

DEFENCE

COURT DETAILS

Court Write 'Local Court'

#Division Write 'Small Claims Division'

#List Delete or leave blank

Registry Write court where statement of claim was filed

Case number Write case number from statement of claim

TITLE OF PROCEEDINGS This section should be completed with the same details as in the 'TITLE OF PROCEEDINGS' section of the statement of claim form.

[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

Filed for **[name]** [role of party eg defendant] Write your name,
'defendant'

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

Contact name and telephone [name] [telephone] Write your name and telephone number

Contact email [email] Write your email address

HEARING DETAILS

If the proceedings do not already have a listing date, they are to be listed at [time, date and place to be inserted by the registry] Leave blank – to be completed by court

PLEADINGS AND PARTICULARS

- 1 For an explanation of some of the pleadings and particulars that may be used in a car accident claim, see [Example pleadings and particulars used in car accident claims](#).
- 2 You should refer to yourself as the defendant and the other party as the plaintiff.
- 3 Each numbered paragraph should deal with the same numbered paragraph of the plaintiff's statement of claim. If you agree with what is said in the paragraph you can write 'The defendant admits the allegation in paragraph x of the statement of claim' or write 'Admitted'.
- 4 If you do not agree with what is said in the paragraph you can write 'The defendant denies the allegation in paragraph x of the statement of claim', or 'Denied', and then give brief details of what you believe the facts to be.
- 5 If you don't have knowledge of what is said in the paragraph, you can write 'The defendant does not admit the allegation in paragraph x of the statement of claim', or 'Not admitted'.
- 6 In your defence, you must explain that you are defending the claim because of:
 - Liability: You can say that the accident was not your fault, and why.
 - Contributory negligence: You can say that the accident was fully or partly caused by the plaintiff, and provide the particulars (details) why they were negligent.
 - Quantum: You can say that the amount being claimed by the other party is excessive and/or not fair and reasonable.
 - Both liability/contributory negligence and quantum.

If you don't explain in your defence why you are defending the claim, you may not be allowed to tell the court at a later stage.

You should make sure you give proper particulars of your defence and/or your claim of contributory negligence. If you don't, the plaintiff can ask for 'further and better particulars', which will mean that the case might be delayed. If this happens, you may have to pay the legal costs of the plaintiff. If your Pre-Trial Review date is 'adjourned' (put off to another date) because you have not given proper particulars, you might be ordered to pay some of the legal costs of the plaintiff.

SIGNATURE

Signature

Sign in this space once you have completed the form

Capacity

[eg authorised officer, role of party] Write 'Defendant' or your capacity if signing on behalf of a company or organisation eg. 'Director of Defendant' or 'Authorised Officer of Defendant'

Date of signature

Write the date you signed the form

[on separate page]

[Do not include the affidavit verifying in Local Court proceedings. See Guide to preparing documents for other circumstances where affidavit not required.]

#AFFIDAVIT VERIFYING Delete or leave blank – not required in Local Court matters

Name

Address

Occupation

Date

I [#say on oath #affirm]:

- 1 #I am the [first] defendant.
#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 I believe that the allegations of fact contained in the defence are true.
- 3 I believe that the allegations of fact that are denied in the defence are untrue.
- 4 After reasonable inquiry, I do not know whether or not the allegations of fact that are not admitted in the defence are true.

#SWORN #AFFIRMED at

Signature of deponent

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:

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

Signature of witness

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

[* 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.]

[on separate page]

[Do not include this section if you have previously given this information to the court in these proceedings.]

#FURTHER DETAILS ABOUT FILING PARTY

Filing party

Name [Write your name](#)

Address [#\[unit/level number\] #\[building name\]](#)
[\[street number\] \[street name\] \[street type\]](#)
[\[suburb/city\] \[state/territory\] \[postcode\]](#)
[#\[country \(if not Australia\)\]](#)

[The filing party must give the party's address.]

#Frequent user identifier [\[include if the filing party is a registered frequent user\] Leave blank or delete](#)

Contact details for filing party acting in person or by authorised officer

#Name of authorised officer [Write your name](#)

#Capacity to act for filing party [If the defendant is a company, write your capacity, eg. Director, otherwise leave blank](#)

Address for service [#as above Write 'as above' or complete the details](#)
[#\[unit/level number\] #\[building name\]](#)
[\[street number\] \[street name\] \[street type\]](#)
[\[suburb/city\] \[state/territory\] \[postcode\]](#)

[The filing party must give an address for service. This must be an address in NSW unless the exceptions listed in UCPR 4.5(3) apply. State "as above" if the filing party's address for service is the same as the filing party's address stated above.]

Telephone [Write your contact number](#)

#Fax [Write your fax number](#)

Email [Write your e-mail address](#)