

FORM 5B

Rule 5.02(2)

IN THE SUPREME COURT OF VICTORIA
[INSERT DIVISION]
[INSERT LIST]

S ECI

BETWEEN

Plaintiff

and

Defendant

ORIGINATING MOTION BETWEEN PARTIES

Date of Document:

Solicitors Code:

Filed on behalf of:

Telephone:

Prepared by:

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" with the Prothonotary by submitting the Notice of Appearance for filing electronically. See www.supremecourt.vic.gov.au; 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 Australia, within 10 days after service;
- (b) subject to paragraph (c), where you are served with the originating motion out of Australia, within 42 days after service;
- (c) 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.

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 personally;

(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 4.]

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

6. The address of the defendant is—

* [*Strike out this paragraph where order made fixing time for appearance and substitute "THE PROPER TIME TO FILE AN APPEARANCE is within days after service on you of this writ."*]

** [*Complete or strike out as appropriate.*]