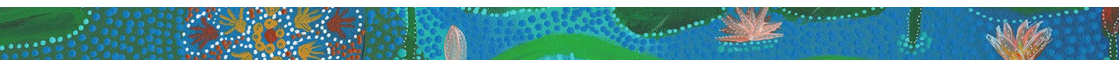




# Have you been in an accident?

A guide to help you work out who pays for the damage



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## Disclaimer

This guide is intended to provide you with information only. If you have a legal problem, you should get legal advice from a lawyer. Legal Aid Queensland believes the information provided is accurate as at November 2024 and does not accept responsibility for any errors or omissions.

We are committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds. If you would like this publication explained in your language, please telephone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland. This is a free service.



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# How can this guide help me?

This guide can help you if there has been an accident and:

- your vehicle or other property was damaged and you want to claim for the damage
- you were involved and a claim is being made against you.

## Is there a time limit?

Yes. You must make your claim within six years from the accident date. But it is usually easier to make a claim soon after the accident, while the evidence is fresh in the minds of your witnesses.

## What if someone was injured in the accident?

If someone was injured in the accident and wants to claim compensation for injuries, you should talk to a lawyer quickly and get legal advice. This guide does not provide information on this topic.

## Should I get legal advice?

Yes. This booklet contains general legal information, not legal advice. For legal advice about your problem, you need to talk to a lawyer. You can call Legal Aid Queensland on 1300 65 11 88 to get free legal information and advice.

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# My vehicle (or other property) was damaged in a car accident — what should I do?

## Step 1. Gather information about the accident

You'll need:

- the make, model, colour and registration details of the vehicles involved
- the full names and addresses of the owners and drivers of each vehicle involved (your claim is against the people responsible for the accident, usually the driver of the vehicle that caused the accident — if the driver is not the owner, get legal advice about whether to make a claim against the owner as well as the driver)
- details of any witnesses who saw the accident, including their full names, addresses and phone numbers
- photos of the accident scene taken before the vehicles are moved (if possible)
- photos of the damage to any vehicle involved
- a copy of the Traffic Accident Report (a report will only be available if police investigated the accident); to get this information you will have to fill out an application and pay a fee — contact CITEC Confirm on 1800 773 773 (toll free), or visit [www.confirm.com.au/products/police](http://www.confirm.com.au/products/police)

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## Step 2. Work out who caused the accident

Work out who is responsible for causing the accident. The person who caused the accident is liable to pay for the damage.

If you caused the accident, you or your insurance company should pay for the damage to your vehicle and the other person's vehicle. If the other driver caused the accident, they or their insurance company should pay.

If you think someone other than a driver or something else caused the accident (for example, a pedestrian or a dog running across the road), you should get legal advice about how to recover your costs. This guide only deals with accidents caused by one or both drivers.

### What are my options if the other driver caused the accident?

1. If you have comprehensive insurance you can make a claim on your policy to cover the cost of the damage. The insurance company will then handle all negotiations with the other driver.
2. You can make a claim against the other driver and negotiate with them to pay for the costs (see page 10).
3. If negotiations don't work you can take them to court (see page 16).

### What are my options if I caused the accident?

If you have comprehensive insurance or third-party property insurance, you should notify your insurance company immediately. The insurance company will handle all the negotiations with the other driver.

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## What if I don't have insurance?

1. If the other person asks you to pay and you believe their claim is fair and reasonable, you can go ahead and pay them.
2. If you do not believe their claim (for who caused the accident or the amount) is fair and reasonable, you can try to negotiate an agreement with them.
3. If negotiations don't work, you should get legal advice about how to defend a claim against you.
4. Always try negotiating rather than going to court.

## What if more than one driver caused the accident?

If both drivers were partly responsible for causing the accident, they should each pay for the portion of the damage they caused. For example, if there is an accident in which one driver fails to give way and the other driver is speeding, both drivers' actions have contributed to causing the accident and the damage.

'Contributory negligence' is the term used when more than one person causes an accident. Let's say driver Andrew Smith is 20 percent responsible and driver Anne Cremer is 80 percent responsible for causing the accident, and the cost of the damage to Andrew Smith's car is \$5000 and the cost of the damage to Anne Cremer's car is \$10,000.

The claims the drivers would have against each other are:

- Andrew Smith claims 80 percent of his damage from Anne Cremer (80 percent of \$5000) = \$4000
- Anne Cremer claims 20 percent of her damage from Andrew Smith (20 percent of \$10,000) = \$2000

Therefore, they would settle the claim by Anne Cremer paying Andrew Smith the net amount of \$2000 ( $\$4000 - \$2000 = \$2000$ ).

---

## How is the percentage of responsibility for the accident worked out?

The two drivers can try to work out the percentage of responsibility for the accident, or if the case goes to court, the court can decide it. In most situations, it is better for everyone involved in the accident to negotiate and reach an agreement about how to pay the damage bill without going to court.

To work out the percentage of responsibility, think about your driving and the other person's driving at the time of the accident, and ask yourself these questions:

- Would other reasonable drivers have done the same thing in the same situation?
- Did I and the other drivers give full attention to the road conditions and their driving?
- Did I and the other drivers break any road rules, like not stopping at a red light, speeding, drink driving or not giving way?

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# If someone claims against you

## What if I am responsible for the accident but can't pay for the repairs?

If the other driver's insurance company is asking you to pay for the repairs but you can't afford to, you may be able to negotiate a payment plan that suits your financial situation. The law says insurers have to give people options for paying repair costs after the accident if they are experiencing financial hardship.

### **Your options could include:**

- paying the amount owed over a longer period of time
- reducing the amount you have to pay each fortnight or month to an amount you can afford
- putting payments off for an agreed period of time until you are back on your feet financially
- agreeing on a reduced amount to be paid by a lump sum in full and final settlement of the insurer's claim.

A financial counsellor can help you plan a payment schedule. For more information about free financial counselling services, call the Financial Counsellor's Association of Queensland on 1800 007 007.

If the other driver does not have insurance, you can still try to negotiate to pay the amount over time.



---

# If you want to claim against the other driver

## Step 1. Send a letter indicating your intention to claim

It is a good idea to write a letter soon after the accident notifying the other driver of your intention to claim against them for the cost of the repairs. You should do this if it is going to take some time to get a repair quote. If the other driver has insurance they can pass the letter on to their insurance company.

## Step 2. Get a quote for repairs and work out your claim

Get a quote—there is no need to get a second quote unless the amount is disputed. Photocopy the quote and keep the original. If you paid for towing, photocopy your receipts and keep the originals. You do not have to use a repairer suggested by the other person.

### How do I work out the total amount of my claim?

The total amount of your claim should be the cost to repair your vehicle to the condition it was before the accident, plus any towing fees. If you were partly responsible for the accident (contributory negligence), you will claim the total less your percentage (see page 5).

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## What if my vehicle was written-off?

If your vehicle is written-off, it means the cost to repair it is more than the vehicle is worth at wholesale (dealer's) value. The total amount of your claim should be the wholesale value of your vehicle, plus any towing fees.

To calculate the value of your vehicle, find out its value before the accident and subtract the value of the vehicle as a wreck. For a small fee, Red Book ([www.redbook.com.au](http://www.redbook.com.au)) or Glass's Guide ([www.glasssguide.com.au](http://www.glasssguide.com.au)) will give you a certificate of the value of your vehicle before the accident. A car wrecker will be able to tell you the value of the vehicle as a wreck.

You should also contact a Department of Transport and Main Roads customer service centre and ask about cancelling the car registration and getting a refund.

## What if other property (not a vehicle) was damaged?

The total amount of your claim should be the cost to repair the property to the condition it was in before the accident. For example, if a driver lost control of their vehicle and damaged your brick fence, you need to get a quote showing how much it will cost to repair your fence to its condition before the accident.



*You can make a claim for damage to property such as a house or fence.*

---

## Step 3. Contact the people responsible for the accident and try to negotiate an agreement

The aim of contacting the people responsible for the accident is to give them the chance to pay for the damage or negotiate with you to reach an agreement without having to go to court. Going to court should be a last resort as it is time consuming and can be costly and stressful.

When you have all your information ready, you should send a letter of demand to the other driver, outlining your claim for damages and including copies of quotes and towing receipts (see sample letter on page 11). The letter should be typed or neatly hand written.

If you know the people responsible for the accident have insurance, you should also send a letter to their insurance company outlining your claim (see sample letter on page 12). The insurance company will reply to your letter and either accept or deny they should pay for the accident. The insurer will probably want one of their assessors to inspect your vehicle. They may also reply and say their client has not lodged a claim.

Keep copies of all letters, quotes and receipts.



*Get a quote for repairs to show they are fair and reasonable.*

## Sample letter of demand

21 October 2021

Mr George Getz  
9 Norman Road  
Redwood Qld 4350

Dear Mr Getz

### **Accident on 1 October 2018 at Redwood, Queensland**

I am the owner of a red 2014 Mazda 3 (registration ABC246) that was damaged in a collision involving your vehicle (registration XYZ890), at about 9.30am on 1 October 2021 at the intersection of Black and White Streets, Redwood.

At the time of the accident, I was driving my car on White Street towards the supermarket. Your car collided with mine when you sped up and ran a red light on Black Street, causing significant damage to my front bumper bar, left lights and indicator. After the accident you said you were entirely responsible for the accident. I have signed statements from two witnesses who agree you were at fault.

As a result, I am writing to you to organise the payment of repairs to my car. I have enclosed a photocopy of the quote for the cost of repairs. This covers the cost of a new bumper and repairs to the lights and indicators. I have also included copies of the receipts for towing my vehicle after the accident (\$200).

If you are insured, please send the details to your insurer and let me know when they will contact me. If you are not insured, please send me a cheque or money order for \$2700 within 14 days so I can repair the car. If you do not pay by this date I will look at my legal options to recover the cost of repairing my car.

My address is 200 Tenth Avenue, Redwood, 4350.

My contact number is (07) 3238 300.

Yours sincerely



Jane Wright

---

## Sample letter to other person's insurer

21 October 2021

200 Tenth Avenue  
Redwood Qld 4350

Redwood Insurance Company  
GPO Box 55443  
Redwood Qld 4350

Dear Sir or Madam

**Accident on 1 October 2018 at Redwood, Queensland**

I am the owner of a red 2014 Mazda 3 (registration ABC246) that was damaged in a collision with a green Ford Falcon (registration XYZ890) owned by Mr George Getz who is insured with Redwood Insurance.

The accident happened at about 9.30am on 1 October 2021 at the intersection of Black and White Streets, Redwood.

I have enclosed for your records a copy of the letter of demand I have sent to Mr Getz, along with the quote to repair the damage to my car and receipts for towing my vehicle after the accident.

If one of your assessors needs to inspect my car, I am happy to make it available. My contact phone number is (07) 3238 300.

I look forward to hearing from you and resolving this issue as quickly as possible.

Yours sincerely

*Jane Wright*  
Jane Wright

---

## Step 4. Reaching an agreement

### Tips for negotiating

- The other driver may contact you or you can contact them to negotiate.
- You can negotiate over the phone.
- Discuss who is responsible for the accident and see if you can agree on a percentage of responsibility (see pages 5 to 6). This can be used to work out an amount to be paid.

### Can anyone help me negotiate?

#### Australian Financial Complaints Authority

If you are having trouble reaching an agreement with another person's insurer, you may be able to use the Australian Financial Complaints Authority (AFCA).

Provided you are uninsured and the damage to your vehicle is less than \$15,000, the AFCA may be able to help you resolve your dispute by mediating between you and the insurer.

They can also give you information about how they deal with complaints like yours and will refer you to free financial counselling services.

Contact the AFCA on 1800 931 678 or [www.afca.org.au](http://www.afca.org.au)

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## The Department of Justice's Dispute Resolution Branch

If there is no insurance company involved, you could consider mediation.

The Department of Justice offers a mediation service. Mediation is a way of settling a dispute without taking legal action.

It lets you and the other driver meet together with two neutral mediators who will help you discuss the dispute. The mediators do not take sides, give advice or make decisions for you.

They help you to make your own decisions and work out an agreement that is acceptable and workable for both of you. Mediation can be arranged in around two weeks and is free.

Contact the Dispute Resolution Centre on (07) 3738 7000 (Brisbane callers) or 1800 017 288 (toll free for regional and rural callers), or [www.justice.qld.gov.au](http://www.justice.qld.gov.au)

If you reach agreement, you should confirm this in writing to make sure it is a final agreement (see the sample agreement on page 15).



