. Listing for trial

12.1 How is an action listed for trial?

If the action does not settle at a pre trial conference or a mediation conference conducted after the action has been entered for trial, the action will be listed for a listing conference. This is a case management hearing at which a Registrar of the Court will review the action and, if it is ready, allocate trial dates.

The Court is usually able to offer trial dates within 2 to 4 months of the date of the listing conference.

12.2 What do I have to do to prepare for a listing conference?

The Registrar presiding at the pre trial conference may make directions that need to be complied with prior to the listing conference. If not, the DCR will specify what needs to be done to prepare for the listing conference.

The following table sets out what the parties are required to do before the listing conference.

Time when action to be taken	Party required to taken action	Source	Action required to be taken
At least 14 days before the day of the listing conference	Plaintiff	Rule 45E	File and serve index of reports of expert witnesses.
At least 7 days before the listing conference	Parties other than plaintiff	Rule 45E	File and serve index of reports of expert witnesses.
Listing conference	All parties	Rule 43(3a)	Tender pleadings certificate at Listing Conference

At the listing conference, the Registrar will ask questions about what is going to happen at the trial of the action. This assists the Registrar to determine how many days the trial is going to take and what orders to make to ensure that the trial will be ready to commence on the first day it is allocated. The information that the Registrar will need to know includes:

- the estimated length of the trial
- the number of witnesses that the party intends to call
- whether there are any special circumstances affecting the date or time when any particular witness can be called; and
- whether any particular witness will be attending from a long distance or from outside the State
- whether an interpreter will be needed
- whether an audio link or a video link will be needed
- whether the use of any technology would allow the trial to be conducted more efficiently, economically or expeditiously.

12.3 Are there any fees for the trial?

Once trial dates have been allocated, there is a fee payable for the hearing of the trial, based on the number of days required.

Unless otherwise ordered, these fees are payable by the plaintiff. If the trial hearing fee is not paid by a stated date, the trial may be automatically vacated. If a trial is vacated there may be costs orders made against you.

The hearing fee is set out in **Annexure A**. In some cases, the hearing fee may be waived, reduced or deferred, the process for which is also set out in Part 16.

13. Trial

13.1 What documents do I have to file before trial?

The DCR provide that certain documents need to be filed prior to trial. The requirements of the DCR are set out in the following table:

Time when action to be taken	Party required to take action	Source	Action required to be taken
At least 42 days before the day listed for trial	Plaintiff	Rule 45F Rule 45H	File and serve papers for the Judge. File and serve outline of submissions.
At least 28 days before the day listed for trial	All parties	Rule 45G	Provide opportunity to inspect any document and objects to be tendered at trial, for which an opportunity to inspect has not to date been provided
At least 28 days before the day listed for trial	Parties other than plaintiff	Rule 45H	File and serve outline of submissions.
At least 21 days before first day of trial	Any party	Rule 45E	Request for qualifications of expert witnesses
At least 14 days prior to the hearing		Civil Practice Directions & Circulars	Send Video link Booking Request to the Court
At least 7 days prior to the hearing	Any party	Civil Practice Directions & Circulars	Send Courtroom Technology Booking Form to Court
At least 7 days before the day listed for trial	All parties	Rule 45I	File and serve a list of witnesses.
At least 5 working days before the day listed for trial	All parties	Civil Practice Directions & Circulars	File and serve Trial Bundle (if ordered)

This timetable may be altered by order of the Court.

More information on these requirements is set out in Civil Consolidated Practice Directions and Circulars.

13.2 How do I compel a witness to attend the trial?

At the trial of the action, each party may call witnesses. The witness will be required to take an oath or affirmation.

Witnesses may be compelled to attend the trial by serving a subpoena on them. **Annexure O** is a blank template for a subpoena to attend trial. A worked example of a subpoena is on the DC website under the “Representing yourself” / “General civil claims” tabs.

Subpoenas must be served not less than 5 days prior to the date upon which the witness is required to attend. Ideally, they should be served as soon as a party is aware of the trial dates.

The subpoenas must be served personally. The same general rules that apply to the service of writs, also apply to subpoenas. As a general rule, it is advisable to have subpoenas served by a process server.

Witnesses who receive a subpoena have the right to apply to the Court to have the subpoena set aside or alternatively to have a fee for their attendance fixed prior to the trial date. The parties subpoenaing witnesses are obliged to pay their expenses for attending court. Care must therefore be exercised when considering whether or not to subpoena individuals to Court.

At the time of service of the subpoena for a witness to attend Court, a modest sum of money, called conduct money, must be given to the witness. If the conduct money is not given to the witness, the witness will have a good excuse if they do not attend the trial. The amount of conduct money is a sum sufficient to cover the reasonable costs of the witness travelling to and from the court, and accommodation and meals if required.

For more information on subpoenas, see RSC O 36B.

13.3 What happens at trial?

The trial is presided over by a District Court Judge. The Judge will consider the evidence led by each party and then make a decision. In most cases, the Judge will reserve their decision and produce written reasons, usually within a period of 3 months following completion of the trial.

The evidence led by the parties comprises:

- The oral evidence of the parties
- The oral evidence of other witnesses
- The documents tendered by each party through their witnesses.
- Any material admitted into evidence by consent of the parties. For example, the parties may have prepared and tendered a bundle of the medical reports of doctors whom neither party wishes to call to testify as a witness or for cross examination.

14. Enforcing a judgment

14.1 How do I enforce a judgment?

The law concerning the enforcement of judgments is to be found in the *Civil Judgments Enforcement Act 2004 (WA)* (“CJEA”) and the *Civil Judgments Enforcement Regulations 2005 (WA)* (“CJER”).

Most judgments in the District Court are for the payment of a sum of money and the means by which a judgment can be enforced are:

- a time for payment order made under CJEA s 32;
- an instalment order made under CJEA s 33;
- an earnings appropriation order made under CJEA s 35;
- a debt appropriation order made under CJEA s 49;
- a property (seizure and sale) order made under CJEA s 59; or
- an order made under section 86.

In order to obtain an enforcement order the person entitled to the judgment must apply to the Court in an approved form and the application must state what form of order is being sought.

A link to the forms issued under the CJEA and the CJER can be found on the Court’s website.

15. Costs

15.1 What is the difference between party and party costs and solicitor and client costs?

Party and party costs are the costs which one party to a court action may recover from another party.

Solicitor and client costs are the fees and disbursements charged by a law practice to their client.

15.2 What types of costs orders will the court usually make?

At various stages during litigation the court may order costs to be paid. Litigants in person are not entitled to legal fees. A costs order in favour of a litigant in person will only entitle that person to be reimbursed for some of the expenses incurred during the conduct of the litigation. In most instances it is not possible for a costs order made during the course of the litigation to be enforced until the action is over.

A litigant in person can be ordered to pay the costs of other litigants, either immediately or at the conclusion of the action.

The following tables sets out the common types of costs orders made in the Court:

Order	Meaning
The costs of the application be costs in the cause.	The party ultimately successful in the action will recover the costs
The costs of the application be the plaintiff's [defendant's] costs in the cause.	Plaintiff [defendant] if successful in the action will be paid his costs but not otherwise
The costs of the application be the plaintiff's [defendant's] in any event.	Plaintiff [defendant] will be entitled to the costs whatever the result of the action, the costs being taken into account in the ultimate taxation
The application be dismissed with costs to be taxed and paid by to .	Immediate payment of costs:
Costs reserved	The costs of the application be reserved to the trial judge or further order.
No order as to costs.	No award for costs:
Each party do pay [or bear] his own costs.	Each party bears their own costs and cannot claim the costs from the other side at the conclusion of the action
The costs incurred and thrown away by the amendment(s) and the costs of any consequent amendment be the plaintiff's [defendant's] in any event.	Costs wasted by the party who did not seek an amendment are to be paid by the party seeking the amendment

15.3 Can the Court order me to pay the other party's costs and fees?

As indicated in para 15.2 the Court can order costs to be paid. If you are an applicant (that is, you have brought an application in the Court) and are unsuccessful, then the Court can order you pay the costs and fees of the successful party,

For example, if you lodge an Appeal against a decision of a Magistrate, or a Registrar of the Court, and a Judge dismisses your Appeal, then the Judge can order that you pay the costs of the successful party. The costs of the successful party can include their solicitor and Barrister's costs, as well as any filing fees payable. It is usual that the costs payable to the successful party are assessed on a Taxation (see para.15.4) but in some circumstances the Court can fix the costs to be paid.

15.4 How do I get the Court to assess party and party costs?

The amount of legal costs to which a party is entitled is either fixed by the court when ordering the costs or decided at a hearing. The hearing is called a 'Taxation'.

