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# Unanswered summons? Here is your next step



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A default judgment is the next step when a party against whom action is brought has failed to defend the claim. It is, therefore, reasonable to assume that the party is not disputing the claim sought. The default judgment process is governed by Rule 12 of the [Magistrates Court Rules](#).

There are four scenarios whereby default judgment may be entered into:

1. The Defendant has not served and filed a notice of intention to defend;
2. The Defendant failed to serve and file a notice of intention to defend timeously;
3. The Defendant has failed to file a plea; or
4. The Defendant entered a defective notice of intention to defend.

## The procedure

The Plaintiff will request in writing an application for default judgment. This request must be in duplicate. Additionally, the original summons, along with the sheriff's return of service and documents on which the cause of action is based, must accompany the request. It is important to remember that the Plaintiff may only claim the amount not exceeding the amount claimed in the summons, plus costs and interest as claimed in the summons. Additionally, where there are several Defendants, the Plaintiff should request default judgment against the Defendants jointly and severally.

Suppose the Defendant delivered a notice of intention to defend but did not deliver a plea; in that case, the Plaintiff may proceed to serve a notice of bar. The notice of bar will request the Defendant to provide a plea within five days thereof, failing which, the Defendant will be barred ipso facto from filing a plea and may be entered into judgment.

Where the claim is for an unliquidated amount or damages, the Plaintiff shall furnish the court with evidence either verbally or by affidavit, whereupon the court shall assess the amount recoverable. All claims for damages require an affidavit of an independent expert. Where the claim is on a liquid document or agreement, the Plaintiff must file the original of such document or an affidavit setting out reasons why the original is not filed.



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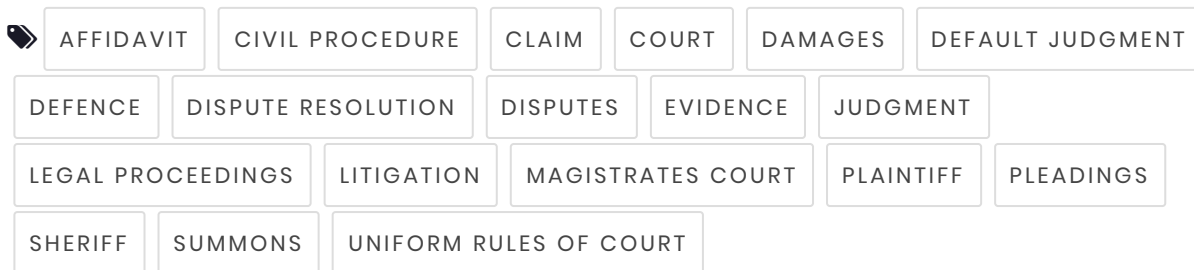
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### [Robyn Shepherd](#)

Robyn Shepherd obtained her LLB degree from the University of the Western Cape in 2016. She joined SchoemanLaw Inc as a Professional Assistant in February 2022 and was admitted to... [Read more about Robyn Shepherd](#)

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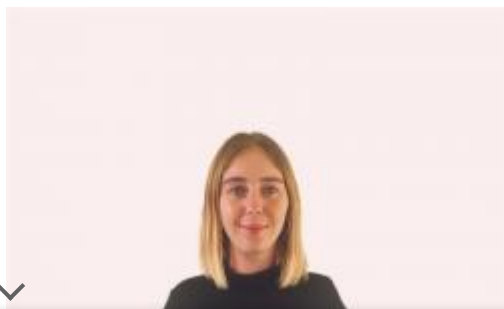
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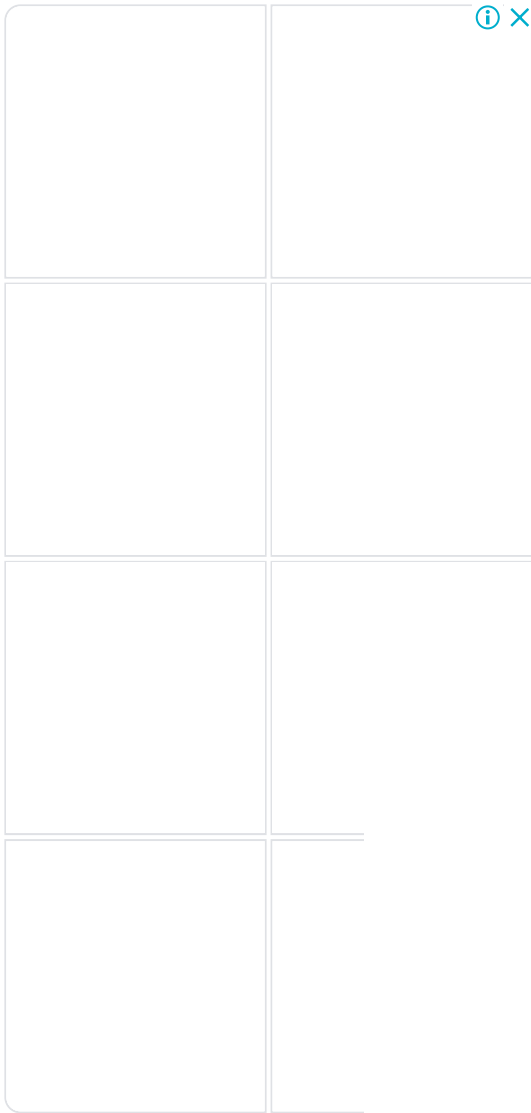
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