*Mediation is a way of settling a dispute without taking legal action.*

---

## Sample agreement

**Agreement between:**

**George Getz of 9 Norman Road,  
Redwood, Queensland  
and  
Jane Wright of 200 Tenth Avenue,  
Redwood, Queensland**

On 1 October 2021, a collision happened at the intersection of Black and White Streets, Redwood, Queensland between a green Falcon (registration number XYZ890) driven and owned by George Getz and a red Mazda 3 (registration number ABC246) driven and owned by Jane Wright.

George Getz and Jane Wright have agreed to full and final settlement of all claims for property damage they may have against each other arising from the collision. George Getz will pay Jane Wright \$2700.

Jane Wright acknowledges receipt of \$2700.

Date: 17 December 2021

Signed: *G Getz* *Jane Wright*

SAMPLE



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## Step 5. Consider legal action

If you don't get a response from the people responsible for the accident, or their insurance company writes back refusing to accept their client was responsible for the accident, you have the option of taking legal action.

Before you decide to take people to court or the tribunal, ask yourself these questions:

- Is the person I am taking legal action against able to pay me if I win?
- If I go to the Magistrates Court, can I pay the other people's legal costs if the case goes to trial and I lose?

If the answer to these questions is no, it may not be worth the effort and expense of taking legal action.

### **Should I get my car repaired before or after I take legal action?**

You should go ahead and get your car repaired if your claim cannot be settled quickly. You should take photos of the damage to your car and keep any quotes, invoices and receipts you receive.



*You should keep any repair quotes, invoices and towing receipts you receive.*

---

## Step 6. Prepare written statements

It is important to be prepared before starting your claim. Write and date your statement explaining what happened in the accident. If anyone witnessed the accident and is willing to make a statement, ask them to write a statement explaining what they saw (see the sample witness statement on page 18).

### **The person making the statement should include these details:**

- their name, age, address and occupation
- how they came to witness or be involved in the accident
- what happened just before the accident, how it happened and what happened just after the accident
- the date, time and location of the accident
- the condition of the road, weather conditions and how dark or light it was at the time of the accident
- an estimate of how fast the vehicle was travelling and any skid marks
- where the vehicle was damaged
- if drivers used (or should have used) indicators, headlights or brake lights and if they obeyed traffic signals or other traffic markings
- any conversations they heard or were involved in at the accident scene
- their signature and the date.

You may also want to gather other evidence to help your claim in court. You can take photographs or video footage of where the accident took place and the damage to your vehicle.

## Sample witness statement

### Witness statement

I, Tina Andrews (25 years old) of 68 Chrysler Street North Redwood, Queensland, sales consultant, say:

- (1) I was travelling on Black Street on 1 October 2021 at about 9.30am.
- (2) The weather was sunny with no cloud cover and I was travelling behind a green Ford (registration XYZ890) towards the intersection with White Street.
- (3) I was travelling at the speed limit (60km/h) when I saw the lights change from orange to red.
- (4) As I started to brake, I saw the green Ford increase speed and run the red light.
- (5) I watched the Ford as it hit a red Mazda 3 (registration ABC246) front-on at the intersection of Black and White Streets, Redwood.
- (6) I then pulled over to see that everyone was all right. I heard George Getz, driver of the Ford, say to Jane Wright, driver of the Mazda, that the accident was his fault.
- (7) I saw the Mazda had front-end damage to the left hand side lights and bumper bar.
- (8) I believe the green Ford running a red light caused the accident.

Signed: *T Andrews*

Dated: 30 October 2021

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# How do I take legal action?

## Queensland Civil and Administrative Tribunal

If the damage to your vehicle is \$25,000 or less and you are only claiming damage to a motor vehicle or expenses directly associated with the accident such as towing fees, you can go to the Queensland Civil and Administrative Tribunal. For more information about this process see pages 20 to 35.

Please seek legal advice if you are attempting to claim for hire car fees or loss of wages as part of the QCAT process.

Once a case is heard and resolved by the tribunal you cannot take it to the Magistrates Court other than for enforcement. The tribunal has appeal processes; see page 33 for more information. You should get legal advice if you are considering appealing a tribunal decision.

## Magistrates Court

If your damage is less than \$150,000, you can go to the Magistrates Court. For more information on this process, see pages 36 to 50.

You should get legal advice to make sure you have selected the right court for your legal action.

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# Making a claim in the Queensland Civil and Administrative Tribunal

The Queensland Civil and Administrative Tribunal (QCAT) provides a flexible, do-it-yourself, low-cost way to resolve a motor vehicle property damage dispute up to \$25,000.

Lawyers are not allowed to participate unless both sides agree or unless the tribunal agrees to you being represented.

The tribunal may agree if:

- the other party is being represented or
- the process is likely to involve complex questions of fact or law or
- one party is a government agency.

You should get legal advice about whether you should get legal representation. You must complete and lodge an *Application for leave to be represented (Form 56)* if you want to be legally represented. This form can be downloaded from the QCAT website [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au). The form includes instructions for completing.

If you are legally represented, the tribunal makes orders about legal costs at the end of the hearing. Each person usually pays their own legal costs, but in some circumstances where the tribunal considers it is appropriate, the tribunal can order that one person contribute to the other person's legal costs.

The person who makes the claim is called the 'applicant', the other person is called 'the respondent'.

Motor vehicle property damage disputes before the tribunal are decided by adjudicators who are lawyers.

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You prepare your own case and pay a fee to lodge your claim. The fee depends on the amount of your claim. In special circumstances the tribunal may approve an application to waive the fees. You must complete and lodge an *Application for waiver of fees by reason of financial hardship* (Form 49).

It is possible you may be both a applicant and a respondent. For example, if someone makes a claim against you, but your car is also damaged and you believe they are wholly or partly responsible for it, you can also lodge a counter application against them (Form 8). It is best to get advice from a lawyer before doing this.

## How do I make a claim?

### Step 1. Prepare the claim documents

To start a claim in the QCAT complete an *Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle* (Form 1) (see sample on pages 53 to 59).

*Application for minor civil dispute – consumer/trader dispute property damage caused by a motor vehicle* forms are available from the QCAT, your local courthouse or the QCAT website. Read the information at the beginning of these forms and follow all the instructions so you complete your claim accurately.

**On your application form, in the space where you give full particulars of your claim, remember to include:**

- time, date and place of accident
- make, model and registration number of your vehicle and the other vehicle
- correct name and address of the other driver
- details of how the accident happened (use a diagram if it helps)
- the total amount of your claim and how it is made up.

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## Step 2. Lodge your claim

Make two copies of everything. Photocopies are acceptable, but you must sign the form before you copy it. Submit the original and two copies of your claim to the QCAT registry along with the filing fee. You will be given back two stamped copies. One is for serving on the respondent to notify them of the claim and the other is for your records. You can file your documents by posting them to the registry, but you must enclose a stamped self-addressed envelope. If you win, the tribunal may direct the other person to pay back your filing fee.

The tribunal will then send you a *Notice of mediation*, which will include the date, time and location you and the respondent need to attend mediation.

## Step 3. Notify the other person about your claim

Arrange to have one of the stamped copies of the *Application for minor civil dispute – consumer dispute* forms served on the person or business you are claiming against **within seven days**. This should be served on the respondent in person or can be delivered to a business in person or by post.

You can do this yourself, but it is often better to pay a private process server (someone who does this for a living) or enforcement officer from the Magistrates Court to do it for you. You can find a process server by asking the Magistrates Court registry or looking in the Yellow Pages or other business directory.

The QCAT published a Tribunal Practice Direction number 2009/08 (updated November 2013) about service of documents in person. Visit the QCAT website to download an up-to-date copy of the directions for service. You should get legal advice if you intend to serve the documents on the respondent yourself.

Once the documents have been served on the respondent, you need to fill in an *Affidavit of service (Form 9)*, which is available on the QCAT website. See the sample completed form on page 63.

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## Step 4. Attend mediation

Once your application and forms have been received the QCAT will review the information you provided. The tribunal will then contact you about the next step in settling your dispute. This will usually involve you and the respondent attending mediation either in person, or via phone or videoconference.

The aim of mediation is to find a solution to the dispute without having to hold a hearing.

Disputes up to \$1500 will be listed for hearing and no mediation will occur.

### How should I prepare for the mediation?

You need to bring every document, invoice, receipt, quotation or other piece of evidence you are relying on and give them to the mediator at the mediation. Make sure you are organised and have evidence to support your argument's main points.

If you're attending mediation via phone or videoconference, a tribunal staff member will contact you either the day before or on the day of the mediation to explain the process to you.

If you're attending the mediation in person, you should:

- arrive at least 15 minutes before the start time outlined in the *Notice of mediation*; the other person will be there too
- find your name or case number and room on the electronic listing board or list displayed in the registry
- go to the room that has been set aside for your case and wait outside until the mediator (the person responsible for conducting the mediation) invites you into the room.



---

## **What happens during the mediation?**

The mediation may be conducted by a tribunal staff member, an adjudicator, principal registrar or an independent mediator.

The mediator will introduce themselves and ask the parties attending to introduce themselves. Generally the mediation is held in private and the mediation length will depend on the matter's complexity.

When presenting your argument, you should be clear and to the point. Do not interrupt the other party or the tribunal representative. If you do not behave appropriately, you may be removed from the mediation or punished for contempt.

The discussions held during the mediation cannot be used or referred to at any further hearing unless both people agree.

## **What happens if we reach an agreement?**

If the parties reach an agreement the mediator may record the agreement's terms in writing and make the orders necessary to give effect to the agreement. An order is a decision made by the QCAT that requires someone to do something (for example, it may require a person to pay damages). Each party will then sign the mediation agreement and receive a copy.

Either party may ask the tribunal to make the agreement into an order.

## **What if we cannot reach an agreement?**

If you cannot reach an agreement, the mediator will work with you to set out what issues are still in dispute and what issues have been resolved. They will then give this information to the tribunal. The tribunal will then set a date for the hearing.

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## How do I defend a claim against me?

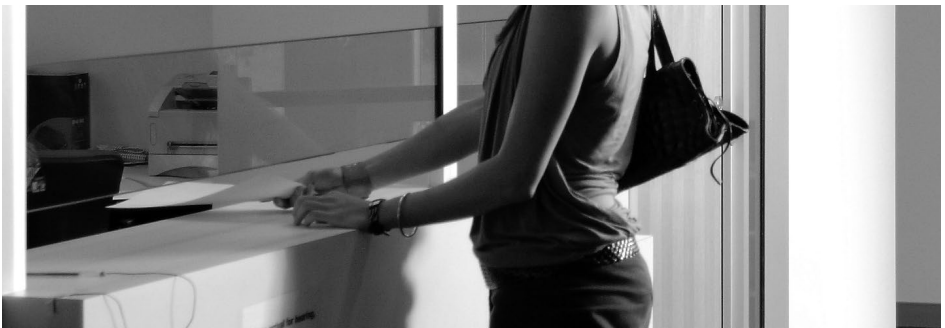
You do not need to prepare a formal response if someone files a claim against you for motor vehicle property damage.

However, you can file a written submission detailing your version of what happened in the accident with documents that you wish to rely on. See page 53 for more information about written submissions.

If your own car was also damaged in the accident, you may believe the applicant is wholly or partly responsible for the accident. In this case, you can lodge a counter application against the applicant. You can download the *Minor civil dispute – counter application (Form 8)* from the QCAT website. The form contains instructions for completing. A counterclaim means you are going to claim damages from the other person to recover the costs of repairs to your vehicle or other property as a result of the accident.

You must lodge the counter application in the registry where the application was lodged. The counter claim must be provided to all parties to the proceedings no later than seven days after filing.

The tribunal will arrange for your counter application to be mediated at the same time as the application. It is best to get advice from a lawyer before doing this.



*Submit the original and one copy of your claim to the Queensland Civil and Administrative Tribunal along with the filing fee.*

---

# How do I prepare for the hearing?

## Prepare facts and evidence

You will need to present to the tribunal the facts about what happened in the accident. It will help your case if you are organised and present the facts and evidence clearly. It may help to draw a large map of the accident site showing the position of the cars at the time of impact, especially if there are more than two cars involved.

To prepare your evidence, it may help to draw a line down the middle of a sheet of paper. On the left side, write the facts and on the right side, write the evidence that supports the facts.