A Taxation is initiated by filing a document called a Bill of Costs, which sets out the various tasks undertaken during the course of the litigation and specifies a legal fee for each task, together with lists of the various other expenses incurred during the litigation. The court charges a fee for lodgement calculated on the amount claimed in the Bill when the Bill of Costs is filed **(Annexure A)**.

The Court then fixes a date for the taxation hearing. The party lodging the Bill of Costs must serve it on the other party before the hearing.

The Bill of Costs then comes before a Taxing Officer (a Registrar). The Taxing Officer assesses the proper amount to be allowed for costs and signs a certificate in the amount allowed. The certificate is usually at the end of the Bill of Costs, and is not always a separate certificate. The amount allowed by such a certificate can be enforced as if it were a judgment of the court.

15.5 What do I do if I have a dispute with my lawyer about the bill of costs?

With some limitations, a client has the right to have a Bill of Costs rendered by a law practice reviewed by a taxing officer. Specifically, under Part 10 Division 8 of the *Legal Profession Act 2008* (the Act), a client may make an application to a taxing officer for an assessment of the whole or any part of a bill for legal costs which they have received from their lawyer.

The application needs to be made to the Supreme Court.

More information about reviewing a Bill of Costs provided by a lawyer can be found in the Supreme Court's Consolidated Practice Direction, Part 4.7.4.

16. Fees

16.1 What fees does the Court charge?

Fees are payable when lodging certain documents and taking certain steps in proceedings. In particular, fees are payable when lodging a writ, a chamber summons and an entry for trial. There are also fees payable for the actual hearing days listed in court. **Annexure A** sets out the current fees payable for District Court matters.

16.2 What if I can't afford the Court fees?

Filing fees are reduced for:

- (a) the holder of a health care card, a health benefit card, a pensioner concession card or a Commonwealth seniors card; or
- (b) the holder of any other card issued by Centrelink or the Department of Veterans' Affairs of the Commonwealth that certifies entitlement to Commonwealth health concessions; or
- (c) an individual who is in receipt of a youth training allowance, or an AUSTUDY allowance, as defined in the *Social Security Act 1991* (C'th) section 23(1); or
- (d) an individual who is in receipt of benefits under the Commonwealth student assistance scheme known as the ABSTUDY Scheme; or
- (e) an individual who has been granted legal aid under the *Legal Aid Commission Act 1976* or a legal aid scheme or service established under a Commonwealth, State or Territory law in respect of the proceedings in relation to which a fee would otherwise be payable; or;
- (f) an individual who the Court or a registrar has directed is an eligible individual under regulation 8A(1)(b).

To apply for eligibility under (f) above, or for a reduction or deferral of other fees (e.g. hearing fees and transcription fees) on the grounds of financial hardship, or in the interests of justice, a party needs to file a "Form 2 – Application to reduce fee" and lodge it with the District Court Registry.

Any person under the age of 18 is not required to pay any fees.

ANNEXURE A

DISTRICT COURT FEE CHART - as of 1 July 2019

Item	Description	Column A Fee for individual or eligible entity \$	Column B Fee for entity \$	Column C Fee for eligible individual \$
1	Filing Writ (On filing any originating process by which a cause, matter or other proceeding in the court is commenced, other than proceedings of the kind referred to in Item 2, 3, 4, 5 or 9) <u>(to include \$0.20 under <i>Suitors Fund Act</i>)</u> (Also includes: <ul style="list-style-type: none"> • Compromises • Criminal Property Confiscation Act) 	\$965.00	\$1882.00	\$100.00
2	On filing an application under the <i>Road Traffic (Authorisation to Drive) Act 2008</i> section 24(1) for the removal of a disqualification or under section 27 of that Act for an extraordinary licence	\$232.00	N/A	\$69.50
3	On filing an application for an order made under the <i>Spent Convictions Act 1988</i> , section 6(1)	\$141.00	N/A	\$42.30
4(a)	On filing a counterclaim	\$965.00	\$1882.00	\$100.00
4(b)	On filing a third party notice	\$965.00	\$1882.00	\$100.00
4(c)	An application -			
4(c)(i)	Application to extend a period of time fixed by law, including an application to extend time before proceedings are commenced	\$363.00	\$626.00	\$100.00
4(c)(ii)	Application to limit a period of time within which proceedings may be taken	\$363.00	\$626.00	\$100.00
4(c)(iii).	Application for leave to serve a writ or notice of a writ out of jurisdiction	\$363.00	\$626.00	\$100.00
4(d)	Application for leave to appeal	\$0.00	\$0.00	\$0.00
4(e)	Any other application for which no fee has been provided in this Schedule	\$363.00	\$626.00	\$100.00
5	Commencing an Appeal in the District Court (including Registrars' Appeals):			
5(a)	Filing an Appeal Notice (including half day hearing)	\$547.00	\$1415.00	\$100.00
5(b)	Each additional half day allocated for hearing an Appeal	\$424.00	\$1103.00	\$100.00
6	Entry for Hearing a cause or matter (i.e. Entry for Trial) or Notice of Appointment to Hear an Originating Summons.	\$965.00	\$1882.00	\$100.00
7	Allocation of a hearing date, for each day allocated	\$847.00	\$2206.00	\$100.00
8	Daily hearing fee before a court constituted by a judge	\$847.00	\$2206.00	\$100.00
9	On filing, before a judge or registrar in chambers:			
9(a)	Interlocutory application or summons or motion returnable	\$242.00	\$472.00	\$72.50
9(b)	Application for assessment of damages other than in an action for personal injury	\$242.00	\$472.00	\$72.50
9(c)	Application for summary judgment	\$242.00	\$472.00	\$72.50
10	If the hearing of a matter to which item 8 applies is listed for more than one day and proceeds for more than the number of days listed	See item 8	See item 8	See item 8
11	On an appointment to tax a bill of costs in a cause or matter or under the Commercial Arbitration Act 2012			
11(a)	Tax Costs Lodgement fee	\$242.00	\$472.00	\$72.50
11(b)	In addition to the lodgement fee, a taxing fee at the rate of 2.5%	2.50%	2.50%	0.00%
12	Search fee (any record or proceeding)	\$49.00	\$49.00	\$14.70
13	For provision of searchable information to approved recipients under regulation 11A (<i>District Court (Fees) Regulations 2002</i>)			
13(a)	Search – Electronic <i>per action or matter provided to recipient</i>	\$2.20	\$2.20	\$0.65

Item	Description	Column A Fee for individual or eligible entity \$	Column B Fee for entity \$	Column C Fee for eligible individual \$
13(b)	Search – Electronic – Annual Fee	\$2220.00	\$2220.00	\$100.00
14(a)	On an application for the production of records or documents that are required to be produced to any court, tribunal, arbitrator or umpire	\$72.00	\$72.00	\$21.60
14(b)	If an officer is required to attend at any court or place out of the District Court Building, the officer's reasonable expenses and, in addition for each hour when the officer is necessarily absent from the officer's office	\$108.00	\$108.00	\$32.40
15(a)	For a copy of a document of any kind or an exhibit, including marking as an office copy if required, for each page or part thereof	\$2.05	\$2.05	\$0.60
15(b)	For a copy of reasons for judgment -			
15(b)(i)	For each copy issued to a person not a party to the proceedings and for each copy in excess of 1 copy issued to a party to the proceedings	\$17.05	\$17.05	\$5.10
15(b)(ii)	For each copy consisting of 10 or more pages an additional fee per page	\$2.20	\$2.20	\$0.65
15(c)	For certifying under seal that a document is a true copy, an additional fee of	\$23.50	\$23.50	\$7.05
15(d)	For a certification under the hand of a Registrar	\$46.30	\$46.30	\$13.90
16(a)	For the preparation of a transcript, or part of a transcript -			
16(a)(i)	For the provision of a transcript, or part of a transcript <i>PROVIDED WITHIN 1 DAY</i> after the day on which the fee is paid	\$22.60 plus \$9.30 per page	\$22.60 plus \$18.60 per page	\$6.80 plus \$2.80 per page
16(a)(ii)	For the provision of a transcript, or part of a transcript <i>PROVIDED WITHIN 2 DAYS</i> after the day on which the fee is paid	\$22.60 plus \$8.55 per page	\$22.60 plus \$17.05 per page	\$6.80 plus \$2.55 per page
16(a)(iii)	For the provision of a transcript, or part of a transcript <i>PROVIDED WITHIN 4 DAYS</i> after the day on which the fee is paid	\$22.60 plus \$8.05 per page	\$22.60 plus \$16.25 per page	\$6.80 plus \$2.40 per page
16(a)(iv)	For the provision of a transcript, or part of a transcript <i>PROVIDED WITHIN 7 DAYS</i> after the day on which the fee is paid	\$22.60 plus \$7.75 per page	\$22.60 plus \$15.45 per page	\$6.80 plus \$2.30 per page
16(a)(v)	For the provision of a transcript, or part of a transcript <i>PROVIDED WITHIN 14 DAYS</i> after the day on which the fee is paid	\$22.60 plus \$6.60 per page	\$22.60 plus \$13.20 per page	\$6.80 plus \$2.00 per page
16(a)(vi)	For the provision of a transcript, or part of a transcript provided on a running basis (i.e. periodically throughout or following the day of the proceedings)	\$22.60 plus \$9.90 per page	\$22.60 plus \$19.80 per page	\$6.80 plus \$2.95 per page
16(b)	For the provision of a copy of a transcript, or part of a transcript, where the transcript or part has already been provided to the person requesting the copy -			
16(b)(i)	Electronic format	\$23.50 per copy	\$23.50 per copy	\$7.05 per copy
16(b)(ii)	Paper copy	\$2.30 per page	\$2.30 per page	\$0.70 per page

