

MAGISTRATES' COURT (MISCELLANEOUS CIVIL PROCEEDINGS) RULES 2020

Rule 10A.02

FORM 10A

SUBSTITUTED PROCEEDING COMPLAINT OR SUMMONS

(Part 3A of the Victorian Civil and Administrative Tribunal Act 1998)

IN THE MAGISTRATES' COURT
OF VICTORIA
AT

Court Number:

BETWEEN

Applicant

OF

And

Respondent

OF

Date of Document: _____

Filed on behalf of: _____

Australian lawyer name: _____

Address: _____

Code: _____

Telephone: _____

Reference: _____

1. The address for the applicant is-

2. The electronic address for service of the applicant is-

3. *Name and address of the Australian lawyer for the applicant-
name and address

4. The applicant/s sue/s in the following representative capacity- (*individual, organisation,
company or other*)

5. The respondent/s is/are being sued in the following representative capacity-
(*individual, organisation, company or other*)

6. *Amount the applicant is claiming-
\$

*delete if inapplicable

NOTICE TO THE RESPONDENT

If you need an interpreter to help you read this document contact details for most languages are listed at www.mcv.vic.gov.au.

The applicant's claim against you is set out in the Application Information.

You **MUST READ** the Application Information.

IF YOU INTEND TO DEFEND this substituted proceeding complaint or summons, YOU MUST GIVE NOTICE OF REPLY within 14 days after the day you were served with this substituted proceeding complaint or summons, to—

- (a) the applicant (at the address for service of the applicant as stated above); and
- (b) the registrar of the Magistrates' Court of Victoria at (*insert proper venue and address*):

NOTICE OF REPLY must be given in the proper form (Form 10B, 2 copies of which have been served with this substituted proceeding complaint or summons) and you must read and comply with the notes attached to that document. You may attach additional pages, if needed.

IF YOU PROVIDE THE RELIEF SOUGHT by the applicant **within 14 days** after service of this substituted proceeding complaint or summons to the applicant or to the applicant's Australian lawyer without giving notice of reply and the applicant accepts the relief or payment in full satisfaction of the claim (including any interest and costs), the proceeding ends on that acceptance.

IF YOU DO NOT GIVE NOTICE OF REPLY WITHIN 14 DAYS after service of this substituted proceeding complaint or summons and have not provided relief or paid the claim and the costs, the applicant, upon hearing of this claim by the Court and without giving you any further notice, may apply to the Court for an **ORDER (JUDGMENT) AGAINST YOU** for the relief or the amount of the claim and interest and costs **AND** take steps to enforce the order (judgment) and obtain payment.

IF THIS IS AN URGENT APPLICATION (listed for hearing in less than 14 days after receiving this summons) you do not need to file a notice of reply. You **MUST** contact the Registrar at the Court at [*insert proper venue and address*] that is hearing this substituted proceeding complaint and summons.

The Court's registrars do NOT provide legal or financial advice but may provide some information to you about the actions and processes you must undertake in order to defend this claim.

If **before** giving **NOTICE OF REPLY**, you wish to get **FREE LEGAL or FINANCIAL ADVICE** you may be able to do so from free legal advice services and free financial counselling services.

Those services are not employed by or under the control of the Court and therefore the Court cannot recommend any of them, but contact details for such services

together with some practical assistance can be obtained from the Magistrates' Court of Victoria's website at www.mcv.vic.gov.au.

Your local municipal council may also be able to provide contact details for community services in your area that may be able to assist you.

Payment of Judgment Debt by Instalments

IF YOU DO NOT reply to this claim and do not reach agreement with the applicant relating to the time for payment after an order (judgment) against you, you may apply to the Court for an order permitting you to pay that order (judgment) by instalments. The Court will consider your application and advise you of the outcome.

The Court's registrars will be able to provide you with information about the process to apply for an order for payment of the judgment debt by instalments.

PART A – FEDERAL JURISDICTION INFORMATION

(The substituted proceeding complaint or summons must demonstrate that the application raises a controversy involving federal jurisdiction subject matter under Part 3A of the Victorian Civil and Administrative Tribunal Act 1998. Federal jurisdiction matters are those within sections 75 and 76 of the Commonwealth Constitution and include matters where the Commonwealth is a party, the dispute is between residents of different states or the dispute arises under a Commonwealth law.

Please briefly outline, in numbered paragraphs, the facts which cause this matter to come within federal jurisdiction subject matter to be heard by the Magistrates' Court.)

1.

PART B – APPLICATION INFORMATION**

DESCRIPTION OF CLAIM

(Briefly outline the circumstances of the dispute in numbered paragraphs)

1.

DESCRIPTION OF RELIEF SOUGHT

(Briefly outline the relief sought from the Court in numbered paragraphs, including any amounts claimed)

1.

This substituted proceeding complaint or summons **must be lodged with an accompanying annexure if applicable to the application type. The full list of accompanying annexures can be obtained from the Magistrates' Court of Victoria's website at www.mcv.vic.gov.au.

DATE OF FILING:

THIS SUBSTITUTED PROCEEDING COMPLAINT OR SUMMONS IS VALID IF IT BEARS THE ALLOCATED COURT NUMBER AND THE DATE OF FILING

Dated:

*(To be signed by the plaintiff
or the plaintiff's Australian lawyer)*

SUMMONS

You are summoned to attend before the Court on the hearing of an application by

The application will be heard in the Magistrates' Court of Victoria at
on _____ at _____ am/pm or so soon afterwards as the
business of the Court allows.

FILED:

This substituted proceeding complaint or summons was filed by

(name of Australian lawyer)

of

(insert name and address of firm of Australian lawyer)

Australian lawyer for the

(identify party)

Registrar