

Sample notice of motion (Form 46)

This is an example of a completed notice of motion. It is important to complete this form using your own details and based on your own circumstances. If you need more help, get legal advice.

Form 46 (version 4)
UCPR 37.2

NOTICE OF MOTION TO PAY BY INSTALMENTS - INDIVIDUAL

COURT DETAILS

| | |
|-------------|---------------------------|
| Court | Local Court of NSW |
| Division | Small Claims |
| List | N/A |
| Registry | Bankstown |
| Case number | [Cross-claim case number] |

TITLE OF PROCEEDINGS

| | |
|-----------------|--------------------|
| Cross-claimant | Samira Khan |
| Cross-defendant | John Hughes |

FILING DETAILS

| | |
|----------------------------|---|
| Person seeking orders | John Hughes, cross-defendant (judgment debtor) |
| Contact name and telephone | John Hughes, 0457 623 543 |
| Contact email | j.hughes@gmail.com |

PERSON AFFECTED BY ORDERS SOUGHT

Samira Khan, cross-claimant (judgment creditor)

HEARING DETAILS

This motion is to be dealt with in the absence of the parties.

COURT USE ONLY

Application granted/refused
If refused, state reason
Signature of registrar
Date

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ORDERS SOUGHT

The judgment debt be paid by the Judgment Debtor to the Judgment Creditor, by instalments on the following terms:

| | |
|---------------|-----------------|
| Amount | \$500 |
| Frequency | fortnightly |
| First payment | 2 November 2021 |

SIGNATURE

Signature of or on behalf of party if not legally represented

John Hughes

Capacity Cross-Defendant (Judgment Debtor)

Date of signature 18 October 2021

AFFIDAVIT

| | |
|------------|---|
| Name | John Hughes |
| Address | Unit 10, 21 Blaire Street HORNSBY NSW 2077 |
| Occupation | Shop assistant |
| Date | 18 October 2021 |

I affirm:

1. I am the Cross-Defendant (Judgment Debtor).
2. I believe that the information about my present income, assets and liabilities contained in the financial statement that is annexed to this affidavit is true.

| | |
|-----------------------|-----------------------------------|
| AFFIRMED at | Hornsby |
| Signature of deponent | <u>J Hughes</u> |
| Name of witness | Jasmine Petal Smith |
| Address of witness | 113 Tree Street, HORNSBY NSW 2077 |
| Capacity of witness | Justice of the Peace |

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.

2 I have confirmed the deponent's identity using the following identification document:

Driver's Licence

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

| | |
|----------------------|-----------------|
| Signature of witness | <u>JP Smith</u> |
|----------------------|-----------------|

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.]

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Note 1: The making of a false statement or the giving of false information in an affidavit is perjury and is an offence punishable by law under the *Oaths Act 1900* (NSW).

Note 2: The witness must also sign the annexure certificate endorsed on the financial statement.

Financial Statement

INCOME (weekly unless otherwise stated)

| | | |
|--|-----------|------------|
| Your average weekly income after tax from salary or wages | \$ | 750 |
| Social security benefits/pensions (include family payments etc) | \$ | NIL |
| All other income (e.g. self-employed income, interest, dividends, rent or trust distributions) | \$ | NIL |
| TOTAL | \$ | 750 |

PROPERTY OWNED BY YOU

| | |
|---|-----------------|
| Home | \$NIL |
| Other property | \$NIL |
| Funds in banks/financial institutions, including funds held in off-set accounts | \$600 |
| Investments | \$NIL |
| Motor vehicle | \$7000 |
| Household contents | \$3500 |
| Other personal property | \$1000 |
| TOTAL VALUE OF PROPERTY OWNED BY YOU | \$12,100 |

LIABILITIES

Estimated weekly basic living expenses (eg food, household supplies, utilities, rent, weekly payments on liabilities listed below) \$ 500

| OTHER LIABILITIES | NAME OF BANK/INSTITUTION | TOTAL AMOUNT OWED |
|-----------------------------|--------------------------|-------------------|
| Home mortgage | N/A | \$NIL |
| Other loans | N/A | \$NIL |
| Credit cards | NAB Credit Card | \$3000 |
| Other liabilities (specify) | N/A | \$NIL |
| TOTAL | | \$3000 |

Does anyone contribute to paying these liabilities (eg your spouse/partner)? Yes/No

If yes, give the person's details:

| | |
|---------------------------------|-----|
| Name of person | N/A |
| Amount of contribution per week | N/A |

Do you have any dependants? Yes/No

If yes, give details: N/A

This is the annexure referred to in the affidavit of John Hughes, affirmed before me on 18 October 2021.

JP SMITH

Signature of witness

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JUDGMENT DEBTOR'S DETAILS

| | |
|-----------|---|
| Name | John Hughes |
| Address | Unit 10, 21 Blaire Street HORNSBY NSW 2077 |
| Telephone | 0457 623 543 |
| Email | j.hughes@gmail.com |