Form 40 (version 8)
UCPR 35.1

AFFIDAVIT OF [NAME] [DATE]

Write your first and last name and date

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

TITLE OF PROCEEDINGS	
[First] plaintiff	**[name]** Write the name of the plaintiff, Plaintiff
#Second plaintiff #Number of plaintiffs (if more than two)	
[First] defendant	**[name]** Write your name, Defendant
#Second defendant #Number of defendants (if more than two)	

FILING DETAILS	
Filed for	**[name]** [role of party eg plaintiff] Write your name, defendant
#Filed in relation to	[eg plaintiff's claim, (number) cross-claim] Delete or leave blank [include only if form to be eFiled]
#Legal representative	[solicitor on record] [firm] Delete or leave blank
#Legal representative reference	[reference number] Delete or leave blank
Contact name and telephone	[name] [telephone] Write your name and telephone number
Contact email	[email address] Write your email address

[on separate page]

AFFIDAVIT

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

I [#say on oath #affirm]: Delete whichever does not apply

1 #I am [role of deponent]. Write 'the defendant'.

2 [state information to be included in the affidavit in numbered paragraphs].

The information should include:

a) the reason why you did not file a defence within 28 days of the service of the statement of claim

b) if relevant, the reason why you delayed making this application to set aside judgment

c) the grounds (basis) of your defence to the statement of claim. You will need to show you have an arguable defence

d) any other relevant information.

3 Generative artificial intelligence was not used to generate: fill out what applies to you

a. this affidavit.

b. any annexure/exhibit to this affidavit prepared or created to the deponent's knowledge for the purposes of these proceedings delete if this does not apply to you.

c. [where applicable] other than annexure/exhibit marked [insert] in accordance with leave granted by [name of decision maker] and [date] delete if this does not apply to you.

#SWORN #AFFIRMED at	Write the town/suburb where affidavit signed
Signature of deponent	Sign in this space once you have completed the affidavit
Name of witness	An authorised person must witness your signature. Write their name in this space
Address of witness	Write the address of the witness
Capacity of witness	[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public] Delete those that do not apply

Your witness will need to fill out these details and should know what to include.

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

1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]

#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.*

2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]

#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)†

Signature of witness — Your witness needs to sign

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 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf]

[on separate page]

INTERPRETER'S AFFIDAVIT (leave blank if not applicable)

Name

Address

Occupation

Date

I [#say on oath #affirm]:

1 I am an accredited interpreter as defined in the *Uniform Civil Procedure Rules 2005* in the following languages [provide details of the languages].

2 My [#accreditation #registration #recognition] to interpret the languages set out in paragraph 1 has been issued by [provide details of the recognised agency].

3 On [date] I sight translated the above affidavit of [name] dated [date] (the **Affidavit**) to [name] (the **Deponent**) in the [specify language] language.

4 Before translating the Affidavit, I:

a. read the code of conduct contained in Schedule 7A to the *Uniform Civil Procedure Rules 2005* and agreed to be bound by it; and

b. was given adequate opportunity to prepare to sight translate the Affidavit.

5 After I sight translated the entire Affidavit to the Deponent, the Deponent then:

a. informed the person responsible for the preparation of the Affidavit through me that the Deponent understood my interpretation and agreed with the entire contents of the Affidavit; and

b. [#swore #affirmed] the Affidavit in my presence.

#SWORN #AFFIRMED at

Signature of deponent _____

Name of witness

Address of witness

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

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 _____

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.]