**DEFAULT JUDGMENT - CHECKLIST FOR CLIENTS**

**SUPREME COURT, DISTRICT COURT and MAGISTRATES COURTS**

**This self-assessment checklist is designed to assist you in preparing a request for default judgment by a Court constituted by a Registrar *under rules 283, 284, 285, 286, 287 or 289* of the *Uniform Civil Procedure Rules 1999* (Qld). Whether judgment is granted or refused is a decision for the Registrar.**

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| In the matter of: |  | File No: |  |

|  | | **UCPR REF** | **CHECK (Y,N, N/A)** |
| --- | --- | --- | --- |
| * Defendant has not filed a Notice of Intention to Defend; or has not filed a Defence after filing a conditional Notice of Intention to that has become unconditional (as at time of applying for judgment or considering request) | | r 281(1); 137, 144(5),(6) |  |
| * If in relation to conditional notice of intention to defend (service is presumed), defendant has not filed a Defence after filing a conditional Notice of Intention to that has become unconditional (as at time of applying for judgment or considering request) | | r 105(2), 144 |  |
|  | * Debt or Liquidated damages calculable by a formula up to Court’s jurisdiction (i.e $150,000 for Magistrates Court, or $750,000 for District Court, excluding interest and costs **OR** | r 283 |  |
|  | * Unliquidated damages, e.g motor vehicle accident (conditional on assessment by registrar); OR eg. damages for breach of contract, defamation, personal injuries or body corporate recovery fees, conditional on assessment by a judicial officer **OR** | r 284 |  |
|  | * Value of goods detained conditional on assessment and costs (Note: application to Court required for order for return of specified of goods) | r 285 |  |
|  | * Recovery of possession of land, value is within Court’s jurisdiction (r 286) – Supreme and District Court only **OR** | r 286 |  |
|  | * Mixed claim (e.g body corporate fees as a debt plus recovery costs (unliquidated) | r 287 |  |
| IF LIQUIDATED OR UNLIQUIDATED CLAIM: | |  |  |
| *FOR LIQUIDATED DAMAGES* | |  |  |
| * If debt claim, is purely for a debt or liquidated sum (e.g pre-agreed formula set out in contract, no expert report or assessment required) actually calculable by a pre-agreed formula and registrar is not required to consider the merits up to Court’s jurisdiction (ie $150000 for Magistrate Courts, or $750000 for District Courts (excluding interest and costs) | | r 283 |  |
| * Or Request or party expressly requests judgment as a mixed claim (e.g body corporate contributions and recovery costs) | |  |  |
| *FOR UNLIQUIDATED DAMAGES* | |  |  |
| * Unliquidated damages, e.g motor vehicle accident (conditional on assessment by registrar); OR eg. damages for breach of contract, defamation, personal injuries or body corporate recovery fees, conditional on assessment by a judicial officer. | | r 284 |  |
| * Are the amounts claimed supported by invoices or an assessor’s report and are attached as exhibits to the affidavit? | |  |  |
| * MOTOR VEHICLE →   Please check affidavit of assessor, affidavit of loss or similar for:   * Correct party names * Name, address, position (in company), experience as assessor * Same car registration as Statement of Claim * Costs to confirm total assessed amount claimed; * GST (including any increasing adjustment is deducted (as court, in giving judgment does not make a supply for GST purposes). * Invoices match amounts claimed (excluding GST) * Hire vehicle, towing, assessor fee are included in claim amount * Affidavit specifies daily rates if loss of income claimed? | |  |  |
| * Merits properly pleaded and proved (unliquidated damages only) | |  |  |
|  | * Amount specified in claim and within Court’s jurisdiction | r 22(2)(c) |  |
|  | * Claim and Statement Claim signed by party or solicitor, other otherwise relevant authority pleaded or exhibited | r 19(1); 995 |  |
|  | * Claim contains warning notice as to filing of a defence |  |  |
|  | * If Claim is for a debt or liquidated demand, Statement of Claim contains notice under r 150(3) UCPR | r 150(3) |  |
|  | * Other than interest and costs, plaintiff is not claiming any additional amounts after filing and service (as defendant entitled to have notice) | *Cameron v Cole* (1944) 68 CLR 571; |  |
| * Contains name and details of person effecting service | |  |  |
| * States how, when (date is important) and where the Defendant was served with the Claim, Statement of Claim and (when appropriate) | |  |  |
| * If served personally, states name of person served and how identified | | r 106 |  |
| * Mentions the Claim, Statement of Claim and (when appropriate) in a way sufficient to enable them to be identified as the same filed documents? | | r 120(2) |  |