## Sample facts and evidence

<b>Facts to tell adjudicator</b>	<b>Evidence to support facts</b>
1. Ford collided with my Mazda. Ford sped up and ran a red light on Black St, Redwood.	a) your affidavit b) evidence of any witnesses c) map of accident scene
2. Mazda had damage to the front bumper and lights.	a) photograph of damage to car
3. Had Mazda towed (\$200) and received quote to repair car (\$2500).	a) your affidavit b) written quote c) affidavit of repairer d) receipts for towing
4. Sent letter of demand on 21 October 2021.	a) copy of letter of demand

---

### **Evidence can include:**

- verbal evidence from you or your witnesses
- affidavits from you, your witnesses, an assessor or repairer; affidavits are sworn statements signed in the presence of a justice of the peace, commissioner of declarations or a lawyer
- documents like repair bills, receipts and quotes
- photographs (eg of your car after the accident).

It can help to practise what you want to say in front of family and friends. You can also take notes into the hearing and read from them or refer to them.

### **Organise your witnesses**

You can also prepare for the hearing by organising your witnesses. Ask them if they would be willing to attend the hearing. If they can, ask them to prepare a list of points they will tell the adjudicator and ask them to meet you at the tribunal at least 15 minutes before the hearing starts.

If a witness can't come to the hearing but is willing to give evidence, they can prepare an affidavit that outlines what they would have said to support your claim. In car accident claims, it is common to use a repairer's affidavit if the car has been or is being fixed. You would use a loss adjustor's affidavit if the car was written off. Remember an affidavit must be signed under oath or affirmed and witnessed by a justice of the peace, commissioner of declarations or a lawyer. See samples on pages 61 to 62.

If a witness does not want to provide evidence, you cannot force them to attend or write an affidavit.

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# The hearing

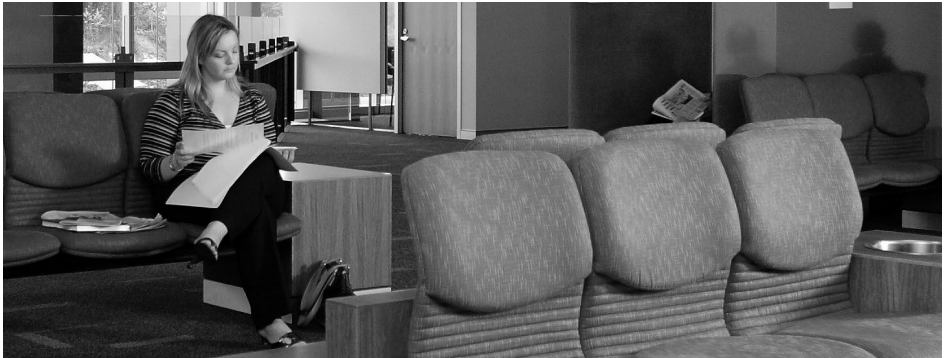
## What should I do on the day of the hearing?

### Before you arrive

- Find out the tribunal's address and check the location on a map.
- Organise transport to the tribunal, allowing time to arrive half an hour before the hearing starts.
- Dress neatly.
- Bring all of your documents about the case including affidavits, quotes or receipts for repairs, photos etc.
- Bring a pen and note paper.

### When you arrive

- Meet any witnesses who are coming to the tribunal to provide evidence for you.
- Wait with your witnesses for your hearing outside the adjudicator's room. When the adjudicator is ready to start, they will call the applicant and respondent into the hearing room. Witnesses wait outside the room until they are called.



*Arrive half an hour before the hearing starts to make sure you are on time and ready to discuss your case with the adjudicator.*

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## When you are called

- Speak clearly and follow the member or adjudicator’s instructions.
- Address the member or adjudicator in the following way:

<b>Member</b>	<b>Guideline</b>	<b>Example</b>
Judge	Refer to the judge as “Your Honour”	“Yes, your Honour”
Senior Member	Refer to the member as “Senior Member”	“Yes, Senior Member”
Member ( <i>including ordinary members and judicial members</i> )	Refer to the member as “Member” followed by their surname	“Yes, Member Smith”
Adjudicator	Refer to the Adjudicator as “Mr/Ms/Mrs”	“Yes, Mr Jones”
Justices of the peace	Refer to the justices of the peace as “Mr/Ms/Mrs”	“Yes, Mr Jones”

*Source: QCAT Practice Direction No 1 of 2014*

- The member or adjudicator will ask if there is any chance you and the other person could reach an agreement about the dispute. If there is a chance, you will be left to negotiate privately.
- If you reach an agreement, the member or adjudicator will record the terms of the agreement.
- If you can’t reach an agreement, the hearing will continue in front of the member or adjudicator.
- If the member or adjudicator considers the matter should be dealt with by a court or another tribunal, the member or adjudicator may transfer the matter.

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## What happens at the hearing?

Before anyone provides evidence to the tribunal, they will be asked to swear an oath on a holy book or affirm (promise) to tell the truth. It is a crime to give false evidence before the Queensland Civil and Administrative Tribunal (QCAT).

When giving evidence, it is important to make sure what you say is relevant and to the point. Present your case in a business-like manner. Even though you might be upset or nervous about the situation, emotional outbursts will not help your case so try to keep calm.

## What if I can't come to the hearing?

The tribunal may continue with a hearing in your absence so if you cannot attend you have several options which are listed below.

- If you or any of your witnesses can't come to the tribunal on the set date, write to the tribunal as soon as possible, telling them why your witnesses can't attend (you must have a good reason) and ask for another date for the hearing.
- You may apply to the tribunal to attend the hearing by remote conferencing. You will need to complete and lodge an *Application to attend a proceeding by telephone or video*, which is available on the QCAT website. The application contains instructions for completing. You will need to explain why you cannot attend the tribunal in person and whether you intend to attend by videoconferencing or teleconferencing.
- You can ask the tribunal to allow a person of your choice to represent you at the hearing. To do this, lodge an *Application for leave to be represented (Form 56)*, which is available on the QCAT website. The application contains instructions for completing. Even when someone represents you, you still need to send your affidavit to the hearing.

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## **1. The applicant tells their story and gives their evidence**

The adjudicator will invite the applicant to tell their side of the story under oath. The adjudicator may ask questions at any time during the presentation.

When the applicant has finished giving evidence, the adjudicator will invite the respondent to ask the applicant questions.

## **2. The applicant's witnesses give their evidence**

The applicant's witnesses will be called into the room one at a time to tell their story under oath. The adjudicator may ask questions at any time during their presentations.

When each witness has finished giving evidence, the adjudicator will ask the respondent if they have any questions to ask the witnesses.

## **3. The respondent tells their story and gives their evidence**

Now it is the respondent's turn to tell their side of the story under oath. As before, the adjudicator can ask questions at any time.

When the respondent has finished presenting their side of the story, the adjudicator will invite the applicant to question the respondent.

Even if you disagree with what the other person is saying, do not interrupt. Take notes about anything you disagree with, so you can raise these issues when it is your turn to question the other person.



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## 4. The respondent's witnesses give their evidence

The respondent's witnesses are then called into the hearing room one at a time to give their evidence.

Again, the adjudicator may question the witnesses at any time while they provide their evidence.

When the respondent and the adjudicator have finished questioning the respondent's witnesses, the applicant may also question them.



*The respondent's witness gives their evidence.*

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# The adjudicator's decision

Having heard all sides of the story, the adjudicator will make a decision (usually immediately, but sometimes at a later date).

They will then make an order that reflects their decision and that both parties must follow. If the adjudicator fully agrees with the applicant's case, it is likely they will order the respondent to pay the claim. If they only agree with part of the case, it is likely they will order the respondent to pay a percentage of the claim.

The Appeal Tribunal hears appeals from the QCAT decisions. Before you can appeal a decision by the tribunal, you must ask the Appeal Tribunal for permission to appeal by completing and lodging an *Application for leave to appeal or appeal (Form 39)*, which is available on the QCAT website. The application contains instructions for completing. You will also have to pay the appeal fee.

You can appeal the decision on a:

- question of law
- question of fact
- question of mixed law and fact.

Your appeal does not stop the original QCAT decision being enforced. In some cases, the QCAT or the Court of Appeal can make an order staying, or temporarily stopping, the original decision from being carried out until the appeal has been finalised. Make sure to get legal advice before you appeal a decision.

---

## What if the hearing took place and I could not be there?

Contact the QCAT to find out the decision and order made by the adjudicator.

If you had a good reason for not being able to go to the hearing, but could not tell the tribunal, you can apply for another hearing date by lodging an *Application for reopening, correction, renewal or amendment (Form 43)*, which is available on the QCAT website. The application contains instructions for completing. In your application you will need to explain why you could not go to the hearing and why the final decision was unfair or unjust.

The tribunal will only grant a reopening in special circumstances.



*If you have a good reason for not being able to make the hearing, you can apply for another hearing date.*

---

## What if the respondent loses the case but doesn't pay?

You can enforce a QCAT decision for motor vehicle property damage through the Magistrates Court.

You need to lodge a copy of the tribunal decision with the Magistrates Court. Once the Magistrates Court accepts the decision, it can be enforced in the same way as a Magistrates Court order. There are various options to enforce the order. Get legal advice about your enforcement options.

## What if I cannot comply with a decision made against me?

If you cannot comply with the QCAT decision because your circumstances have changed or there are problems with interpreting, implementing or enforcing a decision, you may apply for another decision to be made about the same matter.

You will need to apply to the tribunal within 12 months of the original decision being made by completing and lodging an *Application for reopening, correction, renewal or amendment (Form 43)*, which is available on the QCAT website. The application contains instructions for completing.

The QCAT may make the same decision or another decision that takes into account your new circumstances. That decision is then enforceable as a final decision. You should get legal advice before making this application as not all decisions will be reviewed simply because you cannot comply.

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# Making a claim in the Magistrates Court

The Magistrates Court handles claims for amounts up to \$150,000. The court has more formal procedures than the Queensland Civil and Administrative Tribunal.

For example:

- Lawyers are allowed to represent each person involved.
- The case will be heard in ‘open court’, which means members of the public can attend.
- If you lose your case, the magistrate may order you to pay the other person’s legal costs.

The person who is claiming damages is called the ‘plaintiff’ and the person defending the claim for damages is called the ‘defendant’.

You should get legal advice before you start a claim in the Magistrates Court.

If you want to make a claim in the Magistrates Court, see pages 36 to 39.

If you are defending a claim in the Magistrates Court, read this whole section to make sure you know how the process works and what you have to do.

If you are defending a claim against you, but believe the other person was wholly or partly responsible for the accident, you may be able to lodge a counterclaim.

You should get legal advice before doing this.

## How do I make a claim?

### Step 1. Prepare the claim documents

You can get the two forms you need to complete from your local Magistrates Court or from [www.courts.qld.gov.au](http://www.courts.qld.gov.au). They are called *Claim* and *Statement of claim* forms.

---

Follow the format of the sample forms on pages 68 to 71. Make sure you have the correct name of the other driver.

You will need the original plus three copies of these forms. Photocopies are acceptable, but you must sign the form before you copy it.

## **Step 2. Lodge your forms**

You must file your forms at the Magistrates Court in the area where the accident happened or where the defendant lives or carries on business, or at a central court registry like the Brisbane, Rockhampton, Townsville or Cairns Magistrates Courts. For example, if you live on the Gold Coast and have an accident in Brisbane where the defendant lives, you cannot file the claim in your local court at Sounthport. If you file your forms in the wrong court your claim may be dismissed. Give three sets of forms to the court's registry staff and keep one for your own records. Pay the court's filing fee. The fee depends on how much money you are claiming. The staff will stamp your forms with the official court seal and give your claim a number. They will keep one set of forms and give you back the other two.

## **Step 3. Notify the other person about your claim**

One of the stamped copies of the claim forms must be served on the defendant. You can do this yourself, but it is often better to pay a process server (someone who does this for a living) or enforcement officer from the Magistrates Court to do it for you. The Magistrates Court registry can tell you where to find a process server or you can look in the Yellow Pages or other business directories.

Ring a few of them to find out what it will cost.

It is important to include on your original claim form the amount it will cost you to hire a process server or enforcement officer.

If you win your case and the magistrate orders the other person to pay costs, you will get this money back.

---

## What happens then?

There are four possibilities for how the other person may respond.

### 1. They may settle out of court

They may do this by paying your claim directly to you or contacting you to negotiate an agreement. If the court has already set a trial date, you will need to complete a *Notice of discontinuance* form and file it with the court.

### 2. They may defend the claim

To do this they will need to prepare and file two forms: *Notice of intention to defend* (see sample on page 77) and *Defence* (see sample on page 78). They have 28 days from the date they were served your claim forms to file this form with the Magistrates Court.

