



REPUBLIC OF SOUTH AFRICA

**No. 2 - Summons**

(Claim in respect of debt or liquidated demand)

IN THE MAGISTRATE’S COURT FOR THE DISTRICT/REGION OF .....

HELD AT .....

CASE NO: .....

In the matter between:

..... Plaintiff

and

..... Defendant

To the sheriff or his/her deputy:

INFORM ....., of .....  
(state sex and occupation) ..... (hereinafter called the defendant),  
that....., of ..... (state sex and occupation)  
..... (hereinafter called the plaintiff), hereby institutes  
action against him or her in which action the plaintiff claims:

(Here set out in concise terms plaintiff's cause of action)

INFORM the defendant further that if defendant disputes the claim and wishes to defend the action he or she shall within .....days of the service upon him or her of this summons file with the registrar or clerk of this court at ..... (here set out the address of the registrar's office) notice of his or her intention to defend and serve a copy thereof on the plaintiff or plaintiff's attorney, which notice shall give an address referred to in rule 13(3) for the service upon the defendant of all notices and documents in the action.

INFORM the defendant further that if he or she fails to file and serve notice as aforesaid, judgment as claimed may be given against him or her without further notice to him or her.

And immediately thereafter serve on the defendant a copy of this summons and return the same to the registrar or clerk of the court with whatsoever you have done thereupon.

DATED at .....this .....day of .....20.....

.....

Registrar/Clerk of the Court

.....

Plaintiff/Plaintiff's Attorney

(address) .....  
.....  
.....

Defendant must take notice that-

(a) in default of defendant paying the amount of the claim and costs within the said period or of defendant delivering a notice of intention to defend he or she will be held to have admitted the said claim and the plaintiff may proceed therein and judgment may be given against defendant in his or her absence;

(b) if defendant pays the said claim and costs within the said period judgment will not be given against defendant herein and he or she will save judgment charges. Defendant will also save judgment charges if, within the said period, he or she lodges with the clerk of the aforesaid Court a consent to judgment;

(c) if defendant admits the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, defendant may approach the plaintiff or plaintiff's attorney.

Notice:

(i) Any person against whom a court has, in a civil case, given judgment or made any order who has not, within 10 days, satisfied in full such judgment or order may be called upon by notice in terms of section 65A(1) of the Act to appear on a specified date before the court in chambers to enable the court to inquire into the financial position of the judgment debtor and to make such order as the court may deem just and equitable.

(ii) If the court is satisfied that-

(aa) the judgment debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person has knowledge of the abovementioned notice and that he or she has failed to appear before the court on the date and at the time specified in the notice; or

(bb) the judgment debtor, director or officer, where the proceedings were postponed in his or her presence to a date and time determined by the court, has failed to appear before the court on that date and at that time; or

(cc) the judgment debtor, director or officer has failed to remain in attendance at the proceedings or at the proceedings so postponed,

the court may, at the request of the judgment creditor or his or her attorney, authorise the issue of a warrant directing a sheriff to arrest the said judgment debtor, director or officer and to bring him or her before a competent court to enable that court to conduct a financial inquiry. [Section 65A(6) of the Act]

(iii) Any person who-

(aa) is called upon to appear before a court under a notice in terms of section 65A(1) or 65A(8)(b) of the Act (where the sheriff, in lieu of arresting a person, hands to that person a notice to appear in court) and who wilfully fails to appear before the court on the date and at the time specified in the notice; or

(bb) where the proceedings were postponed in his or her presence to a date and time determined by the court, wilfully fails to appear before the court on that date and at that time; or

(cc) wilfully fails to remain in attendance at the relevant proceedings or at the proceedings so postponed, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months. [Section 65A(9) of the Act]

(iv) On appearing before the court on the date determined in the notice in terms of section 65A(1) or (8)(b) of the Act in pursuance of the arrest of the judgment debtor, director or officer under a warrant referred to in section 65A(6) of the Act or on any date to which the proceedings have been postponed, such judgment debtor, director or officer shall be called upon to give evidence on his or her financial position or that of the juristic person and his or her or its ability to pay the judgment debt. [Section 65D of the Act]

(v) Any person against whom a court has, in a civil case, given any judgment or made any order who has not satisfied in full such judgment or order and paid all costs for which he or she is liable in connection therewith shall, if he or she has changed his or her place of residence, business or employment, within 14 days from the date of every such change notify the clerk or register of the court who gave such judgment or made such order and the judgment creditor or his or her attorney fully and correctly in writing of his or her new place of residence, business or employment, and by his or her failure to do so such judgment debtor shall be guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding three months. [Section 109 of the Act]

(2) Consent to judgment.

I admit that I am liable to the plaintiff as claimed in this summons (or in the amount of R..... and costs to date) and I consent to judgment accordingly.

DATED at .....this .....day of .....20.....

.....

Defendant

\*(3) Notice of intention to defend.

To the Registrar/Clerk of the Court.

Kindly take notice that the defendant hereby notifies his or her intention to defend this action.

DATED at .....this .....day of .....20.....

.....

Defendant/Defendant's attorney

Address) .....

.....

.....

Postal address .....

.....

.....

Facsimile (fax) number (where available) .....

Electronic mail (e-mail) address (where available) .....

(Give full address for acceptance of service of process or documents within 15 kilometres from the Court-house and also the postal address.)

\* The original notice must be filed with the registrar or clerk of the court and a copy thereof served on the plaintiff or plaintiff's attorney.

Costs if the action is undefended will be as follows:

Summons..... R .....

Judgment..... R .....

Attorney's charges..... R .....

Sheriff's fees..... R .....

Sheriff's fees on re-issue..... R .....

Total:..... R .....