

FORM 23A
Small Claims Act

Rule 23.01(2)

APPLICATION FOR ORDER TO BE SET ASIDE AND RE-HEARING

IN THE LOCAL COURT
AT _____

Claim No. _____

Between the
plaintiff : (Person
claiming money)

Full name
Address for
service

and

the defendant :
(Person claimed
against)

Full name
Address

TO THE COURT
AND TO _____

The Plaintiff applies to the Court for an order that the order made by the Court on (Date of Order) be set aside and the proceeding be re-heard as soon as possible.

* On (Date) the Court made an order for default judgment against me as follows: *(Set out terms of order.)*

I DID NOT FILE A NOTICE OF DEFENCE in the above proceeding FOR THE REASONS STATED IN THE AFFIDAVIT filed with this application. THE AFFIDAVIT ALSO STATES MY INTENTION TO DEFEND THE CLAIM AND THE PARTICULARS OF MY DEFENCE.

(OR)

* I did not appear at the Court in the above proceeding on (Date). In my absence, the Court made an order against me as follows: *(Set out terms of order.)*

I DID NOT APPEAR IN THE PROCEEDING FOR THE REASONS STATED IN THE AFFIDAVIT FILED WITH THIS APPLICATION.

(OR)

* On (date) I consented to the following order being made: (*Set out terms of order.*)

I CONSENTED TO THE FINAL ORDER FOR THE REASONS STATED IN THE AFFIDAVIT FILED WITH THIS APPLICATION.

Signature of applicant

The hearing of this application has been listed to take place at the Court at _____ at _____ a.m./p.m. on _____ or as soon afterwards as the business of the Court allows.

Filed: _____

Registrar

* Check box if applicable.

Do not ignore this notice. If you do not understand this notice or need help contact a Registrar of the Local Court, a legal practitioner or your local legal aid office.

AFFIDAVIT

IN THE LOCAL COURT AT DARWIN

Claim No. _____

Between

Plaintiff

And _____

Defendant

DEPONENT: I, _____

full name

_____ occupation

OF:

_____ address

_____ postal address

HEREBY SWEAR/AFFIRM THAT:

Sworn/Affirmed by the Deponent at Darwin

On _____

Before me: _____

_____ Deponent

DECLARATION OF SERVICE

Rule 7.04(2)

I, _____
(full name)

of _____
(address)

do solemnly and sincerely declare that I served

_____ *(name of person served)*

with a copy of this statement of claim —

* at _____
(place)

at _____ on _____
(time) (day) (date) (month) (year)

* by handing it to that person.

* by putting it down in the person's presence and telling that person the nature of the document.

The person named above is —

* the defendant.

* a director of the defendant corporation. #

* a partner of the defendant firm

* a person at the defendant firm's place of business who is apparently in the service of the person carrying on business in the name of the defendant and who is apparently of or above the age of 16 years

* the resident agent of the defendant firm

* a person apparently in the service of the resident agent of the defendant firm and who is apparently of or above the age of 16 years.

I identified the person named above as follows:

* by leaving it at / sending it by post to the registered office of the defendant corporation.

* by leaving it at / sending it by post to the office of the liquidator / official manager of the defendant corporation.

* by sending it registered post / as certified mail addressed to the defendant firm at its place of business/resident agent's address in the Territory.

* Annexed hereto and marked "A" is a true copy of the document evidencing service of the statement of claim by mail.

And I make this solemn declaration by virtue of the *Oaths Act* conscientiously believing the statements contained in this declaration to be true in every particular.

Declared at _____

On _____

.....
Signature of person making declaration

* Check box if applicable.

Where a statement of claim is served personally on the directors, it must be served on each of 2 directors who reside in Australia or the External Territories unless the corporation has only 1 director.

NO WITNESS IS REQUIRED FOR THIS DECLARATION

A person wilfully making a false statement in a declaration is liable to a penalty of \$2,000 or imprisonment for 12 months, or both.