After they have filed their defence, they must also serve you with their defence forms.

### 3. They may lodge a counterclaim

A counterclaim means the other driver holds you responsible for the damage to their car or property and they are going to claim damages from you to recover the cost of repairs. They do this by filing a *Notice of intention to defend* form and a *Defence and counterclaim* form (see sample on pages 77 to 79) for their damages.

If you do receive a counterclaim, you must defend yourself by completing an *Answer to the counterclaim*, filing it with the court and serving it on the defendant within 14 days. The court may not provide a form for this, so use the sample form on page 80 as a guide. If you receive a counterclaim, you should get legal advice quickly to work out what you should do next.

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#### 4. They may not respond

If the other person has not responded to the court by 28 days from the time you served your claim, you can ask for an order called a default judgment. This means the magistrate will make a judgment without hearing evidence from the other person.

To request a default judgment you need to complete these forms and take them to the court:

- *Request for default judgment and Affidavit* (see samples on pages 72 and 73)
- *Repairer's affidavit* (see sample on page 74)
- *Default judgment* (see sample on page 75)
- *Affidavit of service* (see sample on page 76)

The magistrate does not always make a default judgment in favour of the person who has requested it. They still look at the merits of the case before making a decision.

## How do I defend a claim made against me?

You know that a claim has been lodged against you in the Magistrates Court when the other person or a process server serves you with a *Claim* and *Statement of claim* (see samples on pages 68 to 71). We recommend you get legal advice at this stage to work out how to respond.

There are four possibilities for how you may respond.

### 1. You may settle out of court

You may decide to pay the claim directly to the other person, or contact them to negotiate an agreement. If this happens, make sure you get the agreement in writing. If the court has already set a trial date, the plaintiff will need to complete a *Notice of discontinuance* form and file it with the court.



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## **2. You may defend yourself**

To do this you need to prepare and file two forms: *Notice of intention to defend* and *Defence* (see samples on pages 77 to 79). You have 28 days from the date you were served the claim forms to file this form with the Magistrates Court.

Complete the form and make three copies. Photocopies are acceptable, but you must sign the form before you copy it. Take your completed forms to your local Magistrates Court. Give three sets of forms to the court's registry staff and keep one for your own records. The staff will stamp your forms with the official court seal. They will keep one set of forms and give you back the other two.

After you have filed your defence, you must also serve the other person with your defence forms. You do this by sending your forms to the plaintiff at the address for service that appears on their claim.

## **3. You may lodge a counterclaim**

If you believe the other person involved in the accident was responsible for some or all of the damage to your vehicle, you can lodge a counterclaim. A counterclaim means you are going to claim damages from the other person to recover the cost of repairs to your vehicle or other property as a result of the accident.

To proceed with a counterclaim, you need to lodge two forms: *Notice of intention to defend* and *Defence and counterclaim* (see samples on page 77 to 79).

Take three copies of these forms to the court to be registered and stamped. Photocopies are acceptable, but you must sign the form before you copy it. The court will keep one set of forms and give you back the other two. Send one copy of the stamped forms to the other person and keep one for your own records.

The other person has 14 days to respond to the counterclaim. If they don't agree with the details of your counterclaim they may send an answer to the court defending the counterclaim. They must also serve this stamped document on you.

---

If you receive an answer to your counterclaim from the other person, and it raises new issues not already covered in your defence, you can consider filing a reply to the answer to the counterclaim.

Obviously by this stage the matter has become quite complex, so we suggest you get legal advice.

#### **4. You may choose not to respond**

If you do not respond to the original *Claim* and *Statement of claim* within 28 days of these forms being served on you, the plaintiff can ask for an order called a default judgment. This means the magistrate will make a judgment for the full amount of the claim plus costs, without hearing evidence from you.

You will not necessarily be told if the magistrate makes a default judgment. If you think a judgment has been made against you, you should check with the court and get legal advice quickly.

## **Is there any other way to settle the matter?**

Consider mediation. If you can settle the case without going to court you will save yourself a lot of time, energy and possibly money. If you and the other person agree, you can both go to mediation. Alternatively, the Magistrates Court registrar may refer your case to a dispute resolution program.

See page 14 of this guide for more information about mediation and dispute resolution. If you have any questions, speak to a lawyer before deciding what to do.

---

# What happens if we can't reach an agreement?

If you can't reach an agreement, the matter will need to go to trial.

## 1. Ask to see the documents held by the other person

If you want to see the documents the other person has, you can write to them asking for a list of relevant documents in their possession or under their control. For example, if they are asking for towing costs you can ask for a copy of the receipt of payment. You can also ask to inspect the documents and be provided with copies.

The other person must provide a *List of documents* (see sample on pages 81 to 82). They normally should provide it within 28 days after the request.

If they refuse to give you a list of documents, you should get legal advice. It may be possible to apply to the court for an order that makes the other person provide a list of documents.

The other person might ask you for a list of documents you have. If so, you should complete a *List of documents* (see sample on pages 81 to 82).



*There are steps you can take to resolve your dispute before you take it to court.*

---

## 2. Ask the court for a trial date

Once documents have been exchanged you can ask the court for a trial date.

This can be done by writing to the court registry.

Some courts may allocate a directions hearing to see where the parties are at and then make directions for the management of the case including setting a trial date.

If you have been given or sent a *Notice of trial* form you need to send a copy by mail to the defendant as soon as you receive it. If you do not give the defendant enough time, the defendant may ask that the trial date be rescheduled to another date.

You may need to get legal advice once you are ready to set a trial date.



*If the other person refuses to give you a list of documents, you should get legal advice.*

---

# How do I prepare for the hearing?

## Prepare facts and evidence

The magistrate will want to hear the facts about what happened in the accident. It will help your case if you are organised and present the facts and evidence clearly.

To prepare your evidence, it may help to draw a line down the middle of a sheet of paper. On the left side, write the facts, and on the right side, write the evidence that supports the facts.

Evidence allowed in court can include:

- verbal evidence (statements in the witness box) from you or your witnesses (the court prefers this form of evidence)
- documents like repair bills, receipts and quotes
- photographs (for example, of your car after the accident).

---

## Sample facts and evidence

Facts to tell magistrate	Evidence to support facts
1. Ford collided with my Mazda. Ford sped up and ran a red light on Black St, Redwood.	a) your own sworn evidence b) evidence of any witnesses c) map of accident scene
2. Mazda had damage to the front bumper and lights.	a) photograph of damage to car
3. Had Mazda towed (\$200) and received quote to repair car (\$2500).	a) your own sworn evidence b) written quote c) affidavit of repairer d) receipts for towing
4. Sent letter of demand on 21 October 2021.	a) copy of letter of demand

## Organise your witnesses

Make sure your witnesses are available for court and have them meet you at least 15 minutes before court time. Ask them to read their statements the day before, so the evidence they may give is fresh in their minds. If they have never been to court before, let them know you and the other person will ask them questions.

Your witnesses could include:

- anyone who saw the accident
- the repairer who gave you the quote to repair your car or who did the work repairing the vehicle
- the loss assessor who gave the valuation.

---

If a witness cannot come to the hearing but is willing to give evidence, you should get legal advice. Usually, all witnesses are required by the court to attend in person.

If any of your witnesses do not want to provide evidence, you can force them to do so by requesting a subpoena. A subpoena is a court order that requires a person to appear in court to give evidence or produce documents.

To organise a subpoena, lodge these forms with the court:

1. *Request for subpoena* (see sample on page 83)
2. *Subpoena for production* (see sample on pages 84 to 85) or
3. *Subpoena to give evidence* (see sample on pages 86 to 87).

You would only use a *Subpoena for production* if you wanted your witness to bring documents to support your case, like a quotation for repairs, photographs of the accident scene or damage done to your car.

---

# The hearing

## What should I do on the day of the hearing?

### Before you arrive

- Find out the address of the court and check the location on a map.
- Organise transport to the court, allowing time to arrive half an hour before the hearing starts.
- Practise what you will say before the magistrate.
- Dress neatly.
- Bring all of your documents about the case including affidavits, quotes or receipts for repairs, photos etc.
- Bring a pen and note paper.

### When you arrive

- Meet any witnesses who are coming to the court to provide evidence for you.
- Wait with your witnesses for your hearing outside the court room.
- You will be called into the hearing room when the magistrate is ready to begin. Witnesses wait outside the room until they are called.

### When you are called

- Speak clearly and follow the magistrate's instructions.
- Address the magistrate as "Your Honour".
- The magistrate will ask if there is any chance you and the other person could reach an agreement about the dispute. If there is a chance, you will be left to negotiate privately.
- If you reach an agreement, the magistrate will record the terms of the agreement.
- If you cannot reach an agreement, the hearing will continue in front of the magistrate.



---

# What happens at the hearing?

Before anyone provides evidence to the court, they will be asked to swear an oath on a holy book or affirm (promise) to tell the truth. It is a crime to give false evidence.

When giving evidence, it is important to make sure what you say is relevant and to the point. Present your case in a business-like manner. Even though you might be upset or nervous about the situation, emotional outbursts will not help your case so try to keep calm.

## **1. The plaintiff tells their story and gives their evidence**

The magistrate will invite the plaintiff to tell their side of the story. If the plaintiff has a lawyer, their lawyer will ask questions of the plaintiff. The magistrate may ask questions at any time during the hearing.

When the plaintiff has finished giving evidence, the magistrate will ask the defendant or their lawyer if they have any questions to ask the plaintiff.

## **2. The plaintiff's witnesses give their evidence**

The plaintiff's witnesses will be called into the room one at a time to tell their story under oath. If the plaintiff has a lawyer, their lawyer will ask questions of the witnesses. The magistrate may ask questions at any time during the hearing.

When the plaintiff's witnesses have finished giving evidence, the magistrate will ask the defendant or their lawyer if they have any questions to ask the witnesses.

## **3. The defendant tells their story and gives their evidence**

Now it is the defendant's turn to tell their side of the story under oath. If the defendant has a lawyer, their lawyer will ask questions of the defendant. As before, the magistrate may ask questions at any time.

When the defendant has finished presenting their side of the story, the magistrate will invite the plaintiff or their lawyer to question the defendant.

---

Even if you disagree with what the other person is saying, do not interrupt. Take notes about anything you disagree with, so you can raise these issues when it is your turn to again question the other person.

#### **4. The defendant's witnesses give their evidence**

The defendant's witnesses are then called into the hearing room one at a time to give their evidence. If the defendant has a lawyer, their lawyer will ask questions of the witnesses. Again, the magistrate may question the witnesses at any time while they provide their evidence.

When the defendant or the defendant's lawyer and the magistrate have finished questioning the defendant's witnesses, the plaintiff or the plaintiff's lawyer may question them.

#### **5. Each party can make 'submissions' to the magistrate**

A submission is a summary of the main points of your case and any weaknesses in the other party's case. At the end of your submission you ask the magistrate to make orders in your favour.

You are trying to convince the magistrate that your case is the stronger one.



*The defendant tells their side of the story.*

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# The magistrate's decision

The magistrate will make their decision after they have heard both sides of the story and listened to the evidence from witnesses. The magistrate may agree with the plaintiff's claim, agree with the defendant, or decide only part of the claim must be paid for.

The magistrate will make an order explaining how much has to be paid (this may happen immediately or at a later date). The person who does not win their case may be ordered to pay all or some of the other person's legal costs.

## What if I don't agree with the decision?

If you don't agree with the magistrate's decision and want to appeal the decision you should get legal advice quickly. You will only have a short amount of time to lodge appeal documents.

You will have to apply to the District Court for permission to appeal the decision. A lawyer will explain how to start the appeal process when you get legal advice about your case.

### What if they don't pay me?

If you have trouble being paid after the magistrate has made an order, you should contact:

- Legal Aid Queensland on 1300 65 11 88 for free legal information and advice
- a lawyer or
- a community legal centre.