CIVIL JUDGMENT ENFORCEMENTS REGISTRATION FEES (Schedule)

1	Where the amount of Judgment does not exceed \$10,000.00	\$107.50	\$162.00	\$32.40
	Where the amount of Judgment exceeds \$10,000.00	\$174.50	\$262.00	\$52.50
2	Registration of Foreign Judgment (SEPA)	\$91.50	\$121.00	\$27.40

ANNEXURE B

Form 2 Application to reduce fee			
In the District Court of Western Australia		No. of 2	
Plaintiff/Appellant*: (*strike out word that is not applicable)			
Defendant/Respondent*: (*strike out word that is not applicable)			
Fee type for which request is made			
<input type="checkbox"/> Application fee	<input type="checkbox"/> Hearing fee	<input type="checkbox"/> Transcription fee	<input type="checkbox"/> Other (please describe below)
Concession Card Holder <input type="checkbox"/> Yes <input type="checkbox"/> No		Pension Concession Card No:	
		Health Care Card No:	
Grant of Legal Aid under a legal aid scheme or service <input type="checkbox"/> Yes <input type="checkbox"/> No			
Applicant Details:	Full name:		
	Please indicate your party type: <input type="checkbox"/> Individual <input type="checkbox"/> Entity		
	Address:		
	Date of birth:		
If you are applying for a fee reduction because of financial hardship or in the interests of justice, please give supporting reasons for your request (attach a separate page if required). If the reasons include financial hardship you must complete the information on the following <u>pages.</u>			
I certify that the above information and disclosures in this form are true and correct.			

<i>Applicant's Signature</i>		<i>Dated:</i>	
*Note: A person who makes a statement or representation in this application that the person knows or has reason to believe is false or misleading in a material particular commits an offence under District Court (Fees) Regulations 2002 regulation 8B(1).			
COURT SEAL			
FINANCIAL DETAILS: APPLICANT WHO IS AN INDIVIDUAL			
If the reasons for application include financial hardship, the following sections of the form must be provided by the applicant if the applicant is an individual.			
Occupation:			
Employer:			
Employer's Address:			
Marital Status:	<input type="checkbox"/> single	<input type="checkbox"/> married	<input type="checkbox"/> partner
	<input type="checkbox"/> de facto	<input type="checkbox"/> separated	
Dependants:	<input type="checkbox"/> dependant wife/husband/partner/de facto		
	____(number of) dependant children		
INCOME AND FINANCIAL ASSET DETAILS			
Income / financial assets (net)	Self	Partner	Total
Wage / salary / benefit	\$	\$	\$
Money in financial institution	\$	\$	\$
Cash	\$	\$	\$
Income from investments	\$	\$	\$
Other income	\$	\$	\$
Money loaned and to be repaid	\$	\$	\$
Total	\$	\$	\$
EXPENDITURE DETAILS			
Rent / board	\$	\$	\$
Mortgage payment	\$	\$	\$
Maintenance for dependants	\$	\$	\$
Food	\$	\$	\$
Utilities (gas / electricity)	\$	\$	\$
Telephone	\$	\$	\$

Water		\$	\$	\$	
Rates and taxes		\$	\$	\$	
Court orders		\$	\$	\$	
Credit card/s		\$	\$	\$	
Other debts (provide details)		\$	\$	\$	
TOTAL		\$	\$	\$	
TOTAL INCOME		\$	TOTAL EXPENDITURE	\$	
ASSETS				VALUE	
House or other property (provide addresses)				\$	
Motor Vehicles (car, utility, motorcycle, truck etc.)	1	Year: Make: Model: Registration Number:		\$	
	2	Year: Make: Model: Registration Number:		\$	
Other assets (provide details)				\$	
TOTAL ASSET VALUE				\$	
HOME CONTENTS (please complete appropriate box where applicable)					
Television	DVD Player	Computers	Other electronic devices	Dishwasher	Microwave
\$	\$	\$	\$	\$	\$
Furniture	Collection of coins, stamps etc.	Other collectables	Other assets	Interests in business or company	
\$	\$	\$	\$	\$	
LIABILITIES				TOTAL	
Mortgage to:				\$	

Other to:		\$
Time to pay Order:		\$
TOTAL LIABILITIES		\$
FINANCIAL DETAIL: APPLICANT WHO IS NOT AN INDIVIDUAL		
If the reasons for application include hardship, the following sections of the form must be provided by the applicant if the applicant is an entity.		
Income		\$
Assets		\$
Liabilities		\$
TOTAL		\$

ANNEXURE C

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

B E T W E E N

No¹ of

Plaintiff

-and-

Defendant

WRIT OF SUMMONS

Date of document: _____

Date of filing: _____

Filed on behalf of: Plaintiff

Prepared by:

Party: Plaintiff

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Reference: _____

TO: The Defendant

OF:² _____

in the State of Western Australia³

¹ The Court will insert an action number on filing of the writ.

² Insert the defendant's address for service.

³ If the defendant is not resident in Western Australia special rules apply.

You are commanded that, within ten (10) days⁴ after the service of this writ on you, exclusive of the day of such service, you cause an appearance to be entered for you in the District Court in an action at the suit of the abovenamed plaintiff; and take notice that in default of your so doing the plaintiff may proceed therein and judgment may be given in your absence.

Witness: HIS HONOUR JUDGE KEVIN FREDERICK SLEIGHT, Chief Judge of the District Court of Western Australia the⁵ _____ of _____ 20__ .

Note: This writ may not be served later than 12 calendar months beginning with the above date unless renewed by order of the Court.

A defendant may appear to this writ by entering an appearance either personally or by solicitor at the Registry of the District Court, 500 Hay Street Perth.

⁴ Depending on how far away the defendant is from the Registry of the Court longer time periods may apply.

⁵ The Court will insert the date of filing.

Place of trial: Perth

If⁷, within the time allowed for entering an appearance, the defendant pays to the plaintiff or to his solicitor or into Court the amount claimed, together with the sum of \$⁸ being the costs incurred by the plaintiff up to and including the service of this writ, further proceedings will be stayed: Provided that the defendant may notwithstanding the payment of such costs have the same taxed by the taxing officer of the Court and if more than one sixth be disallowed the plaintiff shall pay the costs of taxation.

This writ was issued by or on behalf of the plaintiff.

The plaintiff's geographical address is: _____

The plaintiff's service details are:

Address: _____ Telephone: _____
_____ Facsimile: _____
Email: _____ Reference: _____

Indorsement as to service

This writ was served by me at
on _____ [the defendant *or* one of
the defendants] on the _____ day of _____ 20 .

Indorsed the _____ day of _____ 20 .
(Signed)

⁷ This is only to be inserted where the plaintiff's claim is for a debt or liquidated demand.
⁸ This amount will be inserted by Registry staff.

ANNEXURE C – WORKED EXAMPLE

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

	No	of
B E T W E E N		
MARY SMITH		Plaintiff
	-and-	
ALLAN GREEN		Defendant

WRIT OF SUMMONS

Date of document: 25 January 2011

Date of filing: 25 January 2011

Filed on behalf of: Plaintiff

Prepared by:

Party: Plaintiff

Address: 27 Astor Place

Telephone: 9332 7374

MORLEY WA 6020

Facsimile: 9332 7444

Email: msmith2012@gmail.com

Reference:

TO: The Defendant

OF:⁹ 31 The Rise
DOUBLEVIEW

in the State of Western Australia¹⁰

⁹ Insert the defendant's address for service.

¹⁰ If the defendant is not resident in Western Australia special rules apply.

You are commanded that, within ten (10) days after the service of this writ on you, exclusive of the day of such service, you cause an appearance to be entered for you in the District Court in an action at the suit of the abovenamed plaintiff; and take notice that in default of your so doing the plaintiff may proceed therein and judgment may be given in your absence.

Witness: HIS HONOUR JUDGE KEVIN FREDERICK SLEIGHT, Chief Judge of the District Court of Western Australia the¹¹ _____ of _____ 20__ .

