

## NOTICE OF MOTION DEFAULT JUDGMENT FOR DETENTION OF GOODS

### COURT DETAILS

Court

#Division

#List

Registry

Case number

### TITLE OF PROCEEDINGS

[First] plaintiff [name]

#Second plaintiff #Number of  
plaintiffs (if more than two)

[First] defendant [name]

#Second defendant #Number of  
defendants (if more than two)

### FILING DETAILS

Person seeking orders [name] [role of party eg plaintiff]

#Filed in relation to [eg plaintiff's claim, (number) cross-claim]  
[include only if form to be eFiled]

#Legal representative [solicitor on record] [firm]

#Legal representative reference [reference number]

Contact name and telephone [name] [telephone]

Contact email [email address]

### PERSON AFFECTED BY ORDERS SOUGHT

[name] [role of party eg defendant]

[repeat for each additional defendant/cross-defendant default judgment sought against]

### HEARING DETAILS

This motion is to be dealt with in the absence of the parties.

### ORDERS SOUGHT

1. #Judgment for the plaintiff against the [role of party] for delivery of goods as described in the statement of claim to the plaintiff [#with the exception of the goods described in paragraph 4 of the affidavit annexed].

2. #Judgment for the plaintiff against the [role of party] for payment to the plaintiff of the value of the goods as described in the statement of claim (as assessed by or in accordance with the directions of the court).
3. The [role of party] pay the plaintiff's costs.

**SIGNATURE**

#Signature of legal representative

#Signature of or on behalf of party if  
not legally represented

Capacity [eg solicitor, authorised officer, role of party]

Date of signature

[on separate page]

**AFFIDAVIT**

Name

Address

Occupation

Date

I [#say on oath #affirm]:

1 #I am the plaintiff.

#I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit].

2 The source of my knowledge of the matters contained in this affidavit concerning the delivery or non-delivery of the goods is [specify].

3 The statement of claim was served on the [#first] defendant [specify mode of service (eg #personally #by post #by the registry by post #in accordance with the order for substituted service)] on [date]. [#The source of my knowledge is the affidavit of service of (name and date).]

[repeat for each additional defendant/cross-defendant default judgment sought against]

4 #None of the goods claimed in the statement of claim have been returned.

#The following goods have been returned by the defendant since the statement of claim was filed: [list goods]

5 #No payments have been made by the defendant in respect of the goods since the statement of claim was filed.

#The amount paid by the defendant in respect of the goods since the statement of claim was filed is \$[amount].

6 The amounts claimed for costs are:

Filing fees	\$
Service fees	\$
Solicitors fees	\$
TOTAL	\$

#SWORN #AFFIRMED at

Signature of deponent

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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:

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

Signature of witness

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Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

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[\* 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.]

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.