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# Sample documents and forms

## Queensland Civil and Administrative Tribunal forms

Forms are available from the Queensland Civil and Administrative Tribunal (or your local courthouse outside the Brisbane metropolitan area) or [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

- Sample 1** Application for minor civil dispute — consumer/trader dispute; property damage caused by a motor vehicle
- Sample 2** Loss adjuster’s affidavit
- Sample 3** Repairer’s affidavit
- Sample 4** Affidavit of service

## Magistrates Court forms

Forms are available from your local courthouse or [www.courts.qld.gov.au](http://www.courts.qld.gov.au)

- Sample 5** Magistrates Court claim
- Sample 6** Statement of claim
- Sample 7** Request for default judgment
- Sample 8** Plaintiff’s affidavit
- Sample 9** Repairer’s affidavit
- Sample 10** Default judgment
- Sample 11** Affidavit of service
- Sample 12** Notice of intention to defend
- Sample 13** Defence and counterclaim
- Sample 14** Answer to the counterclaim
- Sample 15** List of documents
- Sample 16** Request for subpoena
- Sample 17** Subpoena for production
- Sample 18** Subpoena to give evidence

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**Note:**

- These are sample forms to give you an idea of the information you might need to put in. Do not copy the information on the sample forms. Use them as a guide only and put in the information about your situation.
- You will not need to use all these forms. Only use the ones that apply to you. If you need guidance filling in any forms, call Legal Aid Queensland on 1300 65 11 88.
- Type your answers or write neatly in black or blue pen.
- Make sure the information you use is correct and always double-check the spelling of the names of other people involved.
- The QCAT sample forms are based on the following scenario:

*“Jane Wright was driving along White Street towards the intersection with Black Street. Jane was in her red Mazda 3, registration number ABC246.*

*As Jane approached the intersection, a green Ford Falcon sped up and ran a red light on Black Street. The Ford, registration number XYZ890, was driven by George Getz. George’s Ford collided head on with the front of Jane’s Mazda 3.*

*Jane’s Mazda sustained \$2500 damage and she paid \$200 to have her car towed. The speed limit was 60 km/h.”*

# Sample 1: Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

# QCAT

Queensland Civil and Administrative Tribunal

Form Number 1 (version 4)  
 Queensland Civil and Administrative Tribunal Act 2009 (Qld) (section 33)

For office use only	
Case number	
Date	
Registry	
Fee	
Date paid	
Receipt number	

## Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

Application fees apply – visit [qcat.qld.gov.au/resources/fees-and-allowances](http://qcat.qld.gov.au/resources/fees-and-allowances) for details

**Part A DISPUTE DETAILS**

**What is the dispute about? (tick the appropriate box)**

Goods

Services

Property damage caused by a motor vehicle

**Part B APPLICANT'S DETAILS (full contact details must be supplied) (for multiple applicants attach details on a separate sheet)**

The applicant is the party who is making this application. If the applicant is not an individual then you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper applicants.

**Name**  **ACN/ABN (if applicable)**

**Postal Address**

**Suburb**  **State/Territory**  **Postcode**

**Contact details (MUST be provided)**

*Mobile Alternative number Email*

**Do you identify as Aboriginal or Torres Strait Islander?**

No  Yes, Torres Strait Islander

Yes, Aboriginal  Yes, both Aboriginal and Torres Strait Islander

If you want someone to represent you in any proceedings before the Tribunal you must complete [Form 56 - Application for leave to be represented](#). You are not required to seek leave if you are a child or a person with impaired capacity. Visit the QCAT website for more information about [legal advice and representation](#).

Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

# QCAT

Queensland Civil and Administrative Tribunal

**Part B APPLICANT'S DETAILS** (continued) (full contact details must be supplied)  
(for multiple applicants attach details on a separate sheet)

Name  ACN/ABN (if applicable)

Postal Address

Suburb  State/Territory  Postcode

Contact details (MUST be provided)

Mobile  Alternative number  Email

Do you identify as Aboriginal or Torres Strait Islander?

No  Yes, Torres Strait Islander  
 Yes, Aboriginal  Yes, both Aboriginal and Torres Strait Islander

**Part C RESPONDENT'S DETAILS** (full contact details must be supplied)  
(for multiple respondents attach details on a separate sheet)

The respondent is the party against whom the original application was made. If the respondent is not an individual then you must use the proper full company name, business name or the full name of the State agency or department. You must include all proper respondents.

Name  ACN/ABN (if applicable)

George Getz

Postal Address   
9 Norman Road

Suburb  Redwood State/Territory  QLD Postcode  4350

Contact details (MUST be provided)

Mobile  Alternative number  07 0323 8339 Email  george@email.com

**NOTE:** A respondent who identifies as Aboriginal or Torres Strait Islander should inform the Tribunal prior to the hearing.

Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

# QCAT

Queensland Civil and Administrative Tribunal

Part C		<b>RESPONDENT'S DETAILS</b> (continued) (full contact details must be supplied) (for multiple respondents attach details on a separate sheet)	
Name		ACN/ABN (if applicable)	
<input type="text"/>		<input type="text"/>	
Postal Address			
<input type="text"/>			
<input type="text"/>			
Suburb	<input type="text"/>	State/Territory	<input type="text"/>
		Postcode	<input type="text"/>
Contact details (MUST be provided)			
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Mobile	Alternative number	Email	

Part D		<b>GENERAL DISPUTE DETAILS</b>	
<b>What are you seeking?</b>			
<input checked="" type="checkbox"/>	payment of money to me	\$	<input type="text" value="2700.00"/>
<input type="checkbox"/>	refund of money to me	\$	<input type="text"/>
<input type="checkbox"/>	relief from payment of money by me	\$	<input type="text"/>
<input type="checkbox"/>	return of goods	\$	<input type="text"/>
<input type="checkbox"/>	rectification of work	\$	<input type="text"/>
<input type="checkbox"/>	costs of transporting a motor vehicle to the respondent if relevant to the claim	\$	<input type="text"/>
<input checked="" type="checkbox"/>	payment of the filing fee for this application	\$	<input type="text" value="127.50"/>
			<b>TOTAL</b> \$ <input type="text" value="2827.50"/>



Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

# QCAT

Queensland Civil and Administrative Tribunal

**Part E WHAT ARE THE REASONS THE ORDER/S SHOULD BE MADE?**

Explain why you are lodging this application and why you consider you are entitled to the orders you seek from the Tribunal. If you do not provide this information your application may be dismissed. You MUST attach copies of all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.

Please see attached.

I seek an order from the tribunal that the respondent pay the applicant \$2827.50 being \$2500.00 for repairs to my vehicle, \$200.00 in towing fees and the \$127.50 filing fee, together with interest.

**Part F ASSISTANCE AT THE TRIBUNAL HEARING**

Will you require an interpreter at the hearing?

Yes - please specify language or Auslan: \_\_\_\_\_

No

Do you have any of the following needs?

wheelchair/mobility access       speech impairment

hearing impairment/loss       vision impairment/loss

other

If you have ticked any of these boxes, please provide details below.

Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

# QCAT

Queensland Civil and Administrative Tribunal

## CHECKLIST

- I have completed all of the questions on this application.
- I have attached copies all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.
- I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- I am aware that the prescribed fee must be paid at time of lodgement.
- I am ready to proceed with this application.

## WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

## Sign and date here (if more than one applicant is named, then all must sign)

The information in this application is true to the best of my knowledge.

Applicant/s sign here

*Jane Margaret Wright*

Date

21/11/2021

Print your name/s here

Jane Margaret Wright

## Lodgement Details

Deliver to:	Mail to:
Queensland Civil and Administrative Tribunal Floor 11, 259 Queen Street Brisbane Qld 4000 OR your local Magistrates Court. To find your local courthouse visit: <a href="https://courts.qld.gov.au/contacts/courthouses">courts.qld.gov.au/contacts/courthouses</a>	Queensland Civil and Administrative Tribunal GPO Box 1639 Brisbane Qld 4001 OR your local Magistrates Court. To find your local courthouse visit: <a href="https://courts.qld.gov.au/contacts/courthouses">courts.qld.gov.au/contacts/courthouses</a>

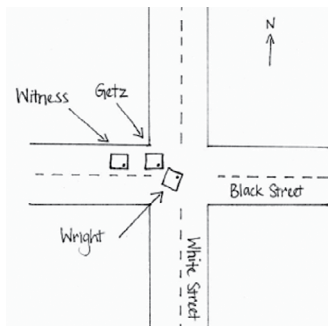
*Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle*

**Attachment**

- The accident happened at 9.30am on Saturday 1 October 2021, at the intersection of Black Street and White Street, Redwood, Toowoomba.
- I, Jane Wright, was driving a red 2014 Mazda 3, registration number ABC246. I am the owner of the car.
- The other car was a green Ford Falcon sedan, registration number XYZ890.
- I was travelling along White Street towards the intersection with Black Street at Redwood.
- The traffic lights facing me were green and I proceeded across the intersection. I was just at the half way point when a Ford Falcon coming from Black Street hit my car on the left hand side.
- My car had damage to the front bumper and lights.
- I believe that George Getz was speeding and disobeyed a red light traffic signal.
- I also believe that George Getz did not keep a proper lookout otherwise he would have been able to avoid the accident.
- I was quoted \$2500 by Tom's smash repairs. I am claiming \$2500 plus towing costs of \$200.

*(OR The cost of repairs to my car would exceed the value of the car. My car was valued at \$2700, less salvage value of \$200 by Smart Insurance and Loss adjusters. I also had towing costs of \$200.)*

*Jane Wright*  
Jane Wright



# Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle



Queensland Civil and Administrative Tribunal

## INSTRUCTIONS FOR COMPLETING FORM 1

### Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

Consumer and trader disputes are disputes against another person, trader or company resulting from a contract for the supply of goods or services up to \$25,000 (excluding interest).

Use this form if your claim is \$25,000 or less (excluding interest) and the dispute is about:

- an agreement you had with a trader about supply goods or services;
- an agreement you had with another traders about supply of goods or services
- property damage caused by a motor vehicle incident; or
- repair to a defect in a motor vehicle that is under a statutory warranty.

Do not use this form if:

- your consumer and trader dispute is for more than \$25,000;
- you want to claim a minor debt e.g. money borrowed and not repaid;
- you have debt resulting from overhanging branches; or
- you have a dispute about a bond held by the Residential Tenancies Authority (RTA)

#### Who is a consumer?

A consumer is a person who purchases good and services for their own use. Examples of goods include food, clothes, appliances and furniture. Services include car maintenance, meals served in restaurants, or haircuts by a hairdresser.

#### Who is a trader?

A trader is a person who runs a trade or commerce business supplying goods or services to consumers. A person supplying good and services outside of trade or commerce are not considered traders. For example lawyers, doctors, dentists, valuers, podiatrists and town planning consultants are not considered traders.

#### Identify and naming parties

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

#### Fees

You must pay the prescribed application fee when lodging your application. Visit the QCAT website for [application fees](#).

Cash payments can be made in person at the QCAT Brisbane registry or your local Magistrates Court. Cheque or money order payments are to be made out to 'Department of Justice and Attorney-General'. Credit card payments can be made by submitting a [Credit card payment authorisation form](#) with your application and can only be accepted by post or in person.

## Application for minor civil dispute – consumer/trader dispute; property damage caused by a motor vehicle

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Queensland Civil and Administrative Tribunal

You may apply to QCAT for a waiver of the fee on the grounds of financial hardship. To apply, you **MUST** complete and lodge [Form 49 - Application for fee waiver or appeal fee reduction by reason of financial hardship](#). If you are eligible for a waiver you will not be required to pay the fee.

### Lodging your application form

Before you lodge your application with QCAT you must make **two (2)** photocopies of the application and all attached supporting documents and lodge these together with your original application. An extra copy is required for each additional respondent. If you file your documents in person or by post, you must include a stamped self-addressed A4 envelope.

### Giving copies to the respondent

You have **7 days** from the day you lodge your application to give ("serve") a copy of the application to each of the respondent/s. You can check the lodgement date by looking at the date stamp on your application form.

You can serve the application personally, by post or use the services of a Magistrates Court bailiff, commercial agent or process server. Visit the QCAT website for information on [serving application and documents](#).

Once you have served the respondent, you must complete [Form 9 – Affidavit of service](#). An affidavit is a statement sworn under oath/affirmation in the presence of a commissioner of declarations, justice of the peace or a lawyer. The affidavit is required to prove the application has been given to the respondent. The respondent may file an application for the same dispute - called a counter-application. To make a counter-application against this application complete [Form 8 - Minor civil dispute - counter application](#).

### Providing evidence

You **MUST** attach a copy of all relevant documents that you want to use as evidence to prove your case at the Tribunal hearing.

### Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given. Information about where to seek legal advice is available at [Where to seek legal advice](#).

### Witnesses

If you have a witness whose evidence you rely upon to support your claim, that person should complete an affidavit setting out their evidence and attach it to your claim. Your witness may be required to answer questions at the hearing. If the witness cannot attend the hearing in person, they **MUST** be available by telephone.