Note: This writ may not be served later than 12 calendar months beginning with the above date unless renewed by order of the Court.

A defendant may appear to this writ by entering an appearance either personally or by solicitor at the Registry of the District Court, 500 Hay Street Perth.

¹¹ The Court will insert the date of filing.

INDORSMENT OF CLAIM

The plaintiff's claim is for is for repayment of \$100,000, together with interest of \$12,000 as at the date of the writ, being money due and owing by the plaintiff to the defendant pursuant to a loan agreement dated 1 April 2009.

Place of trial: Perth

If, within the time allowed for entering an appearance, the defendant pays to the plaintiff or to his solicitor or into Court the amount claimed, together with the sum of \$¹² being the costs incurred by the plaintiff up to and including the service of this writ, further proceedings will be stayed: Provided that the defendant may notwithstanding the payment of such costs have the same taxed by the taxing officer of the Court and if more than one sixth be disallowed the plaintiff shall pay the costs of taxation.

This writ was issued by or on behalf of the plaintiff.

The plaintiff's geographical address is: 27 Astor Place, MORLEY, WA 6020.

The plaintiff's service details are:

Address: 27 Astor Place

Telephone: 9332 7374

MORLEY WA 6020

Facsimile: 9332 7444

Email: msmith2012@gmail.com

Reference:

Indorsement as to service

¹² This amount will be inserted by Registry staff.

This writ was served by me at
on [the defendant *or* one of
the defendants] on the day of 20 .

Indorsed the day of 20 .
(Signed)

ANNEXURE D**1AA. Memorandum of appearance (r. 22A)**

District Court of Western Australia		Action No:
Held at Perth ¹		Memorandum of appearance
Parties	Plaintiff Defendant	
Enter an appearance for the *Defendant/Third party/ *delete inapplicable or add further party title		
Date of filing		
Disclosure pursuant to RSC Order 9A		
Identity of any person who is an interested non-party (If applicable: see <i>Rules of the Supreme Court 1971</i> Order 9A rule 2 and <i>District Court Rules 2005</i> rule 22A(3))		
Service and contact details		
Geographical address of party (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C)		
Name of lawyer (If one has been appointed)		
Postal address for service of documents (Must be provided)		
Email address (Optional — if provided, may be used for service of documents)		
Fax number (Optional — if provided, may be used for service)		

of documents)		
Telephone number		
Reference		
Signature of party or lawyer	Party/lawyer	Date of signing:

ANNEXURE D – WORKED EXAMPLE**1AA. Memorandum of appearance (r. 22A)**

District Court of Western Australia		Action No: 123 of 2011
Held at Perth ¹		Memorandum of appearance
Parties	Mary Smith	Plaintiff
	Allan Green	Defendant
Enter an appearance for the Defendant		
Date of filing		
Disclosure pursuant to RSC Order 9A		
Identity of any person who is an interested non-party (If applicable: see <i>Rules of the Supreme Court 1971</i> Order 9A rule 2 and <i>District Court Rules 2005</i> rule 22A(3))		
Service and contact details		
Geographical address of party (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C)	31 The Rise Doubleview WA 6018	
Name of lawyer (If one has been appointed)		
Postal address for service of documents (Must be provided)	31 The Rise Doubleview WA 6018	
Email address (Optional — if provided, may be used for service of documents)		
Fax number (Optional — if provided, may be used for service)		

of documents)		
Telephone number	9332 7374	
Reference		
<i>Allan Green</i> Signature of party or lawyer	Allan Green Party/lawyer	Date of signing: 30 January 2011

ANNEXURE E

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

B E T W E E N

No of

Plaintiff

-and-

Defendant

STATEMENT OF CLAIM

Date of document: _____

Date of filing: _____

Filed on behalf of: Plaintiff

Prepared by:

Party: Plaintiff

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Reference: _____

1. _____

2. _____

3.

4.

5.

6.

7.

8.

9.

10.

11. _____

Plaintiff¹³

¹³ To be signed by the plaintiff

ANNEXURE E – WORKED EXAMPLE

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

No 123 of 2011

B E T W E E N

MARY SMITH

Plaintiff

-and-

ALLAN GREEN

Defendant

STATEMENT OF CLAIM

Date of document: 19 April 2011

Date of filing: 19 April 2011

Filed on behalf of: Plaintiff

Prepared by:

Party: Plaintiff

Address: 27 Astor Place

Telephone: 9332 7374

MORLEY WA 6020

Facsimile: 9332 7444

Email: msmith2012@gmail.com

Reference:

12. The plaintiff is a self funded retiree.
13. At all material times the defendant was the proprietor of a café known as The Coffee Spot at the Waterford Shopping Centre, at the corner of Kent Street and Manning Road in Waterford.
14. By agreement dated 1 April 2009 the plaintiff agreed to lend and the defendant agreed to borrow \$100,000 on terms that:
 - i. the money would be used to refurbish The Coffee Spot;

- ii. interest would be paid at 6% per annum, monthly in arrears, with the first payment to be made on 1 May 2009;
- iii. the loan would be repayable on demand; and
- iv. the plaintiff would not demand repayment until after 31 December 2009.

Particulars

The loan agreement is set out in an email dated 1 April 2009 from the plaintiff to the defendant and the defendant's email in response of the same date.

- 4. On 2 April 2009, the plaintiff advanced to the defendant the sum of \$100,000 pursuant to the loan.
- 5. The defendant failed to pay the interest due on the loan in the amount of \$1800, as follows:
 - (a) 31 December 2009 - \$600;
 - (b) 31 January 2010 - \$600; and
 - (c) 28 February 2010 - \$600.
- 6. By notice dated 1 March 2010 the plaintiff terminated the loan and demanded repayment of all principal and outstanding interest.

Particulars

The notice is a letter dated 1 March 2010 sent by email on that date from the plaintiff to the defendant.

- 7. Despite demand, the defendant has not paid any money to the plaintiff in response to the demand.

And the plaintiff claims:

- (a) \$106,000;
- (b) interest pursuant to *Supreme Court Act 1935* (WA) s35 from 1 March 2010;
and
- (c) costs.

Mary Smith

Plaintiff

ANNEXURE F

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

B E T W E E N

No of

Plaintiff

-and-

Defendant

DEFENCE

Date of document: _____

Date of filing: _____

Filed on behalf of: Defendant

Prepared by:

Party: Defendant

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Reference: _____

15. _____

16. _____

17.

18.

19.

20.

21.

22.

23.

24.

25. _____

Defendant¹⁴

¹⁴ To be signed by the defendant

ANNEXURE F – WORKED EXAMPLE

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

No 123 of 2011

B E T W E E N

MARY SMITH

Plaintiff

-and-

ALLAN GREEN

Defendant

DEFENCE

Date of document: 5 May 2011

Date of filing: 5 May 2011

Filed on behalf of: Defendant

Prepared by:

Party: Defendant

Address: 31 The Rise

Telephone: 6162 1234

Doubleview WA 6018

Facsimile: 6162 1234

Email: agreen2011@iinet.net.au

Reference: _____

26. The defendant admits paragraphs 1 and 2 of the statement of claim.
27. The defendant denies paragraph 3 of the statement of claim.
28. During the course of February and March 2009 the defendant was seeking an investor in The Coffee Spot.

Particulars

Advertisements were placed in The West Australian Newspaper on 2 and 16 February 2009 and 3 and 17 March 2009.

29. By oral agreement dated 2 April 2009 the plaintiff agreed to invest \$100,000 in The Coffee Spot on terms that:
- i. the plaintiff would become a partner in The Coffee Spot, having a 40% interest in the business;
 - ii. the money would be used to refurbish The Coffee Spot;
 - iii. between 2 April 2009 and 31 December 2009, the plaintiff would make a drawing from the business equivalent to 6% per annum, monthly in arrears, of the money invested, with the first payment to be made on 1 May 2009; and
 - iv. the defendant could draw a wage from The Coffee Spot at the usual rate for a café manager;
 - v. once the amounts in paragraphs (c) and (d) were taken into account, the plaintiff would be entitled to 60%, and the defendant 40%, of the net after tax profits of The Coffee Spot.

Particulars

The investment agreement was made in a conversation between the plaintiff and the defendant at The Coffee Shop on 2 April 2009.

5. Save to admit that on 2 April 2009, the plaintiff advanced to the defendant the sum of \$100,000, paragraph 4 of the statement of claim is denied.
6. Pursuant to the agreement in paragraph 4, the \$100,000 was used to refurbish The Coffee Spot.
7. Paragraph 5 of the statement of claim is denied.
8. During the period from 2 April 2009 and 31 December 2009, the plaintiff drew an amount of \$600 per month from The Coffee Spot.

