

GUIDELINE FOR LITIGANT IN PERSON

Checklist before filing a summon in Magistrate court:

1. Cause of action.

Party who wishes to initiate claim should identify the cause of action and the reason of filing-in the summon:

- a) Breach of agreement or contract.
- b) When was the cause of action started. According to Limitation Act Chapter 14, Section 9 and Section 10, the limitation time to file in summon is not more than 6 years. For personal injury, claim should not be more than \$50,000 and not more than 3 years after the incident.
- c) Cause of action arose in Brunei Darussalam. (Subordinate Court Act, Chapter 6, Section 17 (a)).
- d) Types of claim (Monetary / Damages / Specific Performance—Order from Court to finish the work).

2. Total of claim.

The total claim must not exceed BND\$50,000. According to Section 17 of Subordinate Court Act Chapter 6.

3. Claim must not about land or trust.

4. Once summon is filed in, court will provide a mention date.

5. Summon will be served by a Court Process Server. Once summon is served, the Plaintiff is to file an Affidavit of Service. Meanwhile if the summon is not served, an Affidavit of Attempted Service will be filed.

6. On the day of mention, two things can happen:

i) No appearance

If defendant does not appear in court and summon was served, Judgment in Default of appearance with cost of \$400 will be entered against the defendant.

ii) Appearance by Defendant

If Defendant appears in court:

- a) If defendant admits to the claim, Consent Judgment with cost \$400.00 will be entered against the Defendant.
- b) If defendant disputes claim, defendant to file in a *defence* in two weeks.
 - If there is no *defence* filed in 2 weeks, Judgment in Default of *defence* will be entered against the Defendant (with costs \$400 and upon application).
 - If *defence* is filed, trial Magistrate will fix a case management hearing. At the hearing, the Magistrate will set trial dates or discuss the possibilities of parties going for Mediation.
- c) If parties go for Mediation;
 - If Mediation succeeded, Consent Order will be entered and case settled.
 - If Mediation is unsuccessful, parties will proceed with Pre-Trial Conference (PTC) and followed by Trial.