### Withdrawing an application

An application can be withdrawn if you no longer wish to proceed to have the dispute decided by the Tribunal. An application can be withdrawn at any time prior to the final hearing and determination of the application by lodging a [Form 58 – Application for leave to withdraw an application or referral / Notice of withdrawal of application or referral](#) online. Visit the QCAT website for more information on how to [withdraw an application](#).

### Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

### Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

## Sample 2: Loss adjuster's affidavit

### AFFIDAVIT

#### PART A: APPLICANT'S AND RESPONDENT'S DETAILS

##### Applicant

Jane Wright

##### Respondent

George Gretz

#### PART B: CASE NUMBER (if known)

#### PART C: DETAILS OF AFFIDAVIT

I, Ken Bowen, Insurance Loss Adjuster of 22 Oats Street, Redwood, Toowoomba  
MAKE ON OATH AND SAY AS FOLLOWS:

1. I am 32 years old and have worked as an insurance loss adjuster for eight years.
2. I am employed by Smart Insurance and Loss Adjusters at 63 Queen Street, Redwood.
3. On 6 October 2021, at the request of Jane Wright, I inspected a red Mazda 3 registered number ABC246, which had damage consistent with being involved in a collision.
4. In my opinion, the vehicle was damaged beyond economic repair.
5. A pre-accident market value of the vehicle was \$2700 and the most favourable salvage value if it is sold as a wreck would be \$200.

#### PART D: SIGNATURE

Sworn (or affirmed) by:

(insert full name)

Ken Bowen

on

(insert date)

28-01-2022

at

(insert place)

Toowoomba

in the presence of:

Ken Bowen

Person making affidavit to sign

Ken Bowen

Print name

Damian Davids

Person taking affidavit to sign

Damian Davids (JP)

~~Commissioner for declarations/  
solicitor~~/justice of the peace.

# Sample 3: Repairer's affidavit

## AFFIDAVIT

### PART A: APPLICANT'S AND RESPONDENT'S DETAILS

#### Applicant

Jane Wright

#### Respondent

George Getz

### PART B: CASE NUMBER (if known)

### PART C: DETAILS OF AFFIDAVIT

I, Tom Jones, Panel Beater of 149 Hughes Street, Redwood, Toowoomba  
MAKE ON OATH AND SAY AS FOLLOWS:

1. I am 46 years old and have worked as a panel beater for 12 years.
2. I have run my own business, Tom's Smash Repairs, for the past 10 years.
3. On 3 October 2021, at the request of Jane Wright, I inspected a red Mazda 3 registered number ABC246, which had damage consistent with having been involved in a collision.
4. I provided Jane Wright with a quote to fix the damage. I quoted \$2500 in total. That quote is Attachment A to this Affidavit.
5. I consider the amount set out in the quote for repairs were fair and reasonable at the time.
6. On 7 November 2021 I repaired the damage to the Mazda 3 at Jane Wright's request at the agreed price of \$2500.

### PART D: SIGNATURE

Sworn (or affirmed) by:

(insert full name)  
Tom Jones

on  
(insert date) 28-01-2022

at  
(insert place)  
Toowoomba

in the presence of:  
Tom Jones

Person making affidavit to sign

Tom Jones

Print name

Damian Davids

Person taking affidavit to sign

Damian Davids (JP)

~~Commissioner for declarations/  
Justice of the peace.~~

# Sample 4: Affidavit of service

# QCAT

Queensland Civil and Administrative Tribunal

Form Number 9 (version 4)  
 Queensland Civil and Administrative Tribunal Rules 2009 (Qld) (rule 42)

For office use only	
Case number	
Date filed	
Registry	

## Affidavit of service

This form **MUST** be filed at the registry where your original application was filed

**Part A APPLICATION AND MATTER DETAILS**

**Applicant** *(the party who made the original application)*  
 Jane Margaret Wright

**Respondent** *(the party against whom the original application was made)*  
 George Getz

**QCAT case number**  
 T21/000765

**Location of Registry**  
*(the QCAT registry or Magistrates Court where the original application was made)*  
 Toowoomba

**Part B DETAILS OF SERVICE**

I,   
*(insert full name of person making affidavit)*

of *(insert residential or business address, or place of employment)*

Suburb  State/Territory  Postcode

**state on oath / solemnly and sincerely affirm and declare:**

On the  /  /  at  am/pm,  
Day Month Year

I served   
*(insert name of person or entity/s served)*

a copy of   
*(insert name of document/s)*

filed on  /  /  at the Queensland Civil and Administrative Tribunal  
Day Month Year  
  
*(insert Tribunal address)*

Please tick one of the following options:

I have attached to this form a copy of the document served, OR

I have already filed the document which is named in Part B.



# QCAT

Queensland Civil and Administrative Tribunal

## Part B DETAILS OF SERVICE (continued)

YOU MUST PROVIDE DETAILS OF THE SERVICE IN ONE OF FOLLOWING THREE SECTIONS.  
PLEASE COMPLETE THE SECTION THAT IS RELEVANT TO YOUR APPLICATION.

### 1. Personal service on an individual

(note: personal service is required for minor civil dispute - minor debt applications)

I personally delivered the copy to:  him  her  them

at (insert address)

9 Norman Road

Suburb Redwood

State/Territory QLD

Postcode 4350

I identified the person served by (insert means of identification)

asking him 'are you George Getz?', to which he replied 'Yes I am'.

### 2. Service on a company

I personally delivered a copy to a director of the company, namely:

Suburb

State/Territory

Postcode

I left a copy at the company's registered office, namely:

Suburb

State/Territory

Postcode

I posted a copy to the company's registered office, namely:

Suburb

State/Territory

Postcode

I served the copy otherwise in accordance with section 109X of the Corporations Act 2001 (Commonwealth), namely:

(insert method of service)

*Kyle Wong*

Person making affidavit to sign

*Damian Davidz*

Person taking the affidavit to sign (qualified witness)

# QCAT

Queensland Civil and Administrative Tribunal

## Part B DETAILS OF SERVICE (continued)

### 3. Other service

I emailed the copy to the email address that was included in the entity's address for service.  
\_\_\_\_\_  
*(insert email address)*

I electronically transmitted the copy to the non-fax or email electronic address that was included in the entity's address for service.  
\_\_\_\_\_  
*(insert electronic address)*

I left the copy with a person *(insert name)* \_\_\_\_\_ who is apparently an adult and apparently residing or employed at the entity's address for service, namely *(insert address)*:  
\_\_\_\_\_  
\_\_\_\_\_  
Suburb \_\_\_\_\_ State/Territory \_\_\_\_\_ Postcode \_\_\_\_\_

I left the copy with a person *(insert name)* \_\_\_\_\_ who is apparently an adult and apparently residing or employed at the address in accordance with the service practice direction at which documents may be left with a person in circumstances where the entity does not have an address for service, namely *(insert address)*:  
\_\_\_\_\_  
\_\_\_\_\_  
Suburb \_\_\_\_\_ State/Territory \_\_\_\_\_ Postcode \_\_\_\_\_

I served the copy in another way in accordance with the service practice direction, namely by:  
\_\_\_\_\_  
\_\_\_\_\_  
*(insert method of service)*

I served the copy in accordance with the Tribunal's direction, namely by  
\_\_\_\_\_  
\_\_\_\_\_  
*(insert method of service)*

### Interstate service (You MUST complete this part if you served the document interstate)

Please tick the applicable box:

I did attach the notice under the *Service and Execution of Process Act 1992* (Commonwealth) to the document.

I did not attach the notice under the *Service and Execution of Process Act 1992* (Commonwealth) to the document.

  
Person making affidavit to sign

  
Person taking the affidavit to sign (qualified witness)

# QCAT

Queensland Civil and Administrative Tribunal

## WARNING

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## SIGNATURE

Sworn/Affirmed by (insert full name):

Kylie Wong

On the  /  /  at (place)

Day                  Month                  Year

Insert fake signature

*Person making affidavit to sign*

In the presence of:

Insert fake signature

*Person taking the affidavit to sign (qualified witness)*

**Commissioner for Declarations/Solicitor/  
Justice of the Peace**

Damian Davids JP (Qual)

*Print name*

## Lodgement Details

Deliver to:	Mail to:
Queensland Civil and Administrative Tribunal Floor 11, 259 Queen Street Brisbane Qld 4000 OR your local Magistrates Court. To find your local courthouse visit: <a href="http://courts.qld.gov.au/contacts/courthouses">courts.qld.gov.au/contacts/courthouses</a>	Queensland Civil and Administrative Tribunal GPO Box 1639 Brisbane Qld 4001 OR your local Magistrates Court. To find your local courthouse visit: <a href="http://courts.qld.gov.au/contacts/courthouses">courts.qld.gov.au/contacts/courthouses</a>

# QCAT

Queensland Civil and Administrative Tribunal

## INSTRUCTIONS FOR COMPLETING FORM 9

### Affidavit of service

Use this form where you are seeking, or are required, to prove that you have given (served) a copy of a document to another party.

#### Interstate service

If the respondent resides in another State or Territory you will need to provide an additional notice to the respondent, as required by the *Service and Execution of Process Act 1992* (see also [Practice Direction 2 of 2014](#)). The notice is available on the QCAT website at [qcat.qld.gov.au](http://qcat.qld.gov.au).

#### Identify and naming parties

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

#### Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given.

Information about where to seek legal advice is available at [Where to seek legal advice](#).

#### Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

#### Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

## Sample 5: Magistrates Court claim

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: *Toowoomba*  
NUMBER: *M123456 of 2021*

Plaintiff: *JANE WRIGHT*

AND

Defendant: *GEORGE GETZ*

#### CLAIM

The Plaintiff claims: *Two thousand, seven hundred dollars (\$2700) interest plus costs and interest.*

The plaintiff makes this claim in reliance on the facts alleged in the attached Statement of Claim.

ISSUED WITH THE AUTHORITY OF THE MAGISTRATES COURT OF QUEENSLAND:

And filed in the *Toowoomba* Registry on *21/11/2021*

Registrar:

To the defendant/s: TAKE NOTICE that you are being sued by the plaintiff in the Court. If you intend to dispute this claim or wish to raise any counterclaim against the plaintiff, you must within 28 days of the service upon you of this claim file a Notice of Intention to Defend in this registry. If you do not comply with this requirement judgment may be given against you for the relief claimed and costs without further notice to you. The Notice should be in Form 6 to the *Uniform Civil Procedure Rules*. You must serve a sealed copy of it at the plaintiff's address for service shown in this claim as soon as possible.

Address of Registry: *Hume Street, Toowoomba, Qld, 4350*

If you assert that this Court does not have jurisdiction in this matter or assert any irregularity you must file a Conditional Notice of Intention to Defend in Form 7 under Rule 144, and apply for an order under Rule 16 within 14 days of filing that notice.

CLAIM

Filed on behalf of the *plaintiff*

Form 2 – Rule 22

Version 2

*Uniform Civil Procedure Rules 1999*

*Jane Wright*

*200 Tenth Avenue*

*Redwood Qld 4350*

*Telephone: 07 3238 300*

*Facsimile:*

*Email:*

*Magistrates Court claim cont'd*

If the claim is for an amount of not more than \$25,000.00, and the claim is not to recover a debt or liquidated demand, then the claim is a 'minor claim'. Simplified procedures apply to minor claims. (see rule 515 of the *Uniform Civil Procedure Rules 1999*).

If you object that these proceedings have not been commenced in the correct district of the Court, that objection must be included in your Notice of Intention to Defend.

**PARTICULARS OF THE PLAINTIFF:**

Name: *Jane Wright*

Plaintiff's residential or business address: *200 Tenth Avenue  
Redwood Qld 4350*

Solicitor's name:

and firm:

Solicitor's business address:

Address for service:

DX (if any)

Telephone: *07 3238 300*

Fax:

E-mail address (if any):

Plaintiff's telephone or contact number:

Plaintiff's fax number (if any):

Plaintiff's e-mail address (if any):

Signed: *J Wright*

Description: *Plaintiff*

Dated: *21/11/2021*

This claim is to be served on: *George Getz*  
of: *9 Norman Road, Redwood Qld 4350*

## Sample 6: Statement of claim

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Gretz*

Filed in the Toowoomba registry on 21/11/2021

### STATEMENT OF CLAIM

This claim in this proceeding is made in reliance on the following facts:

1. At all material times:

- (a) the plaintiff was the owner of a Mazda 3 registration ABC246.
- (b) the defendant was the owner and driver of a Ford Falcon registration XYZ890.