9. The Coffee Spot had a net after tax profit of \$1,000 for the period from 2 April 2009 to 31 December 2009, of which the plaintiff received \$400 and the defendant \$600.
10. In the period 1 January 2010 to 30 June 2010 The Coffee Spot did not make any net profit after tax.
11. Save to admit that the defendant received a document from the plaintiff entitled "Demand for Repayment" on or about 1 March 2010, the defendant denies paragraphs 6 and 7 of the statement of claim.

Counterclaim

12. The defendant repeats paragraphs 1 to 11 of the defence.
13. The relationship between the plaintiff and the defendant as partners has irrevocably broken down.

And the defendant counter claims:

- (d) an order that the partnership be dissolved;
- (e) costs.

Allan Green

Defendant

ANNEXURE G**32. Default judgment for liquidated demand (O. 13 r. 2; O. 42 r. 1)**

IN THE SUPREME COURT OF WESTERN AUSTRALIA	
	No: of 20
BETWEEN:	
AB	Plaintiff,
and	
CD	Defendant.
DEFAULT JUDGMENT FOR LIQUIDATED DEMAND	
Judicial officer:	
Date of order:	
THE COURT ORDERS THAT:	
The defendant pay the plaintiff —	
(a) \$[insert amount]; and	
(b) \$[insert amount] costs [or costs to be taxed].	
The above costs have been taxed and allowed at \$[insert amount] as appears by the Taxing Officer's certificate dated [insert date].	
BY THE COURT	
REGISTRAR	
NOTICE TO DEFENDANT	
[Name of plaintiff] has obtained this judgment against you. This notice contains important information about your rights. Please read it carefully.	
If you believe that [name of plaintiff] was not entitled to obtain this judgment against you or if you believe that [name of plaintiff] should not be allowed to enforce this judgment against you then —	
<ul style="list-style-type: none"> • you may apply to the Court for an order setting aside or varying the judgment under the <i>Rules of the Supreme Court 1971</i> Order 13 rule 14; or • you may apply to the Court for an order suspending the enforcement of all or part of the judgment under the <i>Civil Judgments Enforcement Act 2004</i> section 15. 	
You should seek legal advice before applying to the Court for orders setting aside or varying the judgment, or suspending the enforcement of all or part of the judgment, because these applications may be complex and you may be ordered to pay costs to [name of plaintiff] if your application does not succeed. The Court cannot suspend the enforcement of all or part of a judgment unless there are special circumstances.	
CONTACT DETAILS	

The name and address of the law firm representing the plaintiff is: *[insert name and address]*.

If you want to contact the lawyer for the plaintiff, you should call *[insert name]* on *[insert number]* or email them at *[insert email address]*.

ANNEXURE H

District Court of Western Australia		Civ No:
		Affidavit
Parties	<p>_____ Plaintiff</p> <p>_____ Defendant</p>	
Person making affidavit		
Date made		
Purpose		
Filed by		
Index	Contents	Page
	1. Affidavit of _____ 2. Attachment A _____ 3. Attachment B _____ 4. Attachment C _____ 5. Attachment D _____ 6. Attachment E _____ 7. Attachment F	

I, _____ of _____,

_____, being duly sworn MAKE OATH AND SAY

as follows –

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

This affidavit is sworn by _____

in the presence of an authorised witness at

_____ on _____

Person swearing affidavit

Authorised witness

ANNEXURE H – WORKED EXAMPLE

District Court of Western Australia		Civ No: 123 of 2011
		Affidavit
Parties	MARY SMITH Plaintiff -and- ALLAN GREEN Defendant	
Person making affidavit	Edward Martin	
Date made	25 January 2011	
Purpose	In support of application for orders for substituted service	
Filed by	The plaintiff	
Index	Contents	Page
	1. Affidavit of Edward Martin	2

I, Edward Smith of 123 Rockhamptom Drive, Safety Bay, WA, 6169, Process server, being duly sworn MAKE OATH AND SAY as follows –

1. I am a process server operating under the business name Ace Process Servers.
2. On 1 December 2010 I received an instruction from the plaintiff to serve the writ of summons in this action on the defendant. I was informed by the plaintiff that the defendant resides at 31 The Rise Double View.
3. On 3 December 2010 I attended 31 The Rise Doubleview. Upon knowing at the door, it was answered by a woman. The woman identified herself as Myra Green, Allan Green's sister. I asked if Allan Green lived at this address. The woman answered that he does from time to time, but that he was working away as a geologist. I asked where he was working. The woman refused to answer. I left Ms Green a copy of my business card and asked her to give it to Allan Green.
4. On 4, 17 and 23 December 2010 I attended 31 The Rise Doubleview. I spoke to Ms Green on each occasion in similar terms to the conversation in paragraph 4.

This affidavit is sworn by Edward Smith
in the presence of an authorised witness at
Rockingham on *25 January 2011*.

M Citizen

E Chew

Authorised witness

Edward Chew

Justice of the Peace

ANNEXURE I

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

B E T W E E N

No of

Plaintiff

-and-

Defendant

CHAMBER SUMMONS

FOR ORDERS TO¹⁵ _____

Date of document: _____

Date of filing: _____

Filed on behalf of: Plaintiff / Defendant¹⁶

Prepared by:

Party: Plaintiff / Defendant¹⁷

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Reference: _____

Let all parties concerned attend the Registrar in chambers on _____ day the
_____ day of _____, 20____, at _____ o'clock in the _____ noon, on
the hearing of an application on the part of the plaintiff / defendant¹⁸ for orders that:

¹⁵ Describe orders sought
¹⁶ Delete inapplicable
¹⁷ Delete inapplicable
¹⁸ Delete inapplicable

30. _____

31. _____

32. _____

33. _____

34. _____

TO: Plaintiff/ defendant¹⁹

ADDRESS:²⁰ _____

¹⁹ To be addressed to the other parties - delete inapplicable

²⁰ The address is the address for service, which is the lawyer's address if the party is represented.

ANNEXURE I – WORKED EXAMPLE

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

No 123 of 2011

B E T W E E N

MARY SMITH

Plaintiff

-and-

ALLAN GREEN

Defendant

**EX PARTE CHAMBER SUMMONS
FOR ORDERS FOR SUBSTITUED SERVICE**

Date of document: 25 January 2011

Date of filing: 25 January 2011

Filed on behalf of: Plaintiff

Prepared by:

Party: Plaintiff

Address: 27 Astor Place

Telephone: 9332 7374

MORLEY WA 6020

Facsimile: 9332 7444

Email: msmith2012@gmail.com

Reference:

Let all parties concerned attend the Registrar in chambers on _____ day the
_____ day of _____, 20____, at _____ o'clock in the _____ noon, on
the hearing of an application on the part of the plaintiff for orders that:

1. personal service of a copy of this order and a copy of the writ of summons in the action upon Myra Green, 31 The Rise, Doubleview, with a written request that she draw the documents to the attention of the defendant, shall be good and sufficient service of the writ of summons upon the defendant;

2. the defendant have 28 days after publication service within which to file an appearance; and
3. the defendant pay the costs of this application in any event.

ANNEXURE J

District Court of Western Australia	No:
	List of documents
<p style="text-align: center;">_____ Plaintiff</p> <p style="text-align: center;">_____ Defendant</p>	
and its practitioner.	
<p>This list is served in compliance with</p> <p>_____</p>	
<p>Part 1A of this list lists the documents relating to the matters in question in this action that are in the possession, custody or power of the plaintiff/ defendant* .</p> <p>Part 1B of this list lists each of those documents listed in Part 1A that the plaintiff/ defendant* objects to producing and the grounds for objecting.</p>	
<p>Part 2A of this list lists the documents relating to the matters in question in this action that were, but no longer are, in the possession, custody or power of the plaintiff/ defendant*.</p> <p>Part 2B of this list, for each document listed in Part 2A, states —</p> <ul style="list-style-type: none"> • the date on which it was last in the plaintiff's/ defendant's* possession, custody or power; and • what has become of it; and • who currently has possession or custody of or power over it. 	

* Delete inapplicable

The plaintiff/ defendant* has made all reasonable enquiries, including of its employees and agents, to identify all documents of any description whatever relating to any matter in question in this action that are or were in its possession, custody or power.

Neither the plaintiff/ defendant*, nor its practitioner, nor any other person on its behalf, has now, or ever had, possession or custody of or power over any document of any description whatever relating to any matter in question in this action, other than the documents listed in Parts 1A and 2A of this list.

The documents in this list, other than those listed in Parts 1B and 2A, may be inspected at —

on _____

I certify that the statements in this document are true.

