



REPUBLIC OF SOUTH AFRICA

No. 2A –

**1: Summons: Provisional Sentence**

Case No: ..... Date: .....

Issued by: .....

Registrar/Clerk of the Court

Sued out by: .....

.....

.....

(Name and address of plaintiff or plaintiff's attorney)

Postal address .....

.....

.....

(Postal address of plaintiff or plaintiff's attorney)

.....

Plaintiff/Plaintiff's attorney

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

HELD AT .....

between

..... Plaintiff

and

..... Defendant

To .....

.....

.....

(1) You are hereby summoned to pay to the plaintiff herein immediately after service of this summons an amount of ..... together with interest thereon at the rate of .....% per annum as from .....

Plaintiff's claim against defendant for payment of the above-mentioned amount is for: (set out the cause of action)

.....  
.....

and a copy of which document is annexed hereto;

(2) By failing such payment, you are hereby called upon to appear before this court personally or by a practitioner at ..... (place and court if necessary) on the ..... day of ..... 20..... at ..... (time) in the forenoon (or as soon thereafter as the matter can be heard) to admit or deny your liability for the said claim and to state why the mortgaged property should not be declared executable;

(3) If you deny liability for the claim, you shall not later than the ..... day of ..... 20....., file an affidavit with the registrar or clerk of this court, and serve a copy thereof on the plaintiff or [his] plaintiff's attorney at the address indicated for service on the summons, which affidavit shall set forth the grounds of your defence to the said claim, and in particular state whether you admit or deny your or your agent's signature which appears on the said ..... and if it is your agent's signature whether you admit or deny the signature or authority of your agent.

You are further informed that in the event of your not paying the amount and interest above-mentioned to the plaintiff immediately and if you further fail to file an affidavit as aforesaid, and to appear before this court at the time above stated, provisional sentence may be granted against you with costs, but that against payment of the said amount, interest and costs, you will be entitled to demand security for the restitution thereof if the said sentence should thereafter be reversed.

Costs, if the action is undefended, will be as follows:

Attorney's charges

(i) Issue of summons

(Item 2 of Part II of Table A) R ..... C.....

(ii) Attending court

(Item 7 of Part II of Table A) R ..... C.....

(iii) Judgment fees

(Item 3 of Part II of Table A) R ..... C.....

Court fees R ..... C.....

Sheriff's fees	R .....	C.....
Sheriff's fees on re-issue of summons	R .....	C.....
Total	R .....	C.....

And take notice that-

(a) if you pay the said claim and costs immediately judgment will not be given against you herein and you will save judgment charges;

(b) if you admit the claim and wish to consent to judgment, you may file with the registrar or clerk of the court an admission of liability signed by yourself and witnessed by your attorney, or otherwise verified by affidavit, and if you wish to undertake to pay the claim in instalments or otherwise, you 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 (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 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]

(iv) 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 registrar or clerk 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 to imprisonment for a period not exceeding three months. [Section 109 of the Act.]

**2: Admission of liability**

Kindly take notice that the defendant is liable to the plaintiff as claimed in this summons.

Dated at ..... this ..... day of ....., 20.....,

.....

Defendant

(Must be witnessed by defendant's attorney or otherwise verified by affidavit)

**3: Notice of intention to defend\***

To: THE REGISTRAR/CLERK OF THE COURT

Kindly take notice that the defendant denies liability and that defendant's affidavit setting forth the grounds upon which defendant disputes liability is attached hereto.

Dated at ..... this ..... day of ....., 20.....,

.....

Defendant/Defendant's attorney

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.....

(Address where service of process and documents shall be accepted)

.....

.....

.....

(Postal address)

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