

**WESTERN AUSTRALIA**  
*Civil Judgements Enforcement Act 2004,*  
**Part 3 Division 1**

**FORM 7 – APPLICATION**

**District COURT**

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**LOCATION: Bunbury**

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**Court ref number: Appeal 1 of 2017**

<b>Judgement creditor</b>	<b>Name: District court</b>
<b>Judgement debtor or obligated person</b>	<b>Name: Andrew Laughton</b>

To: The Registrar

The judgement debtor makes an application for the following:

*Tick [✓] appropriate box*

[ ] Order

[✓] Cancellation or amendment of an order

[✓] Hearing

[ ] Directions

**NATURE OF ORDER/CANCELLATION/DIRECTIONS SOUGHT**

Referring to Document dated 22 May 2018, from the District court, registrar Melville. I seek to have the court acknowledge the money already paid to the court, and / or To have the court authorise money already paid to the court to be moved to where it will be acknowledged by the court, and / or To extend the deadline to at least the end of August to give me a chance to pay it again, and / or to suspend all payments to the court apart from the \$13,000 deposit. The \$13,000 deposit to be paid by both parties, not only the party that can least afford it. That a hearing date be set.

**AN AFFIDAVIT SUPPORTING THE APPLICATION IS ATTACHED *Please tick [✓]***

Date: 25-05-2018

Signature of applicant/lawyer .....

**NOTICE OF HEARING**

This application will be heard at \_\_\_\_\_ Court held at \_\_\_\_\_

on \_\_\_\_\_ day the \_\_\_\_\_ day of \_\_\_\_\_ 2018 at \_\_\_\_\_

To: \_\_\_\_\_ To: \_\_\_\_\_

Date: \_\_\_\_\_ Court Seal \_\_\_\_\_

1A. Affidavit (r. 23A)

<b>District Court of Western Australia</b>		<b>Appeal No / Action No: 1 of 2017</b>	
<b>Held at Bunbury<sup>1A</sup></b>		<b>AFFIDAVIT<sup>1</sup></b>	
<b>Parties</b>	<b>Andrew Laughton</b> <span style="float: right;"><b>*Appellant/Plaintiff</b></span>  <b>Sharyl Marsh and James Marsh</b> <span style="float: right;"><b>*Respondent/Defendant</b></span>  *delete inapplicable and/or add full party details		
<b>Person making affidavit</b>	<b>Andrew Laughton</b>		
<b>Date of filing</b>			
<b>Date made</b>	<b>25 May 2018</b>		
<b>Purpose<sup>2</sup></b>	Affidavit on security of costs application.		
<b>Filed by</b>	<b>Andrew Laughton. Claimant.</b>		
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	1. <i>Affidavit of Andrew Laughton</i>	1	

I, Andrew Laughton, of 98 Proper bay road, Port Lincoln, Electrician, [affirm in accordance with the Oaths, Affidavits and Statutory Declarations Act 2005] as follows —

1. This Affidavit is in support of my application to cancel or amend an order made by the District court dated 22 May 2018.
2. Regarding the Registrars decision on the appeal against appeal 1 of 2017.
  - 2.1. There are a number of items that the Registrar appears to be misinformed on, and I have attempted to correct those assumptions in an Affidavit to the District Court dated 9 November 2017, and that should be read in conjunction with this affidavit.



*A. Marsh* JP  
25/5/2018

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3. Regarding point 4, paragraph 55 of Registrar Melvill's decision. "Will an order shut the appellant out of the appeal ? " This is an update to my 9 Nov 2017 affidavit, point 5.

3.1. At the time of the hearing I was under the assumption that the District court held priority over the Magistrates court, and that any payment of defence costs to the Magistrates court would be put on hold until such time as the District court made a decision. My lawyer made the same assumption.

a) That assumption has since been proved wrong by the Magistrates court, and it has cost me an additional \$1,000 in defence costs as well as the cost of my own lawyer to find this out.

b) I now need to pay the Bailiff over \$24,000, and rising at 6% for the total amount, and risk having my house foreclosed on by the Bailiffs office if I do not pay this back fast enough.

3.2. As I stated in court, I am definitely unable to pay this \$24,000, and I am also unable to pay the \$24,000 in addition to this new amount of \$13,000.

a) There is also the cost of the defence against the failed effort to delay the \$24,000 original defence costs until after the appeal.

3.3. I managed to borrow an additional \$10,000 and paid it to the court as per the Bailiff office instructions on 30 August 2017, and made other payments on the following dates;

a)

27 Nov 17	\$2,300.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
24 Nov 17	\$100.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
17 Nov 17	\$100.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
10 Nov 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
03 Nov 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
27 Oct 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
20 Oct 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
13 Oct 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
06 Oct 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
29 Sep 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
22 Sep 17	\$50.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
20 Sep 17	\$100.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449
30 Aug 17	\$10,000.00	INTERNET BPAY Baycorp (WA) DOTAG 1805449

Total \$13,000.00

b) I have also made weekly payments since these dates.

3.4. I have already paid \$13,000 by what I thought was the 28 day deadline ( 27 November 2017 ) to the court.

3.5. Making these payments has limited my ability to consult with a lawyer, so I have been forced to write this without legal advice.



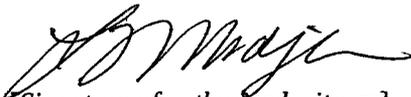
*J. M. Dyer JP.*  
25/5/2018.

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4. Regarding paragraph 47. There appears to be some confusion on my use of the word "possible" or "might be possible". When asked if I was able to pay security of costs to the court, I simply did not know if I was able to raise that money or not. Rather than say "yes" or "no", I stated that it might be possible.
  - a) This appears to have been misinterpreted as "Yes I can".
  - b) I was able to borrow an additional \$10,000, and that has already been paid to the court.
  - c) I am definitely unable to pay an additional \$13,000 to the court before 19 June 2018.
  - d) There is a chance that I may be able to pay this additional \$13,000 after I receive my 2018 tax return, but if I am forced to pay it again it will also stymie my appeal for an unknown length of time.
  
5. I was assured during the district court registrars hearing that any money that I needed to pay to the court would need to be matched by the defence. Ie, that they would also need to deposit \$13,000 with the court.
  - 5.1. This registrars decision does not reflect that assurance.
  - 5.2. For the sake of fairness, I believe that the party demanding this deposit should also be required to make the same deposit with the court.



[Signature of person making the affidavit]



[Signature of authorised witness]

Authorised witness

[Name of authorised witness]

[Qualification of authorised witness] <sup>5</sup>

JP 31525.

**Louise Fitzgerald Mrdjen**

J.P. 31525

A Justice of the Peace

for South Australia

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