Date:

This list and its attachments were served on

_____ on _____

by _____

Signed:

Date:

ANNEXURE J – WORKED EXAMPLE

District Court of Western Australia	No: 123 of 2011
	List of documents
MARY SMITH -and- ALLAN GREEN	Plaintiff Defendant
The defendant	
The plaintiff	
This list is served in compliance with <i>District Court Rules 2005 (WA)</i> rule 46	
<p>Part 1A of this list lists the documents relating to the matters in question in this action that are in the possession, custody or power of the plaintiff.</p> <p>Part 1B of this list lists each of those documents listed in Part 1A that the plaintiff objects to producing and the grounds for objecting.</p>	
<p>Part 2A of this list lists the documents relating to the matters in question in this action that were, but no longer are, in the possession, custody or power of the plaintiff.</p> <p>Part 2B of this list, for each document listed in Part 2A, states —</p> <ul style="list-style-type: none"> • the date on which it was last in the plaintiff’s possession, custody or power; and • what has become of it; and • who currently has possession or custody of or power over it. 	
<p>The plaintiff has made all reasonable enquiries, including of its employees and agents, to identify all documents of any description whatever relating to any matter in question in this action that are or were in its possession, custody or power.</p> <p>Neither the plaintiff, nor its practitioner, nor any other person on its behalf, has now, or ever had, possession or custody of or power over any document of any description whatever relating to any matter in question in this action, other than the documents listed in Parts 1A and 2A of this list.</p>	

The documents in this list, other than those listed in Parts 1B and 2A, may be inspected at 27 Astor Place, Morley, WA, by appointment.

I certify that the statements in this document are true.

Date: 19 April 2011

This list and its attachments were served on *Allan Green* on *20 April 2011* *Allan Green* by *Rodney Lewis, Process Server*

Signed: *Rodney Lewis*

Date: *20 April 2011*

ANNEXURE K

District Court of Western Australia		Civ No:
		Affidavit
Parties	<p>_____ Plaintiff</p> <p>_____ Defendant</p>	
Person making affidavit		
Date made		
Purpose	Affidavit Verifying List of Discoverable Document	
Filed by	Plaintiff/ Defendant *	
Index	Contents	Page
	<p>1. Affidavit of _____</p> <p>2. Attachment A - List of Discoverable documents</p>	

* Delete one

I, the abovenamed plaintiff / defendant *, _____,

make oath and say as follows: —

1. The list of documents produced to me and marked “Attachment A” is the list of the documents relating to the matters in question in this action that are or have been in the possession, custody or power of the plaintiff / defendant*
2. The documents listed in Part 1A of Attachment A are the documents relating to the matters in question in this action that are in the possession, custody or power of the plaintiff / defendant*.
3. The plaintiff / defendant objects to producing those of the documents in Part 1A of Attachment A identified in Part 1B on the grounds stated in Part 1B.
4. The documents listed in Part 2A of Attachment A are the documents relating to the matters in question in this action that were, but no longer are, in the possession, custody or power of the plaintiff / defendant.
5. The statements in Part 2B of Attachment A about the documents listed in Part 2A are true.
6. The plaintiff / defendant* has made all reasonable enquiries, including of its employees and agents, to identify all documents of any description whatever relating to any matter in question in this action that are or were in its possession, custody or power.

* Delete one

7. To the best of my knowledge, information and belief, neither the plaintiff / defendant*, nor its practitioner, nor any other person on its behalf, has now, or ever had possession, custody or power over any document of any description whatever relating to any matter in question in this action, other than the documents listed in Parts 1A and 2A of Attachment A.

This affidavit is sworn by _____

in the presence of an authorised witness at

_____ on _____

Person swearing affidavit

Authorised witness

ANNEXURE K – WORKED EXAMPLE

District Court of Western Australia		Civ No: 123 of 2011
		Affidavit
Parties	MARY SMITH Plaintiff -and- ALLAN GREEN Defendant	
Person making affidavit	Mary Smith	
Date made	19 April 2011	
Purpose	Affidavit Verifying List of Discoverable Documents	
Filed by	Plaintiff	
Index	Contents	Page
	1. Affidavit of Mary Smith	2-3
	3. Attachment A - List of Discoverable documents	4-10

I, the abovenamed plaintiff, Mary Smith, make oath and say as follows: —

1. The list of documents produced to me and marked “Attachment A” is the list of the documents relating to the matters in question in this action that are or have been in the possession, custody or power of the plaintiff.
2. The documents listed in Part 1A of Attachment A are the documents relating to the matters in question in this action that are in the possession, custody or power of the plaintiff.
3. The plaintiff objects to producing those of the documents in Part 1A of Attachment A identified in Part 1B on the grounds stated in Part 1B.
4. The documents listed in Part 2A of Attachment A are the documents relating to the matters in question in this action that were, but no longer are, in the possession, custody or power of the plaintiff.
5. The statements in Part 2B of Attachment A about the documents listed in Part 2A are true.
6. The plaintiff has made all reasonable enquiries, including of its employees and agents, to identify all documents of any description whatever relating to any matter in question in this action that are or were in its possession, custody or power.

7. To the best of my knowledge, information and belief, neither the plaintiff nor any other person on its behalf, has now, or ever had possession, custody or power over any document of any description whatever relating to any matter in question in this action, other than the documents listed in Parts 1A and 2A of Attachment A.

This affidavit is sworn by Mary Smith
in the presence of an authorised witness at
Rockingham on 3 March 2011.

Mary Smith

E Chew

Authorised witness

Edward Chew
Justice of the Peace

ANNEXURE L

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

B E T W E E N

No of

Plaintiff

-and-

Defendant

MINUTE OF PROPOSED ORDERS

DIRECTIONS HEARING _____

Date of document: _____

Date of filing: _____

Filed on behalf of: Plaintiff / Defendant²¹

Prepared by:

Party: Plaintiff / Defendant²²

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Reference: _____

The plaintiff / defendant* proposes to seek orders in the following terms:

²¹ Delete inapplicable

²² Delete inapplicable

* Delete inapplicable

35. _____

36. _____

37. _____

38. _____

39. _____

ANNEXURE L – WORKED EXAMPLE

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

No 123 of 2011

B E T W E E N

MARY SMITH

Plaintiff

-and-

ALLAN GREEN

Defendant

**MINUTE OF PROPOSED ORDERS
DIRECTIONS HEARING 12 APRIL 2011**

Date of document: 9 April 2011

Date of filing: 9 April 2011

Filed on behalf of: Plaintiff

Prepared by:

Party: Plaintiff

Address: 27 Astor Place

Telephone: 9332 7374

MORLEY WA 6020

Facsimile: 9332 7444

Email: msmith2012@gmail.com

Reference:

The plaintiff proposes to seek orders in the following terms:

1. by 19 April 2011 the plaintiff file and serve her statement of claim;
2. by 5 May 2011 the defendant file and serve his defence and any counterclaim;
3. by 19 May 2011 the plaintiff file and serve any reply and defence to counterclaim;

4. by 1 June 2011, each party:
 - (a) make a list of the documents which are or have been in that party's possession, custody or power relating to any matter in question in the action;
 - (b) swear an affidavit verifying that list; and
 - (c) serve a copy of each document on each other party.
5. each party complete their inspection of documents discovered by another party within 10 working days following the date on which its was served with that party's list of discoverable documents;
6. the action be listed for a directions hearing on 27 June 2011 at 10:00am.

ANNEXURE M

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

B E T W E E N

No of

Plaintiff

-and-

Defendant

CONSENT ORDER

Date of document: _____

Date of filing: _____

Filed on behalf of: Plaintiff / Defendant²³

Prepared by:

Party: Plaintiff / Defendant²⁴

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Reference: _____

PURSUANT TO RSC ORDER 43 RULE 16 the parties consent to the following orders:

40. _____

²³ Delete inapplicable

²⁴ Delete inapplicable

41. _____

42. _____

43. _____

44. _____

Plaintiff

Defendant

Settled, signed and sealed in accordance with RSC Order 43 rule 16.

Dated the _____ day of _____ 20__.

BY THE COURT

REGISTRAR

ANNEXURE M – WORKED EXAMPLE

IN THE DISTRICT COURT OF WESTERN AUSTRALIA
HELD AT PERTH

No 123 of 2011

B E T W E E N

MARY SMITH

Plaintiff

-and-

ALLAN GREEN

Defendant

CONSENT ORDER

Date of document: 9 April 2011

Date of filing: 9 April 2011

Filed on behalf of: Plaintiff

Prepared by:

Party: Plaintiff

Address: 27 Astor Place

Telephone: 9332 7374

MORLEY WA 6020

Facsimile: 9332 7444

Email: msmith2012@gmail.com

Reference:

PURSUANT TO RSC ORDER 43 RULE 16 the parties consent to the following orders:

1. by 19 April 2011 the plaintiff file and serve her statement of claim;
2. by 5 May 2011 the defendant file and serve his defence and any counterclaim;
3. by 19 May 2011 the plaintiff file and serve any reply and defence to counterclaim;

4. by 1 June 2011, each party:
 - (a) make a list of the documents which are or have been in that party's possession, custody or power relating to any matter in question in the action;
 - (b) swear an affidavit verifying that list; and
 - (c) serve a copy of each document on each other party.
5. each party complete their inspection of documents discovered by another party within 10 working days following the date on which its was served with that party's list of discoverable documents;
7. the action be listed for a directions hearing on 27 June 2011 at 10:00am.