2. On 1 October 2021, at about 9.30am at the intersection of Black and White Streets, Redwood, Queensland, the vehicle owned and driven by the defendant, registration XYZ890, collided with the front of the plaintiff's vehicle, registration ABC246.

3. The collision was caused solely by the negligence of the defendant. The driver's negligent behaviour included:

- (a) failing to keep a proper lookout
- (b) failing to take evasive action in the circumstances
- (c) failing to steer or control their vehicle to avoid the collision
- (d) failing to apply the brakes on their vehicle to avoid the collision
- (e) failing to sound any warning of the approach of their vehicle
- (f) driving at an excessive speed in the circumstances
- (g) disobeying a red light and entering an intersection.

4. As a result of the defendant's negligence, the plaintiff has suffered loss and damage.

---

STATEMENT OF CLAIM  
Filed on behalf of the plaintiff  
Form 16 – Rules 22 and 146  
Version 2  
Uniform Civil Procedure Rules 1999

*Jane Wright*  
200 Tenth Avenue  
Redwood Qld 4350  
Telephone: 07 3238 300  
Facsimile:  
Email:

*Statement of claim cont'd*

The plaintiff claims the following relief:

PARTICULARS OF LOSS AND DAMAGE –

*Repair to vehicle \$2500 and towing fee of \$200, total \$2700.*

*The plaintiff also claims the sum of \$2700 against the defendant, together with interest under the Supreme Court Act 1995 and costs.*

Signed: *J Wright*

Description: *Plaintiff*

Dated: *21/11/2021*

**NOTICE AS TO DEFENCE**

Your defence must be attached to your notice of intention to defend.

**Note:**

The Magistrates Court website ([www.courts.qld.gov.au](http://www.courts.qld.gov.au)) has an interest calculator available along with information about the interest rate to use.



## Sample 7: Request for default judgment

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

#### REQUEST FOR DEFAULT JUDGMENT

The Plaintiff requests the Registrar to give judgment If more than one defendant, add: against the First Defendant (or as the case may be) in default of filing of a Notice of Intention to Defend in response to this claim.

The claim was served on the defendant on *23/11/2021* as shown by *Kylie Wong* affidavit filed on *23/12/2021*.

The claim is for unliquidated damages. The plaintiff requests judgment conditional on the damage assessment and asks the court to assess the damages.

No Notice of Intention to Defend has been served at the address for service of the plaintiff.

The repair costs claimed by the plaintiff have not been paid, as shown in *Jane Wright's* affidavit, filed with this request.

The plaintiff also claims costs prescribed and made up of the following:

*Filing fee for Statement of claim of \$257.85*

*Service fee of \$53.40*

Signed: *J Wright*

Description: *Plaintiff*

Dated: *23/12/2021*

---

REQUEST FOR DEFAULT JUDGMENT  
Filed on behalf of the plaintiff  
Form 25 – Rules 283-287 and 289  
Version 2  
Uniform Civil Procedure Rules 1999

*Jane Wright*  
*200 Tenth Avenue*  
*Redwood Gld 4350*  
Telephone: *07 3238 300*  
Facsimile:  
Email:

## Sample 8: Plaintiff's affidavit

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: Jane Wright

AND

Defendant: George Getz

#### AFFIDAVIT

I, Jane Wright, of 200 Tenth Avenue, Redwood, Queensland, administrator, state on oath:

1. I am the plaintiff in these proceedings.
2. I have not received any money from the defendant regarding my claim.
3. The defendant has not:
  - filed a Defence, or Notice of intention to defend, or Defence and counterclaim or Conditional notice of defence
  - paid into court the amount claimed and costs, or
  - filed a confession for the total amount claimed and costs.
4. The total amount of \$2700 plus costs is justly due to the plaintiff and remains unpaid.

I swear/affirm the contents of this affidavit are true.

By Jane Wright on 23/12/2021  
at Toowoomba

in the presence of:

*J Wright*  
Jane Wright  
Deponent

*Damien Davids*  
Damien Davids (JP)  
Barrister/Solicitor/Justice of the Peace/  
Commissioner for Declarations

AFFIDAVIT  
Filed on behalf of the plaintiff  
Form 46 – Rule 431  
Version 1  
Uniform Civil Procedure Rules 1999

Jane Wright  
200 Tenth Avenue  
Redwood Qld 4350  
Telephone: 07 3238 300  
Facsimile:  
Email:

## Sample 9: Repairer's affidavit

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: MV23456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

### AFFIDAVIT

I, Tom Jones, of 149 Hughes Street, Redwood, Queensland, panel beater, state on oath:

1. I am the proprietor of Tom's smash Repairers, 149 Hughes Street, Redwood, in Queensland and have been a panel beater for 12 years.

2. On 7 November 2021 I repaired a damaged Mazda 3, registration number ABC246, which I am informed is the property of the plaintiff in this action.

3. The work outlined in the account attached to this document (marked with the letter 'A') was necessary to repair the damage, and the amounts are a fair and reasonable charge for that work.

I swear/affirm the contents of this affidavit are true.

By Tom Jones on 28/11/2021  
at Toowoomba

in the presence of:

T Jones

Tom Jones

Deponent

*Damien Davids*

Damien Davids (JP)

Barrister/Solicitor/Justice of the Peace/  
Commissioner for Declarations

AFFIDAVIT

Filed on behalf of the plaintiff

Form 46 – Rule 4.31

Version 1

Uniform Civil Procedure Rules 1999

*Jane Wright*

200 Tenth Avenue

Redwood Qld 4350

Telephone: 07 3238 300

Facsimile:

Email:

# Sample 10: Default judgment

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Gretz*

**JUDGMENT**

Before:

Date:

Claim filed on: *21/11/2021*

The Defendant not having filed a Notice of Intention to Defend,

THE JUDGMENT OF THE COURT IS THAT the defendant pay to the Plaintiff damages to be assessed upon the Plaintiff's Statement of Claim together with costs to be assessed, and that the damages be assessed by the court,

AND THAT the Defendant pay to the Plaintiff the amount of \$2700.00 plus interest and costs.

This judgment is conditional on the value and damages being assessed.

Signed:.....  
(*registrar to sign and seal*)

---

DEFAULT JUDGMENT  
Filed on behalf of the plaintiff  
Form 26 – Rules 283-287 and 289  
Version 1  
Uniform Civil Procedure Rules 1999

*Jane Wright*  
200 Tenth Avenue  
Redwood Gld 4350  
Telephone: 07 3238 300  
Facsimile:  
Email

# Sample 11: Affidavit of service

## MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

### AFFIDAVIT

I, Kylie Wong of 20 Lawson Road, Toowoomba, process server, in the State of Queensland state on oath:-

1. On the 23rd November 2021, I served the Defendant in these proceedings, George Getz, with a copy of a Claim and Statement of Claim dated 21st November 2021.
2. I identified the Defendant by asking him "Are you George Getz?" to which he replied "yes".
3. Attached is a true and correct copy of the Claim and Statement of Claim served on the Defendant

All the facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by Kylie Wong on the 24th day of November 2021 at Toowoomba in the presence of:

*K Wong*  
*Kylie Wong*  
Deponent

*Damian Davids (JP)*  
Damian Davids  
Barrister/Solicitor/Justice of the Peace/  
Commissioner for Declarations

AFFIDAVIT  
Filed on behalf of the plaintiff  
Form 46 – Rule 4.31  
Version 1  
Uniform Civil Procedure Rules 1999

*Jane Wright*  
200 Tenth Avenue  
Redwood Gld 4350  
Telephone: 07 3238 300  
Facsimile:  
Email:

## Sample 12: Notice of intention to defend

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: *Toowoomba*  
NUMBER: *M123456 of 2021*

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

### NOTICE OF INTENTION TO DEFEND

TAKE NOTICE that the Defendant intends to defend this proceeding.

The facts relied upon by the Defendant are set out in the attached defence and counterclaim.

Filed in the Toowoomba Registry on *12/12/2021*.

Registrar

### PARTICULARS OF THE DEFENDANT:

Name: *George Getz*

Defendant's address for service: *9 Norman Road, Redwood Qld 4350.*

Defendant's telephone number or contact number: *07 3238 339*

Defendant's fax number (if any):

Defendant's e-mail address (if any):

Signed: *G Getz*

Description: *Defendant*

Dated: *11/12/2021*

---

NOTICE OF INTENTION TO DEFEND

Filed on behalf of the defendant

Form 6 – Rule 139

Version 1

Uniform Civil Procedure Rules 1999

*George Getz*

*9 Norman Road*

*Redwood Qld 4350*

*Telephone: 07 3238 339*

Facsimile:

Email:

## Sample 13: Defence and counterclaim

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

Filed in the Toowoomba registry on 12/12/2021

### DEFENCE AND COUNTERCLAIM

The defendant relies on the following facts in defence of the claim:

1. The defendant admits the allegations in paragraphs 1 (a) and (b) and 2 of the statement of claim.
2. The defendant does not admit the allegations in paragraphs 3 and 4 of the statement of claim. The defendant has made reasonable inquiries and is uncertain whether the allegations made against them are true. The defendant is unable to admit fault because *the plaintiff's negligence also contributed to the circumstances leading to the claim. The defendant believes they cannot admit to the allegations because the plaintiff failed to keep a proper lookout, failed to see the defendant had already entered the intersection, drove at excessive speed and could not control her car to avoid the collision.*

### COUNTERCLAIM

This counterclaim is made by the Defendant against:

1. *Jane Wright (the plaintiff)*

This counterclaim is made in reliance on the following facts:

1. *The plaintiff's negligence contributed to the collision referred to in paragraph 2 of the plaintiff's Statement of claim.*

---

DEFENCE AND COUNTERCLAIM  
Filed on behalf of the defendant  
Form 18 – Rule 179  
Version 2  
Uniform Civil Procedure Rules 1999

*George Getz*  
9 Norman Road  
Redwood Cild 4350  
Telephone: 07 3238 339  
Facsimile:  
Email:

*Defence and counterclaim cont'd*

2. The plaintiff:

- (i) cut across the path of an oncoming vehicle where it was unsafe to do so
- (ii) failed to take evasive action in the circumstances
- (iii) failed to give way
- (iv) failed to keep a proper lookout.

The Defendant claims the following relief:

Repair to vehicle: \$3,179.25, together with costs and interest.

*G Getz*

Signed:

Description: Defendant

Dated: 11/12/2021

**NOTICE AS TO REPLY AND ANSWER**

To the Plaintiff: You have 14 days to file and serve an answer to this counterclaim. If you do not do so, Rule 166 provides allegations of fact in the counterclaim are taken to be admitted by you unless denied or stated to be not admitted by you in a pleading.

Address of Registry: Hume Street, Toowoomba, Qld, 4350.

**PARTICULARS OF THE DEFENDANT:**

Name: *George Getz*

Defendant's address for service: *9 Norman Road, Redwood Qld 4350.*

Defendant's telephone number or contact number: *07 3238 300*

Defendant's fax number (if any):

Defendant's e-mail address (if any):

This claim is to be served on: *Jane Wright, 200 Tenth Avenue, Redwood Qld 4350.*



## Sample 14: Answer to the counterclaim

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

### ANSWER TO THE COUNTERCLAIM

The Plaintiff relies on the following facts in defence of the counterclaim:

(Note: if you are admitting an allegation, use the phrase 'the plaintiff admits the allegation in paragraph...')

- 1. The plaintiff denies the allegations in paragraphs 1, 2 (i), 2 (ii), 2 (iii), 2 (v) and 2 (vi) of the counterclaim and believes the allegations are untrue or cannot be admitted because the plaintiff was not negligent and was driving within the speed limit, and applied the brakes when the defendant's vehicle was observed entering the intersection.*

Signed: *J Wright*

Description: *Plaintiff*

Dated: *15/12/2021*

### NOTICE AS TO REPLY AND ANSWER

You have 14 days to file and serve a reply to this defence. If you do not do so, you may be prevented from adducing evidence in relation to allegations of fact made in this defence.

---

ANSWER TO THE COUNTERCLAIM  
Filed on behalf of the *plaintiff*

*Uniform Civil Procedure Rules 1999*

*Jane Wright*  
200 Tenth Avenue  
Redwood Gld 4350  
Telephone: 07 3238 300  
Facsimile:  
Email:

## Sample 15: List of documents

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

#### LIST OF DOCUMENTS

The following is a list of the documents directly relevant to the allegations or matters in question in this proceeding which are in the possession or control of the *plaintiff* and is served in compliance with the *Uniform Civil Procedure Rules*, Chapter 7, Part 1.

