



REPUBLIC OF SOUTH AFRICA

No. 1 SUMMONS

In the Small Claims Court for the Area of

Case No: Unique Reference No:

Clerk of the Court (signature and date of issue)

SUMMONS

(To be completed by the Plaintiff)

A. PARTICULARS OF THE PLAINTIFF OR PLAINTIFFS:

Surname

First Names

Residential address

Business address

Postal Address

Telephone No

Cellular No

E-mail address

B. PARTICULARS OF THE DEFENDANT OR DEFENDANTS:

Surname or Name of entity

First Names

Residential address (*where known*)

Business address (*where known*)

Postal Address (*where known*)

Telephone No (*where known*)

Cellular No (where known)
E-mail address (where known)

PLEASE READ THE ENTIRE DOCUMENT AS IT HAS IMPORTANT INFORMATION

1. **YOU (defendant) are hereby summoned to appear personally before this court (insert court district, physical address, telephone number, e-mail address (if applicable) and court room number)**

.....
.....
on the of 20..... at (time) to admit or deny or dispute your liability for the claim of the plaintiff as stated in the Particulars of Claim.

2. **IF YOU ADMIT THE CLAIM (LIABILITY) AND CONSENT TO JUDGMENT**, complete the information below and lodge the summons (including this page) with the Clerk of the Small Claims Court:

(a) I admit that I am liable to the plaintiff as claimed in this summons OR in the amount of R..... and I consent to judgment accordingly.

(b) I offer to pay the debt in instalments of R..... per month, the first instalment to be paid to the plaintiff on or before the (*insert date*) and payable every month thereafter until the debt and costs (if applicable) is paid. (*DELETE PARAGRAPH (b) if you are not making an offer to pay the debt in instalments*)

DATED at on this day of 20.....

DEFENDANT..... (name and signature)

WITNESSES:

(full names) (signature)

(address and contact number)

(full names) (signature)

(address and contact number)

3. **IF YOU DENY OR DISPUTE THE CLAIM**, you may complete Form 7 (*written statement of defence and counterclaim*) in Annexure 1 attached to this summons and lodge the Form with the clerk of the Small Claims Court before the date you are summoned to appear. **YOU MUST APPEAR ON THE DATE OF THE HEARING WHETHER YOU SUBMIT FORM 7 OR NOT.**

4. **IF YOU WISH TO DISCUSS THE CLAIM** with the clerk of the Small Claims Court then you should contact him or her at the address above before the date of the hearing.

5. **DEFENDANT TO NOTE THE FOLLOWING:**

- (a) If you do not appear on the date (above), judgment may be obtained against you by the plaintiff unless you have previously admitted the claim.
- (b) If money is to be paid in terms of a judgment or order of court, the money must be paid directly to the judgment creditor (this is the person in whose favour the judgment has been granted or order of court made).
- (c) If judgment for the payment of money is granted against you and you indicate that you will not be able to pay, the court may conduct an enquiry into your financial position after which the court may order you to pay the judgment debt, interest and costs in specified instalments or otherwise.
- (d) If the court has not made an order for you to pay the judgment debt and costs in specified instalments (paragraph (c) above), then you may within 10 days after judgment has been granted, make a written offer to the judgment creditor to pay the judgment debt and costs in instalments or otherwise using Form 9 in Annexure 1.
- (e) If your written offer is accepted by the judgment creditor, at the request of the judgment creditor the clerk of the court shall order you to pay the judgment debt and costs in terms of your offer and the order by the clerk of the court shall be deemed to be an order of the court.
- (f) If judgment has been granted against you, you must notify the judgment creditor fully and correctly, within 14 (fourteen) days after you have changed your place of residence; business or employment of your new place of residence, business or employment.
- (g) If, after judgment has been granted against you for the payment of money or an order for the payment of money in instalments has been made, you fail to satisfy the judgment or order, such judgment or order may be enforced against your movable property and if the movable property is found to be insufficient then against your immovable property after execution against your immovable property has been authorised by the court.
- (h) In terms of section 47 of the Small Claims Courts Act, 1984 (Act No. 61 of 1984)("Act"), any person who obstructs the messenger (sheriff) or deputy messenger (deputy sheriff) of the court in the execution of his or her duties under the Act or fails to give notice of a change of address in terms of section 43 of the Act, shall be guilty of an offence and liable upon conviction to a fine not exceeding R2000 or to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.

PARTICULARS OF CLAIM

(To be completed by the Plaintiff)

PLEASE NOTE:

- A. Print or type.
- B. Be brief and concise. Mere reference to attached correspondence is not acceptable. Set out in point form the important features of the matter, indicating names and dates where possible.
- C. The sections below must be completed. DO NOT give a detailed exposition of the history of the matter.

1. State the date when the claim arose:

.....

2. State the amount you are claiming or what you want from the defendant:

.....

3. Explain the nature of your claim (explain briefly why the amount or what you are claiming is due to you):

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

4. What relief or outcome do you want from the court?

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

5. If you have any evidence (documents) that you are relying on then attach photocopies of the documents (please do not send your original) and briefly list the documents that you have attached below:

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

IF PARAGRAPH 7 OR 8 BELOW DO NOT APPLY TO YOUR CLAIM, CROSS OUT THE PARAGRAPH OR PARAGRAPHS.

7. The Plaintiff hereby abandons in terms of section 18 of the Act, the sum of R..... (delete if not applicable) being part of the claim. (Note: "abandon" means to give up a portion of a claim or counterclaim to bring the claim within the jurisdiction of the Small Claims Court).

8. The Plaintiff hereby sets-off in terms of section 19 of the Act, the sum of R..... (delete if not applicable) being the amount to be deducted from the admitted debt as stated in the summons (Note: "set-off" means the deduction from a claim or counterclaim of an amount admitted by a party, due by that party to the other party concerned).

Date: Signature, mark or fingerprint of Plaintiff:

NOTE:

- (a) Once you have completed the summons, you must take the summons together with as many copies as there are defendants, to the clerk of the court (Small Claims Court) to be issued.
- (b) Once issued the summons may be served on the defendant or defendants by you or your authorised representative, in terms of rule 12 or by the sheriff in terms of rule 13.
- (c) If you or your authorised representative serve the summons, your attention is drawn to rule 12 stated below:

"Service of summons by plaintiff or plaintiff's authorised representative by hand delivery to defendant

12. (1) Where the summons is served by the plaintiff or his or her authorised representative by hand delivery, the plaintiff must—

- (a) make as many copies of the summons as there are defendants to be served;

- (b) hand over a copy of the summons to the defendant in person;
- (c) where requested, show the original or certified copy of the summons to the defendant; and
- (d) after service on the defendant, lodge the original summons and proof of service with the clerk of the court as soon as possible.

(2) Proof of service of the summons on the Defendant must substantially correspond with Form 6 in Annexure 1.

(3) Where the defendant keeps his or her residence or place of business closed or otherwise prevents the plaintiff from serving the summons, the plaintiff may call upon the sheriff to serve the summons, subject to compliance with subrule 13(1)(a) and (b)"