Mary Smith

Allan Green

Plaintiff

Defendant

Settled, signed and sealed in accordance with RSC Order 43 rule 16.

Dated the _____ day of _____ 20__.

BY THE COURT

REGISTRAR

ANNEXURE N

Entry for trial (r. 37)

District Court of Western Australia Held at Perth ¹		Action No: Entry for trial
Matter	[Names of all parties]	
Date of filing		
Certificate	<p>The [party] certifies that —</p> <ul style="list-style-type: none"> • each party has given discovery to, and permitted inspection by, each other party; • all requests for answers to interrogatories have been answered or validly objected to (delete if inapplicable); • each party has complied with all case management directions and orders made by the Court; • the [party] does not require any other interlocutory orders to be made; • the [party] has complied with the <i>Rules of the Supreme Court 1971</i> Order 36A; • the [party] has complied with the <i>District Court Rules 2005</i> rule 36(1); • the [party] has complied with the <i>District Court Rules 2005</i> rule 45C; • the [party] has complied with the <i>District Court Rules 2005</i> rule 45D (delete if inapplicable). 	
Entry for trial	The [party] enters this matter for trial.	
Has the requirement to attend a pre-trial conference been dispensed with? ²		
Unavailable dates	The parties are not available for a pre-trial conference on these dates:	
Date of pre-trial conference / directions hearing / listing conference ³	Date: Time: Place: District Court Building, 500 Hay Street, Perth ¹	

Information about the pre-trial conference	<p>All parties are required to attend the pre-trial conference in person accompanied by their respective lawyers. Where a party is a body corporate it must attend by an agent who is authorised by the body corporate to conduct settlement negotiations and settle the case.</p> <p>At the pre-trial conference, the parties must, in good faith, attempt to settle the case or, failing settlement, to resolve as many of the issues between them as possible and to identify the issues to be tried.</p> <p>If the action is settled before the pre-trial conference please immediately notify the Court that this has occurred.</p>			
Contact details of party or lawyer	Name			
	Firm			
	Address			
	Phone		Fax	
	Email			
	Reference			
Signature of person making this certification	Name of person making this certification		Date of signing:	

Notes to Form 1 —

1. If not held at Perth, state the location of the relevant registry.
2. If it has, specify the date of the order.
3. The Court will complete this row when the entry for trial notice is filed. If a listing conference or directions hearing has already been allocated, insert this information into the hearing details.

[Form 1 inserted in Gazette 31 Dec 2013 p. 6560-1.]

ANNEXURE N – WORKED EXAMPLE

DCR Form 1

District Court of Western Australia Held at Perth ¹		Action No: 123 or 2011 Entry for trial
Matter	MARY SMITH -and- ALLAN GREEN	
Date of filing		
Certificate	<p>The Plaintiff certifies that —</p> <ul style="list-style-type: none"> • each party has given discovery to, and permitted inspection by, each other party; • all requests for answers to interrogatories have been answered or validly objected to (delete if inapplicable); • each party has complied with all case management directions and orders made by the Court; • the [party] does not require any other interlocutory orders to be made; • the [party] has complied with the <i>Rules of the Supreme Court 1971</i> Order 36A; • the [party] has complied with the <i>District Court Rules 2005</i> rule 36(1); • the [party] has complied with the <i>District Court Rules 2005</i> rule 45C; • the [party] has complied with the <i>District Court Rules 2005</i> rule 45D (delete if inapplicable). 	
Entry for trial	The Plaintiff enters this matter for trial.	
Has the requirement to attend a pre-trial conference been dispensed with? ²	No	
Unavailable dates	<p>The parties are not available for a pre-trial conference on these dates:</p> <p>May: 5 – 20, 25</p> <p>June: 3, 5</p>	

Date of pre-trial conference / directions hearing / listing conference ³	Date: Time: Place: District Court Building, 500 Hay Street, Perth ¹		
Information about the pre-trial conference	<p>All parties are required to attend the pre-trial conference in person accompanied by their respective lawyers. Where a party is a body corporate it must attend by an agent who is authorised by the body corporate to conduct settlement negotiations and settle the case.</p> <p>At the pre-trial conference, the parties must, in good faith, attempt to settle the case or, failing settlement, to resolve as many of the issues between them as possible and to identify the issues to be tried.</p> <p>If the action is settled before the pre-trial conference please immediately notify the Court that this has occurred.</p>		
Contact details of party or lawyer	Name	Mary Smith	
	Firm		
	Address	27 Astor Place, Morley, WA 6020	
	Phone	9332 7374	Fax 9332 7444
	Email	Msmith2012@gmail.com	
	Reference		
Signature of person making this certification	Name of person making this certification <i>Mary Smith</i>	Date of signing: 28 July 2011	

Notes to Form 1 —

1. If not held at Perth, state the location of the relevant registry.
2. If it has, specify the date of the order.
3. The Court will complete this row when the entry for trial notice is filed. If a listing conference or directions hearing has already been allocated, insert this information into the hearing details.

[Form 1 inserted in Gazette 31 Dec 2013 p. 6560-1.]

ANNEXURE O

4A. Subpoena to attend to give evidence (r. 48AB)

District Court of Western Australia		Action No:	
Held at Perth ¹		SUBPOENA TO ATTEND TO GIVE EVIDENCE	
Parties	Plaintiff		
	Defendant		
To: [Full name and address of addressee]			
Warning	Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.		
Notes	Please read the information in the Notice to addressee (Form 4B) which accompanies this subpoena.		
Date of issue		Last date for service	
Order	<p>You are ordered to attend to give evidence on the date, and at the time and place, specified below unless you receive notice in writing of a later date or time from the issuing party, in which case the later date or time is substituted:</p> <p>Date: Time: Place:</p> <p>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.</p>		
Issuing details	Issued at the request of [name of party], whose service details are:		Seal of the Court

4B. Subpoena notice — evidence (r. 48AB)

District Court of Western Australia		Action No:
Held at Perth ¹		SUBPOENA NOTICE — EVIDENCE
Parties		Plaintiff
		Defendant
NOTICE TO ADDRESSEE		
Contempt of court — arrest		
<ol style="list-style-type: none"> 1. Attached to this notice is a subpoena issued by the District Court of Western Australia, requiring you to attend Court to give evidence. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. 2. Note 1 does not limit 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 fails to attend in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena. 		
Last day of service		
<ol style="list-style-type: none"> 3. 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		
<ol style="list-style-type: none"> 4. 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. 		
Conduct money		
<ol style="list-style-type: none"> 5. You need not comply with it 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. 		
Losses or expenses incurred in compliance		
<ol style="list-style-type: none"> 6. 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's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena. 		

4C. Subpoena to produce documents (r. 48AB)

District Court of Western Australia Held at Perth ¹		Action No:	
		SUBPOENA TO PRODUCE	
Parties	Plaintiff		
	Defendant		
To: [Full name and address of addressee]			
Warning	Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.		
Notes	Please read the information in the Notice to addressee (Form 4D or Form 4E as applicable) which accompanies this subpoena.		
Date of issue		Last date for service	
Date of production	The date applies unless you receive notice in writing of a later date or time from the issuing party, in which case the later date or time is substituted.		
Order	<p>You must comply with this subpoena —</p> <p>(a) by attending to produce this subpoena (or a copy of it), the completed declaration (Form 4D or Form 4E as applicable) and the documents or things specified in the Schedule below on the date of production:</p> <p style="padding-left: 40px;">Place: District Court of Western Australia 500 Hay Street Perth, Western Australia ²</p> <p>OR</p> <p>(b) by delivering or sending this subpoena (or a copy of it), the completed declaration (Form 4D or Form 4E as applicable) and the documents or things specified in the Schedule below to the registrar at the address below, so that they are received not less than 2 clear days before the date of production:</p> <p style="text-align: center;">The Registrar</p>		

	District Court of Western Australia 500 Hay Street PERTH WA 6000 ²	
Schedule [If insufficient space attach list]	The documents or things you must produce are as follows:	
Issuing details	Issued at the request of <i>[name of party]</i> , whose service details are:	Seal of the Court

4D. Subpoena notice and declaration — documents or things (r. 48AG)

District Court of Western Australia		Action No:
Held at Perth ¹		Subpoena notice — documents or things
Parties	Plaintiff	
	Defendant	
NOTICE TO ADDRESSEE		
(To a health professional, hospital or person that manages the records of a health professional)		
Contempt of court — arrest		
<ol style="list-style-type: none"> Attached to this notice is a subpoena issued by the District Court of Western Australia, requiring you to produce documents (or things) as described to the Court on or before the date indicated (the return date). Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. Note 1 does not limit 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 fails to attend in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena. 		
Attached declaration in relation to copies		
<ol style="list-style-type: none"> At the same time as complying with the subpoena, you are also required to complete the declaration at the end of this notice and attach it to the subpoena or copy of the subpoena that accompanies the documents or things produced to the Court under the subpoena. 		
Last day for service		
<ol style="list-style-type: none"> 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		
<ol style="list-style-type: none"> 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		
<ol style="list-style-type: none"> If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer. 		
Production of subpoena or copy of it and documents or things by delivery or post		
<ol style="list-style-type: none"> Instead of attending to produce the subpoena or a copy of it and the documents or things, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the documents or things to the registrar at the address specified in the subpoena for the purpose, 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. 		

