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Your Ref:

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28.12.2012

Guidelines for Filing of Garnishee Summons – Rule 71.01.10

A Garnishee Order is a court order to a financial institution or other body or person who holds funds owing to the Judgment Debtor that can be paid to the Judgment Creditor to satisfy the debt.

The Judgment Creditor must apply to a Judge of the County Court for leave to issue a Garnishee Summons. The procedure for this application as set out in Practice Note PNCI 5-2009 is by ex parte application to the Directions Group. This can be made by letter to the Directions Group (directions.group@countycourt.vic.gov.au) accompanied by a supporting affidavit. A copy of the proposed Garnishee Summons (Form 71A) to be issued is to be exhibited to the affidavit. Please refer to Rule 71.01.70 for outline of affidavit content requirements.

This application does not need to be served on the Judgment Debtor or the Garnishee.

If leave is granted to issue, the Garnishee Summons Form 71A in triplicate and the fee must be filed with the Registry within 30 days of the making of the order. The Registry will then issue the summons allocating a date at least 14 days from the date of issue.

The Garnishee Summons and all supporting affidavits must be served on the Judgment Debtor and Garnishee at least 7 days prior to the hearing date. This application can not be served on a Garnishee outside Victoria.

**IN THE COUNTY COURT
OF VICTORIA
AT MELBOURNE**

Form 71A

NO: CI-___ - _____

B E T W E E N

RULE 71.06(2)

Between

A.B. Judgment creditor

and

C.D. Judgment debtor

and

X.Y. Garnishee

G A R N I S H E E S U M M O N S

Date of document:

Filed on behalf of:

Prepared by:

Solicitors Code:

DX

Tel. No.:

Fax. no:

Ref.:

To [*name of garnishee*]

of [*address*].

You are summoned to attend before the Court on the hearing of an application by the judgment creditor for an order that you, the garnishee, pay to the judgment creditor the debt due from you to the judgment debtor [*or the debt which will become due from you to the judgment debtor on 20*] [*or pay to the judgment creditor in such amount or amounts and at such time or times as the Court may direct the debt accruing from you to the judgment debtor*] [*or the debt which will accrue from you to the judgment debtor on 20*] or so much thereof as may be sufficient to satisfy a judgment recovered against the judgment debtor by the judgment creditor in the Court on [*e.g.*

20 June 20 [] for \$ [], interest accrued and accruing on the judgment and the costs of the judgment creditor of the garnishee proceedings. The sum required to satisfy the judgment, interest and costs is \$ [], being—

- (a) \$ [], the amount due and unpaid under the judgment;
- (b) \$ [], the amount of interest accrued and accruing;
- (c) \$ [], the costs of the garnishee proceedings.

The debt in respect of which this summons is filed and served is [*identify the debt in accordance with Rule 71.06(1)*].

This summons is filed and served by order of the Court made on [], 20 [].

The application will be heard on etc. [*continue as in Form 46A*]. [*insert the following at end of summons*].

TAKE NOTICE [*where the debt is due or accruing*] that upon service of this summons the debt shall be bound in your hands to the extent of the whole amount of the debt, namely, \$ [] [*or to the extent of \$ []*] to answer the sum of \$ [] required to satisfy the judgment, interest and costs.

[*or where the debt is not yet due or accruing*]

TAKE NOTICE in the event that the debt becomes due or accrues before the day for hearing named in the summons upon its becoming due or accruing the debt shall be bound in your hands to the extent of the whole amount of the debt, namely, \$ [] [*or to the extent of \$ []*] to answer the sum of \$ [] required to satisfy the judgment, interest and costs.