Template 7: Blank Form 46 Affidavit of Service of Enforcement Hearing Summons

**MAGISTRATES COURT OF QUEENSLAND**

|  |  |
| --- | --- |
| REGISTRY: [INSERT] |  |
| NUMBER: [INSERT] |  |

|  |  |
| --- | --- |
| Applicant/Enforcement Creditor: | [Insert your name] |
|  | AND |
| Respondent/Enforcement Debtor: | [Insert Debtor’s name] |

**AFFIDAVIT**

[Deponent’s name] of [Deponent’s address], [Deponent’s profession] states on oath [or: solemnly and sincerely affirms and declares]:

1. [*Set out the body of the affidavit in numbered paragraphs*]

***[If the Affidavit extends over more than one page, at the foot of the first and every other page except the last:]***

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| --- | --- |
| …………………………………………..Deponent  | …………………………………………..Witness |

***[At the end of the body of the Affidavit:]***

***[If this Affidavit is being sworn in accordance with the Oaths Act 1867 requirements before a special witness (either remotely and/or using electronic signature/s) DO NOT USE the contents below. INSTEAD use Form 001A Special Witness Jurat for Uniform Civil Procedure Rules 1999 forms.]***

|  |
| --- |
| **The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.****I understand that a person who provides a false matter in an affidavit commits an offence.** |

|  |  |
| --- | --- |
| AFFIDAVIT | Name: |
| Filed on Behalf of the Applicant/Enforcement Creditor | Address: |
| Form 46, Version 2, approved on 25 August 2022 |  |
| Uniform Civil Procedure Rules 1999 | Phone No:  |
| Rule 431 | Fax No:  |
|  | Email: |

|  |  |  |
| --- | --- | --- |
| **SWORN / AFFIRMED** by …………………………………….[insert full name of deponent] at……………………………….[insert place where deponent is located]  | )))))))) | ……………………………………. [signature of deponent] …………………………………….[date] |
| **BEFORE ME:**…………………………………….[insert full name of witness] …………………………………….[insert type of witness]1…………………………………….[insert witness’s place of employment]\*2\**delete if not applicable* | )))))))))))) | …………………………………. [signature of witness] ………………………………….[date] |

[who certifies that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit. (*If required: see R. 433(1)].*

[who certifies that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit, but was physically incapable of signing it. *(If required: see R.433(2)].*

*1 Insert the witness’s capacity that makes them eligible to witness the affidavit under s16A Oaths Act 1867. For example, lawyer, justice of the peace, commissioner for declarations*

*2 For example, the name of the law practice for the lawyer, the name of the government department of the government legal officer, the name of the law practice for a justice of the peace who witnesses documents for a law practice, etc*

Example 7: Form 46 Affidavit of Service of Enforcement Hearing Summons

**MAGISTRATES COURT OF QUEENSLAND**

|  |  |
| --- | --- |
| REGISTRY: Brisbane |  |
| NUMBER: M100/22 |  |
| Applicant/Enforcement Creditor: | **JOHN SMITH** |
|  | AND |
| Respondent/Enforcement Debtor: | **SAM JONES**  |

**AFFIDAVIT**

John Smith of 1 Brisbane Road, Brisbane QLD 4000, Labourer, states on oath:

1. I am the Applicant and Enforcement Creditor in this matter.
2. On 9 April 2022 at 7:15pm, I attended 1 Sunshine Road, Brisbane, which to the best of my knowledge is the Enforcement Debtor’s residential address.
3. I knocked on the door and a man who I know to be Sam Jones, the Enforcement Debtor, opened the door.
4. I said “Sam Jones?”, and he answered “Yes, what do you want, John?”
5. I handed the Enforcement Debtor a copy of the Enforcement Hearing Summons filed in these proceedings and a blank Form 71, and he took the documents in his hand. **Exhibit JS1** to this affidavit is a copy of the documents I handed to the Enforcement Debtor
6. The Enforcement Debtor asked me “What’s this?” to which I responded, “I’m serving you with a summons because you haven’t paid what you owe me. You have to come to court for an enforcement hearing. The details are in those papers.”

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| *John Smith*…………………………………………..Deponent: John Smith  | *Sally Sun*…………………………………………..Witness: Sally Sun |

|  |  |
| --- | --- |
| AFFIDAVIT | John Smith |
| Filed on Behalf of the Applicant/Enforcement CreditorForm 46, Version 2 – approved on 25 August 2022 | 1 Brisbane RoadBrisbane 4000 QLD |
| Uniform Civil Procedure Rules 1999 | (07) 3232 0202  |
| Rule 431 | Johnsmith@gmail |

1. I then left the property.

|  |
| --- |
| **The contents of this affidavit are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge.****I understand that a person who provides a false matter in an affidavit commits an offence.** |

|  |  |  |
| --- | --- | --- |
| **SWORN** by John Smith…………………………………….[insert full name of deponent] At Brisbane[insert place where deponent is located]  | )))))))) | *John Smith*……………………………………. [signature of deponent] 10 April 2022…………………………………….[date] |
| **BEFORE ME:**Sally Sun…………………………………….[insert full name of witness] Justice of Peace[insert type of witness]1 | ))))))))))) | *Sally Sun*…………………………………. [signature of witness] 10 April 2022………………………………….[date] |