

NOTICE OF MOTION WRIT FOR THE LEVY OF PROPERTY

COURT DETAILS

Court Write 'Local Court'
#Division Write 'Small Claims Division'
#List Delete or leave this section blank
Registry Write the name of the registry where the statement of claim was filed
Case number Write the case number on the statement of claim

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

[First] plaintiff **[name]**

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

[First] defendant **[name]**

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

JUDGMENT DETAILS

Date of judgment to be enforced Write the date of the judgment. Contact the court if you do not know the date.

FILING DETAILS

Person seeking orders **[name]** [role of party eg plaintiff] Write your name, then 'plaintiff' (**judgment creditor**)

#Filed in relation to [eg plaintiff's claim, (number) cross-claim] Leave blank
[include only if form to be eFiled]

#Legal representative [solicitor on record] [firm] Leave this section blank

#Legal representative reference [reference number] Leave this section blank

Contact name and telephone [name] [telephone] Write your name and phone number

Contact email [email address] Write your email address, if you have one

PERSON AFFECTED BY ORDERS SOUGHT

[name] [role of party eg defendant] Write the name of the judgment debtor, then 'defendant' (**judgment debtor**)

HEARING DETAILS

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

[on separate page]

ORDERS SOUGHT

The issue of a writ for the levy of property against the judgment debtor.

SIGNATURE

#Signature of legal representative [Leave this section blank](#)

#Signature of or on behalf of
party if not legally represented [Sign this section](#)

Capacity [\[eg solicitor, authorised officer, role of party\] If you are an individual, write 'judgment creditor'](#)

Date of signature [Write the date you signed the form](#)

[on separate page]

AFFIDAVIT

Name Write your name

Address Write your address

Occupation Write your occupation

Date Write the date you signed the affidavit

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

1 #I am the judgment creditor. Delete if judgment creditor is a company or association
 #I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit]. Delete this section if the judgment creditor is an individual. If judgment creditor is a company give details of your role in the company e.g. 'I am the Director/Executive Officer/Public Officer of the judgment creditor'

2 #No payments have been made to reduce the judgment debt. Delete this section if debtor has made some payments after the judgment.

#Payments of \$[amount] have been made to reduce the judgment debt. If the judgment debtor has made payments since the judgment, include the amount.
 Delete this section if the debtor has not made any payments after the judgment.

3 The amount payable under the judgment (including any prior enforcement costs, but excluding interest after judgment under section 101 of the Civil Procedure Act) as at the date of this affidavit is \$[amount]. Write the amount of the judgment plus any enforcement costs and less any payments made by the judgment debtor.

4 Interest payable under section 101 of the Civil Procedure Act is \$[amount]. Write the amount of the interest from the date of judgment to the date of signing this notice of motion. You should check the current interest rates on the Local Court website.

5 The amounts claimed for costs in respect of this writ are:

Execution fees \$ Write the fee paid to sheriff to have the writ executed

Solicitors fees \$ Leave this section blank

TOTAL \$ Write the total amount

6 I believe that the property of the judgment debtor is located at the following address[es]: If you do not know where the judgment debtor lives you should list all the possible addresses.

[If more than one address list in order of priority of execution.]

7 #The judgment is not stayed by an order of the court, by an instalment order or by a suspension under sections 86 or 90 of the [Legal Profession Uniform Law Application Act 2014](#) that has not been ended. [Keep this option if no instalment order or stay order has been made by the court since judgment.](#)

#An instalment order was made on [date] but that instalment order has ceased to have effect for the following reason: [Keep this option if there have been instalment orders made after the judgment. Set out the reason why the instalment order stopped. For example, the judgment debtor has failed to pay. You should write down the last amount and date of payment.](#)

[set out reason]

#SWORN #AFFIRMED at [Write the name of the town or suburb where the affidavit is signed](#)

[Delete 'sworn' or 'affirmed' whichever does not apply](#) [Sign here](#)

Signature of deponent

Name of witness [Write the full name of your witness](#)

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

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

[Your witness will complete the section below:](#)

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

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

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

Signature of witness [Your witness will sign here](#)

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

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

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

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

[Include the following additional information, if known, which will assist the Sheriff when executing the writ.]

ADDITIONAL INFORMATION TO ASSIST SHERIFF'S OFFICE The more information you can provide to the sheriff, the higher their chance of success in executing the writ.

Short description of claim	Provide details of when the claim first started, what claim is for (for example a loan) and if there is a cross-claim
Best time of day to contact the judgment debtor	If you know when the judgment debtor is usually home you should tell the sheriff this information, otherwise leave this section blank
Judgment debtor's telephone number (if known)	If you know the judgment debtor's telephone number, including a mobile number, you should put that information here, otherwise leave this section blank
Provide specific details of any property owned by the judgment debtor that may be seized	If you know what items of value are owned by the judgment debtor which could be seized by the sheriff write them here, otherwise leave blank.
Are there any animals or anything else at the premises that might pose a threat to the health and safety of Sheriff's officers?	If you know of any dangers at the judgment debtor's home you should put that information here, for example if the judgment debtor has a large dog, otherwise leave blank.