

**MAGISTRATES COURT OF WESTERN AUSTRALIA  
CIVIL JURISDICTION  
FACT SHEET 20**

**SUMMARY JUDGMENT**

This fact sheet sets out information for the claimant and defendant.

**What is Summary Judgment?**

If a party can show that the other party has no reasonable prospect of succeeding, they can apply to the Court to give judgment in their favour without having to go through the formal trial process.

**Summary judgment for the claimant**

The Court may give judgment without a trial if the party defending the claim does not satisfy the Court that the defence has a reasonable prospect of succeeding.

**Summary judgment for the defendant**

If the claimant has not satisfied the Court that the claim has a reasonable prospect of succeeding, the Court may give judgment without a trial.

**Lodging an application for summary judgment**

Complete and file **Form 23** and pay the prescribed fee.

An original and two copies of an application for summary judgment must be lodged at the court registry where the claim was commenced.

An application must be supported by an affidavit.

The court registry will fix a date, time and place for hearing the application.

**Affidavit supporting the application by the claimant**

Must confirm the facts upon which the application is based and state that the claimant believes the defendant's defence has no reasonable prospect of succeeding.

**Affidavit supporting the application by the defendant**

Must state that the defendant believes the claim has no reasonable prospect of succeeding.

**Serving a Court Document**

The court can arrange service of your application and supporting affidavit by a bailiff. Bailiffs are officers of the Court who are located throughout the state. You must prepay the service fee.

Alternatively you can make arrangements to serve the summary judgment application and supporting affidavit yourself. The application and supporting affidavit must be served at least 10 days before the hearing of the application.

**See Fact Sheet  
No 8 Serving a court document**

## **Proof of service**

If you have requested the court to arrange for a bailiff to serve the summary judgment application and supporting affidavit, the bailiff will complete a *certificate of service* and send it to you.

If you serve the application and supporting affidavit yourself, you will need to complete an *affidavit of service*. This proves that the summary judgment application and supporting affidavit was served.

## **Response to Summary Judgment Application**

A party who has been served with an application and supporting affidavit must at least 3 working days before the hearing of the application lodge and serve a response to the application stating whether they consent or object to each order sought. **Form 24 Response to Application and Form 2 Affidavit**

Unless you consent to every order sought in the application, an affidavit supporting the response and any related application by the party must be lodged.

## **Who must attend?**

Unless the Court orders otherwise, all parties must attend in person or with their lawyer.

## **Hearing your application for summary judgment**

In order to determine whether a claim or a defence has a reasonable prospect of succeeding, the Court may determine any necessary question of fact or law.

The Court may:

- a) dismiss the application;
- b) give such judgment as the nature of the case requires;
- c) where the application is made by the claimant, give the defendant leave to defend the claim or the part of the claim; or
- d) where the nature of the case permits, dispose of the proceedings finally in a summary manner.

## What happens next?

If the claimant is successful with their application for summary judgment, they may then proceed to enforce the judgment.

**See Fact Sheet:  
No 23 Enforcing a Judgment**

If the defendant's application has been granted then the case will then follow the normal process defended claims.

This is a guide only. The content is subject to change. If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.