

FORM 5B

Rule 5.02(2)

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
[DIVISION]
[LIST]

No.

B E T W E E N

Plaintiff

-and-

Defendant

ORIGINATING MOTION BETWEEN PARTIES

Date of Document:

Solicitors Code:

Filed on behalf of:

DX:

Prepared by:

Telephone:

Ref:

Email:

TO THE DEFENDANT

TAKE NOTICE that this proceeding by originating motion has been brought against you by the plaintiff for the relief or remedy set out below.

IF YOU INTEND TO DEFEND the proceeding, **YOU MUST GIVE NOTICE** of your intention by filing an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

- (a) filing a "Notice of Appearance" in the Prothonotary's office, 436 Lonsdale Street, Melbourne, or, where the originating motion has been filed in the office of a Deputy Prothonotary, in the office of that Deputy Prothonotary; and
- (b) on the day you file the Notice, serving a copy, sealed by the Court, at the plaintiff's address for service, which is set out at the end of this originating motion.

IF YOU FAIL to file an appearance within the proper time, the plaintiff may **OBTAIN JUDGMENT AGAINST YOU** without further notice.

IF YOU FILE an appearance within the proper time, the plaintiff cannot obtain judgment against you except by application to the Court after notice to you by summons.

***THE PROPER TIME TO FILE AN APPEARANCE** is as follows—

- (a) where you are served with the originating motion in Victoria, within 10 days after service;
- (b) where you are served with the originating motion out of Victoria and in another part of Australia, within 21 days after service;
- (c) where you are served with the originating motion in Papua New Guinea, within 28 days after service;
- (d) where you are served with the originating motion in New Zealand under Part 2 of the Trans-Tasman Proceedings Act 2010 of the Commonwealth, within 30 working days (within the meaning of that Act) after service or, if a shorter or longer period has been fixed by the Court under section 13(1)(b) of that Act, the period so fixed;
- (e) in any other case, within 42 days after service of the originating motion.

FILED *[insert date]*

Prothonotary

THIS ORIGINATING MOTION is to be served within one year from the date it is filed or within such further period as the Court orders.

RELIEF OR REMEDY SOUGHT

[Specify the relief or remedy sought and the Act, if any, under which the claim is made, and, where it includes the answer to any question, state the question.]

1. Place of trial—

(If no place of trial is specified, trial will be in Melbourne.)

2. This originating motion was filed—

(a) by the plaintiff in person;

(b) for the plaintiff by *[name or firm of solicitor]*, solicitor, of *[business address of solicitor]*;

(c) for the plaintiff by *[name or firm of solicitor]*, solicitor, of *[business address of solicitor]* as agent for *[name or firm of principal solicitor]*, solicitor, of *[business address of principal]*.

3. The address of the plaintiff is—

4. The address for service of the plaintiff is—

[Where the plaintiff sues by a solicitor, the address for service is the business address of the solicitor or, where the solicitor acts by an agent, the business address of the agent. Where the plaintiff sues without a solicitor, the address for service is stated in 3, but, where that address is outside Victoria, the plaintiff must state an address for service within Victoria.]

5. The email address for service of the plaintiff is—

6. The address of the defendant is—