| * Date served: Was Claim and Statement claim served more than 28 days ago (and not on Good Friday or Christmas Day)? – noting the following: * Day claim is served is “Day 0 [zero]”; * If the claim is served on a defendant after 4pm on a particular day, “Day 0” is the next day. * If registry closed on 28th day, the 28th day is next day the registry is open.   For service by post on a corporation, presumed to have been served on the 7th day after posting (s 160 *Evidence Act 1995* (Cth)), or in ordinary course of post, if proved (s 29 *Acts Interpretation Act* (Cth), subject to non-delivery/ non-receipt. | | r 106, 101 and 103;  s 38(1)(a) *Acts Interpretation. Act* (**AIA**)  r 103  s 38(2) AIA.  s 109X *Corporations Act* |  |
| * Mode of service: personal or in accordance with Chapter 4 (rules 100 to 111 or 114) – note additional modes of service in r 112 for Magistrates Court) or satisfied to attention of defendant | | r 100-111, 114-119 |  |
| * If elected to serve by post on corporation or personal service on director: ASIC search mentioned/provided to confirm registered office or director’s identity | | s 109X *Corporations Act* |  |
| * OR strict compliance with any substituted service order | |  |  |
| * If served interstate, Form 1 SEPA notice under *Service and Execution of Process Act 1992* (Cth) (SEPA) attached | | S 16 SEPA Act |  |
| * Claim and Statement of Claim served within last 12 months of issue - or notice of intention to proceed under r 389 given or Claim renewed | |  |  |
| * If in relation to Third Party Notice, properly served, is for indemnity only and default judgment satisfied or leave given | |  |  |
| * If in relation to Counterclaim, properly served with Defence and Counterclaim and Statement of Claim and not a party to original proceeding and is claim for indemnity only | |  |  |
| * Approved form, completed and signed by plaintiff or solicitor/guardian | |  |  |
| * If multiple defendants, clearly articulates against which defendant judgment is sought | |  |  |
| * Amount in Request is same or less than amount in Claim and Statement of Claim (not including interest and costs) | | r 283(2) |  |
| * Any non-scale costs, such as indemnity or body corporate recovery costs, or fees reasonably incurred for recovery of possession of land are specified as being conditional on assessment | |  |  |
| * Interest calculations with reference to relevant legislative basis for interest claim, applicable interest rate, amount claimed | |  |  |
| * If debt claim, is purely for a debt or liquidated sum (e.g pre-agreed formula set out in contract, no expert report or assessment required) or Request expressly requests judgment as a mixed claim (e.g body corporate) | |  |  |
| * Prescribed form, complete, properly deposed under *Oaths Act* | |  |  |
| * Affidavit is current (filed the day the affidavit is sworn/affirmed or if being sent by post, received at the registry no later than 5 business days from date it is sworn/affirmed) | | r 970 |  |
| * Affidavit by person who has custody and control of records of the plaintiff, or identifies that person and states when the information given by that person and the deponent’s belief that such information is true | | r 430(2) |  |
| * Deposes that relief still unsatisfied | |  |  |
| * Signed by plaintiff, solicitor or authorised officer or on information or belief | |  |  |
| * If applicable, interest has been calculated correctly and to the date the affidavit is sworn/affirmed . * If claiming interest under s 58 *Civil Proceedings Act 2011* or Practice Direction has Queensland Courts Interest Calculator in same amount been provided, or does amount match calculator (copy of interest calculations to be retained on file; * OR if claiming higher rate of interest, Affidavit in Support contains evidence in support of claim for interest e.g clause in contract and proof of interest rate. | |  |  |
| * Costs claimed are correct amount * Court filing fee * If legally represented, costs claimed in accordance with scale of costs *Uniform Civil Procedure Rules* for issuing claim and obtaining judgment (*Schedule 1, Supreme Court and District Court; Schedule 2 for Magistrates Court*) * Claim filing fee * Service fee * Citec filing fee - Claims * Citec filing fee - Default Judgment * Search fee; * Total costs from Affidavit(s) in Support $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ matches Request and Draft Judgment | |  |  |
| * Bailiff service and execution fees match Queensland Bailiff service and execution fees calculator (<https://www.qld.gov.au/law/court/court-services/enforce-a-court-order-and-disputes-about-money/service-fees>) | |  |  |
| * For damages, GST - including any increasing adjustment for motor vehicle claims is deducted | |  |  |
| * Names correct and same as in Claim | |  |  |
| * States clearly whom judgment is against and for what amounts/relief against each (or if jointly liable) | |  |  |
| * Separates out any damages or costs that still need to be assessed (eg unliquidated damages, body corporate recovery costs, indemnity costs | |  |  |
| * Separates out costs and interest and any amount to be assessed | |  |  |