

MAGISTRATES' COURT GENERAL CIVIL PROCEDURE RULES 2020

Rule 5.02(1)

FORM 5A

COMPLAINT

IN THE MAGISTRATES' COURT
OF VICTORIA
AT

Court Number:

BETWEEN

Plaintiff

OF

And

Defendant

OF

Date of Document: _____

Filed on behalf of: _____

Australian lawyer name: _____

Address: _____

Code: _____

Telephone: _____

Reference: _____

1. The address for service of the plaintiff is— *(address must be within Victoria if the plaintiff sues in person)*

 - *2. Name and business address of the Australian lawyer for the plaintiff— *(if the Australian lawyer is acting as agent for another Australian lawyer, state the name and business address of the principal lawyer)*

 - *3. The plaintiff sues (or the defendant is sued) in the following representative capacity— *(e.g. as administrator of the estate of)*

 4. The email address for service on the plaintiff is—
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NOTICE TO THE DEFENDANT

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 plaintiff's claim against you is set out in the Statement of Claim.

You **MUST READ** the Statement of Claim.

IF YOU INTEND TO DEFEND this Complaint, YOU MUST GIVE NOTICE OF DEFENCE within 21 days of the day you were served with this Complaint, to—

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

NOTICE OF DEFENCE must be given in the proper form (Form 8A, 2 copies of which have been served with this Complaint) and you must read and comply with the notes attached to that document. You may attach additional pages, if needed.

IF YOU PAY the Plaintiff **within 21 days** of service of this Complaint the amount of \$ and the costs of \$ to the plaintiff or to the plaintiff's Australian lawyer without giving notice of defence and the plaintiff accepts that 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 DEFENCE WITHIN 21 DAYS of service of this Complaint and have not paid the claim and the costs, the plaintiff may, **without there being a hearing of this claim by the Court and without giving you any further notice**, apply to the Court for an **ORDER (JUDGMENT) AGAINST YOU** for the amount of the claim and interest and costs **AND** take steps to enforce the order (judgment) and obtain payment.

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 DEFENCE**, 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 defend this claim and do not reach agreement with the plaintiff 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.

STATEMENT OF CLAIM

1. This complaint is brought pursuant to the **Fences Act 1968**
2. The plaintiff is the *owner / *tenant of the property known as
3. The defendant is the *owner / *tenant of the property known as
4. A **Fencing Notice** was *given to / *received by the *defendant / *plaintiff on
/ / and the defendant has not agreed, within *30 days* of that
date, with the plaintiff as to the fencing works and any subsidiary works to be
undertaken. A copy of the fencing notice is attached.
5. *(From here, set out in numbered paragraphs any material facts, not covered above, relied on
for the claim against the defendant, including particulars of every fact or matter.
Also, state specifically the amount or other relief or remedy sought.)*

DATE OF FILING

THIS COMPLAINT IS VALID IF IT BEARS THE COURT NUMBER AND THE DATE
OF FILING

Dated:

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

*Delete if not applicable