Production of copy instead of original

8. Unless the subpoena specifically requires production of the original of a document, you may comply with the subpoena by producing a copy of the document.
9. The copy of a document may be:
 - (a) a photocopy; or
 - (b) in PDF format on a CD-ROM or DVD.

Production of a number of documents or things

10. 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.

Inspection and copying

11. Unless the Court otherwise orders, the following will apply to the documents and things produced —
 - (a) the plaintiff will be permitted to inspect and copy the subpoenaed documents as soon as they are received by the Court; and
 - (b) the other parties will be permitted to inspect the documents at any time after 7 days from the date on which production is due under the subpoena and, with the approval of a registrar, copy the documents.
12. Each party who copies the documents produced must give an undertaking to the Court not to use the document otherwise than for the purpose of the action.

Objections

13. 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 Principal Registrar in writing of your objection and of the grounds of your objection.
14. If your objection relates to timeframes and/or access, any dispute may be resolved by way of correspondence with a registrar.
15. If your objection raises substantive issues concerning the ambit of the subpoena, for example claims of privilege, these will be referred for determination by the Court.
16. 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 to which the subpoena applies.

Losses or expenses incurred in compliance²

17. When you were served with the subpoena, you also received the amount of \$80 for your reasonable losses or expenses incurred in complying with the subpoena. The receipt of this amount does not affect your right to apply to the Court for a higher amount to be fixed. If you wish to claim that your reasonable costs of compliance are higher than \$80, you should make a claim in writing to the issuing party. If you are not able to resolve your claim with the issuing party, you should send a copy of your claim and any other relevant correspondence to the Principal Registrar. The Principal Registrar will make arrangements for your claim to be assessed by the Court.

District Court of Western Australia	Action No:
Held at Perth ¹	SUBPOENA DECLARATION
Parties	<div style="text-align: right; margin-bottom: 10px;">Plaintiff</div> <div style="text-align: right;">Defendant</div>
DECLARATION BY ADDRESSEE	
<p>You are required to:</p> <ul style="list-style-type: none"> • Tick the relevant option below. • If originals are to be returned, provide your address as appropriate. • Sign and date the declaration. • Attach the declaration to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena. <p>If you declare that the material you produce is copies of documents, the Court 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.</p> <p>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. Unless the Court otherwise directs, these documents will be returned to you after the expiry of 28 days from the date on which production is due under the subpoena.</p> <p>π 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 may destroy the copies once they are no longer required, without further notice to me.</p> <p>π 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:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>[Signature of addressee]</p> <p>.....</p> <p>[Name of addressee]</p> <p>.....</p> <p>[Date]</p>	

4E. Subpoena notice and declaration — documents or things (r. 48AG)

District Court of Western Australia		Action No:
Held at Perth ¹		SUBPOENA NOTICE — DOCUMENTS OR THINGS
Parties	Plaintiff	
	Defendant	
NOTICE TO ADDRESSEE		
(Other than a health professional, hospital or person that manages the records of a health professional)		
Contempt of court — arrest		
<ol style="list-style-type: none"> 1. Attached to this notice is a subpoena issued by the District Court of Western Australia, requiring you to produce documents (or things) as described to the Court on or before the date indicated (the return date). Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly. 2. Note 1 does not limit 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 fails to attend in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena. 		
Attached declaration in relation to copies		
<ol style="list-style-type: none"> 3. At the same time as complying with the subpoena, you are also required to complete the declaration at the end of this notice and attach it to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena. 		
Last day for service		
<ol style="list-style-type: none"> 4. 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		
<ol style="list-style-type: none"> 5. 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		
<ol style="list-style-type: none"> 6. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer. 		
Production of subpoena or copy of it and documents or things by delivery or post		
<ol style="list-style-type: none"> 7. Instead of attending to produce the subpoena or a copy of it and the documents or things, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the documents or things to the registrar at the address specified in the subpoena for the purpose, 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. 		

Production of copy instead of original

8. Unless the subpoena specifically requires production of the original of a document, you may comply with the subpoena by producing a copy of the document.
9. The copy of a document may be —
 - (a) a photocopy; or
 - (b) in PDF format on a CD-ROM or DVD.

Production of a number of documents or things

10. 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.

Inspection and copying

11. Unless the Court otherwise orders (for example, if an objection is made), the following will apply to the documents and things produced —
 - (a) all parties to the action are permitted to inspect the documents and things immediately upon production; and
 - (b) all parties to the action are permitted, with the approval of a registrar, to copy the documents.
12. Each party who copies the documents produced must give an undertaking to the Court not to use the document otherwise than for the purpose of the action.

Objections

13. 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 Principal Registrar in writing of your objection and of the grounds of your objection.
14. If your objection relates to timeframes and/or access, any dispute may be resolved by way of correspondence with a registrar.
15. If your objection raises substantive issues concerning the ambit of the subpoena, for example claims of privilege, these will be referred for determination by the Court.
16. 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 to which the subpoena applies.

Losses or expenses incurred in compliance²

17. When you were served with the subpoena, you also received the amount of \$80 for your reasonable losses or expenses incurred in complying with the subpoena. The receipt of this amount does not affect your right to apply to the Court for a higher amount to be fixed. If you wish to claim that your reasonable costs of compliance are higher than \$80, you should make a claim in writing to the issuing party. If you are not able to resolve your claim with the issuing party, you should send a copy of your claim and any other relevant correspondence to the Principal Registrar. The Principal Registrar will make arrangements for your claim to be assessed by the Court.

District Court of Western Australia	Action No:
Held at Perth ¹	SUBPOENA DECLARATION
Parties	<div style="text-align: right; margin-bottom: 10px;">Plaintiff</div> <div style="text-align: right;">Defendant</div>
DECLARATION BY ADDRESSEE	
<p>You are required to:</p> <ul style="list-style-type: none"> • Tick the relevant option below. • If originals are to be returned, provide your address as appropriate. • Sign and date the declaration. • Attach the declaration to the subpoena or copy of the subpoena that accompanies the documents produced to the Court under the subpoena. <p>If you declare that the material you produce is copies of documents, the Court 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.</p> <p>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. Unless the Court otherwise directs, these documents will be returned to you at the expiry of 28 days from the date on which production is due under the subpoena.</p> <p>π 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 may destroy the copies once they are no longer required, without further notice to me.</p> <p>π 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:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>[<i>Signature of addressee</i>]</p> <p>.....</p> <p>[<i>Name of addressee</i>]</p> <p>.....</p> <p>[<i>Date</i>]</p>	

ANNEXURE P

**DISTRICT COURT OF WESTERN AUSTRALIA
FACSIMILE FILING FORM**

(For filing of documents pursuant to 2005 DCR rule 19)

Urgent – for hearing on _____
(Tick box and complete date if hearing is within 5 business days)

To: Coordinator Civil Case Management **Fax number: 9425 2268**

Date: _____ **Number of pages:** _____ (Max 20)

Action number: **CIV** ___ / _____

Parties: _____

Filing party: _____

From:

Law firm: _____ **Reference:** _____

Postal address: _____

Phone: _____ **Fax:** _____

The following documents are attached for filing by facsimile:

- 1. _____
- 2. _____
- 3. _____

A credit card payment authority is attached in the amount of for the fees in relation to the filing of the document(s).

or

No fee is payable for this document type.

or

No fee is payable because: _____

State reason by reference to *District Court (Fees) Regulations*

**DISTRICT COURT OF WESTERN AUSTRALIA
CREDIT CARD PAYMENT AUTHORITY**

Action number: CIV ___ / _____

Parties: _____

The District Court is authorised to debit the following credit card for fees payable on filing of the attached document(s) in accordance with *District Court (Fees) Regulations 2002* (WA):

Amount: _____ Card type (circle): Visa / Mastercard / Bankcard

Card number: _____ Expiry date: _____

Cardholder name: _____

Cardholder signature: _____

Cardholder contact telephone: _____

Court use

Approved

Date: _____

Receipt Number: _____

Court officer: _____