1. The documents are listed in the schedule. Subject to Rule 216, you may request copies of documents. So far as copies have not been provided to you with this list, or previously, you may require inspection of the original documents under Rule 215.

It is inconvenient to deliver copies of the documents marked with the asterisk (\*) in the Schedule. You may inspect them at 200 Tenth Avenue, Redwood Qld at the following time(s): Friday 22 April 2022, 9am until 11am and Tuesday 26 April 2022, 9am until 11am.

2. The *plaintiff* objects to produce the documents listed in part 2 of the schedule on the ground of privilege.

---

LIST OF DOCUMENTS  
Filed on behalf of the *plaintiff*  
Form 19 - Rules 214  
Version 2  
*Uniform Civil Procedure Rules 1999*

*Jane Wright*  
200 Tenth Avenue  
Redwood Qld 4350  
Telephone: 07 3238 300  
Facsimile:  
Email:

List of documents cont'd

-2-

**SCHEDULE 1**

Part 1

No.	Description of document	Person who made document	Date
1	Court documents	Both parties	various
2	Correspondence and copies	Both parties	various
3	Copy of police report	Police Commissioner	30/10/21
4	Copy of repairers affidavit	Tom Jones	28/11/21
5	Copies of accident photos	Jane Wright	1/10/21

Part 2 - Documents for which privilege is claimed

No.	Description of document	Person who made document	Date

Signed: *J Wright*  
Description: Plaintiff  
Dated: 27/03/2022

## Sample 16: Request for subpoena

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

And

Defendant: *George Getz*

**REQUEST FOR SUBPOENA**

TO: The Registrar of the Magistrates Court at Toowoomba

Please issue a subpoena for production

On behalf of: *George Getz*

Directed to: *Director-General*

of: *Department of Main Roads  
Level 13, Capital Hill Building  
85 George Street, Brisbane*

returnable before the Magistrates Court at:

Place: *Hume Street, Toowoomba*

Date: *30/04/2022*

Time: *10am*

Signed: *G Getz*

Description: *Defendant*

Dated: *28/03/2022*

---

REQUEST FOR SUBPOENA  
Filed on behalf of the *defendant*  
Form 44 - Rule 44  
Version 2  
*Uniform Civil Procedure Rules 1999*

*George Getz*  
*9 Norman Road*  
*Redwood Gld 4350*  
Telephone: 07 3238 339  
Facsimile:  
Email:

## Sample 17: Subpoena for production

### MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

And

Defendant: *George Getz*

### SUBPOENA FOR PRODUCTION

TO: *Director-General  
Department of Main Roads  
Level 13, Capital Hill Building,  
85 George Street, Brisbane*

THE COURT ORDERS that you attend and produce this subpoena and the documents and things described in the schedule:

- (a) before the *Magistrates Court*,
- (b) at *Hume Street, Toowoomba*
- (c) on *30/04/2022 at ten o'clock in the morning and until you are excused from further attending.*

This subpoena was issued on behalf of *the defendant, George Getz.*

The last date for service of this subpoena is *24/04/2022.*

---

REQUEST FOR SUBPOENA  
Filed on behalf of the *defendant*  
Form 41 - Rule 415; 415A; 416; 418; 419; 420; 420A; 421  
Version 3 Approved 10/09/2018  
*Uniform Civil Procedure Rules 1999*

*George Getz  
9 Norman Road  
Redwood Gld 4350  
Telephone: 07 3238 339  
Facsimile:  
Email:*

## Subpoena for production cont'd

### SCHEDULE

*All maps, plans and documents current as at 1 October, 2021 in relation to the traffic signage at the intersection of Black Street and White Street, Redwood heading in an easterly direction.*

#### TAKE NOTICE:

- (1) failure to comply with this subpoena without lawful excuse is contempt of court and may result in your arrest.
- (2) the party on whose behalf this subpoena was issued may give you written notice of a date or time later than the date or time stated above to attend and produce the documents or things described in the schedule, in which case this subpoena has effect as if the date or time stated in the notice were stated in the subpoena.
- (3) you need not comply with this subpoena unless conduct money is paid, or tendered to you, a reasonable time before the day on which you would be required to attend the Court.
- (4) you have the right to apply to the court to have all or part of the subpoena set aside on any sufficient grounds including-
  - want of relevance; or
  - privilege, including but not limited to, sexual assault counselling privilege; or
  - oppressiveness, including oppressiveness because substantial expenses may not be reimbursed; or
  - non-compliance with the Uniform Civil Procedures Rules.
- (5) if you are not a party to these proceedings, your agent may attend and produce this subpoena and the documents or things described in the schedule at the date, time and place stated above or, instead of attending the court, you or your agent may deliver or send this subpoena or a copy of it and the documents and things described in the schedule to the Registry of the Court from which the subpoena was issued, not later than 2 clear business days before the day on which you are required to attend.
- (6) if you are not a party to the proceeding and you incur substantial loss or expense in complying with this subpoena, you may apply to the Court for an order that the party who requested the issue of the subpoena pay to you an amount in addition to conduct money to compensate you for the loss or expense, including legal costs, incurred in responding properly to the subpoena.
- (7) you may produce a copy of a document described in the schedule unless this subpoena states that the original document must be produced. A copy may be a paper copy or an electronic copy in an electronic file format approved by the registrar.
- (8) if you are producing more than one document or thing, the registrar may require you to provide a list of the documents or things being produced.

**ISSUED WITH THE AUTHORITY OF THE MAGISTRATES COURT OF  
QUEENSLAND:**

Signed: *B Caruso*

Dated: *30/03/2022*

## Sample 18: Subpoena to give evidence

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba  
NUMBER: M123456 of 2021

Plaintiff: *Jane Wright*

And

Defendant: *George Getz*

**SUBPOENA TO GIVE EVIDENCE**

TO: *Ken Brown,  
Insurance Loss Adjuster of  
22 Oats Street Redwood, Toowoomba*

THE COURT ORDERS that you attend and produce this subpoena and the documents and things described in the schedule:

- (a) before the *Magistrates Court*
- (b) at *Hume Street, Toowoomba*
- (c) on *30/04/2022* at ten o'clock in the morning and until you are excused from further attending.

This subpoena was issued on behalf of the Plaintiff, Jane Wright.

The last date for service of this subpoena is 24 April, 2022.

**TAKE NOTICE:**

- (1) failure to comply with this subpoena without lawful excuse is contempt of court and may result in your arrest. You have the right to apply to the court to have the subpoena set aside on any sufficient grounds including privilege, including but not limited to, sexual assault counselling privilege.

---

SUBPOENA TO GIVE EVIDENCE  
Filed on Behalf of the *Plaintiff*  
Form 42, Version 3 Approved 10/09/2018  
Uniform Civil Procedure Rules 1999.  
Rules 415; 415A; 416; 419; 421

Name: *Jane Wright*  
Address: *200 Tenth Ave,  
Redwood QLD 4350*  
Phone No:  
Fax No / Email:

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*Subpoena to give evidence cont'd*

- (2) the party on whose behalf this subpoena was issued may give you written notice of a date or time later than the date or time stated above to attend to give evidence, in which case this subpoena has effect as if the date or time stated in the notice were stated in the subpoena.
- (3) you need not comply with this subpoena unless conduct money is paid, or tendered to you, a reasonable time before the day on which you would be required to attend the Court.

ISSUED WITH THE AUTHORITY OF THE MAGISTRATES COURT OF QUEENSLAND:

Signed: *Signature*

Dated: 30/03/2022

SAMPLE



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# Legal words and phrases explained

**Adjudicator** – The decision maker in the Queensland Civil and Administrative Tribunal. The adjudicator is a court officer, usually a registrar or magistrate.

**Affidavit** – A written statement made by a person to be used in a court. The person who makes an affidavit must swear under oath or make an affirmation that the contents are true. It is signed by a justice of the peace, commissioner of declarations or a lawyer. An affidavit is often used when a person is unable to come to the court and provide information or evidence in person.

**Affirm (affirmation)** – A spoken declaration where you promise to tell the truth when giving information or evidence to the court in person or when writing it in an affidavit. You can make an affirmation if you do not want to swear an oath on a Bible or other sacred book.

**Applicant** – A person who starts a claim in the Queensland Civil and Administrative Tribunal.

**Claim and Statement of claim** – These are documents a person claiming damages files in the court to start legal action.

**Contributory negligence** – Where the accident was caused by both drivers (for example, one driver fails to give way and the other driver is speeding).

**Default judgment** – A judgment made because the defendant does not defend a court action.

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**Defence and Notice of intention to defend** – If someone has made a claim against you and you disagree with their side of the story, you can lodge these documents to begin the process of defending yourself.

**Defendant** – A person who is defending themselves against legal action.

**Enforcement officer** – An officer of the court who takes action to ensure an order made in a court or tribunal by a judge, magistrate or adjudicator is followed.

**Evidence** – The proof needed to support your side of the story. Evidence is usually given verbally in court.

**Filing documents** – The process where documents are received and accepted by a court. The person filing the documents may need to pay a filing fee. Usually the court will stamp its seal on the filed document.

**Hearing** – Where evidence is given to the court from all people involved in a case and a decision is made.

**Legal costs** – These are the costs involved in taking a case to court. These can include the costs of lawyers and the cost of filing documents with the court. Usually a court will order the person who loses a case to pay the other person's legal costs.

**Letter of demand** – A letter that formally demands something from another person. It does not need to be in any particular form and does not need to be sent by a lawyer.

**Lodging documents** – see filing documents.

**Loss assessor** – Someone who can assess the damage done to a vehicle. They are usually a qualified panel beater.

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**Magistrate** – The name for the decision maker in the Magistrates Court. In civil proceedings like this one, they decide who is responsible for the damages. You call the Magistrate “Your Honour”.

**Magistrates Court** – The Magistrates Court deals with civil claims up to \$150,000.

**Mediation** – A dispute resolution process run by an independent third party who helps people to reach agreement through the process of discussion and negotiation without entering into the content of the dispute.

**Negligence** – This is when someone has not taken the proper care or paid enough attention to avoid causing damage to another person or their property.

**Notice of hearing** – A document telling you the date your matter will go to court.

**Order** – An order is made by the court requiring a person to do something (for example, pay damages).

**Plaintiff** – A person who starts a civil claim in court.

**Process server** – A person who delivers or ‘serves’ court documents by handing them to the person concerned.

**Quantum** – The total amount of your claim including the cost to repair your vehicle to the condition it was before an accident, plus any towing fees.

**Queensland Civil and Administrative Tribunal (QCAT)** – A tribunal dealing with disputes of \$25,000 or less including motor vehicle property damage claims.

**Rehearing** – A second hearing for the same matter.

**Respondent** – A person who has had a claim made against them in the Queensland Civil and Administrative Tribunal.

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**Served** – The process where a person is presented with official court documents.

**Subpoena** – A court order requiring a person to appear in court to give evidence or produce documents.

**Swear an oath** – A spoken promise where you swear on the Bible or other sacred book to tell the truth when you give evidence to the court.

**Trial** – A court hearing where all the evidence is presented and a final decision is made.

**Witness** – A person who saw or heard something about your case and is called to give this ‘evidence’ in court.

**Written-off** – When the cost of repairing your vehicle is more than it would be worth at wholesale (dealer’s) price if you sold it.



# Your local Legal Aid Queensland office

## **Brisbane**

44 Herschel Street  
BRISBANE Q 4000

## **Bundaberg**

3rd Floor  
WIN Tower  
Cnr Quay & Barolin Streets  
BUNDABERG Q 4670

## **Caboolture**

Ground Floor  
Kingsgate  
42 King Street  
CABOOLTURE Q 4510

## **Cairns**

Level 2  
Cairns Square Complex  
42-52 Abbott Street  
CAIRNS Q 4870

## **Inala**

Level 1  
Inala Commonwealth Offices  
20 Wirraway Parade  
INALA Q 4077

## **Ipswich**

Level 7, 117 Brisbane Street  
IPSWICH Q 4305

## **Mackay**

Ground Floor  
17 Brisbane Street  
MACKAY Q 4740

## **Maroochydore**

Ground Floor  
M1 Building  
1 Duport Avenue  
MAROOCHYDORE Q 4558

## **Mount Isa**

6 Miles Street  
MOUNT ISA Q 4825

## **Rockhampton**

Ground Floor  
35 Fitzroy Street  
ROCKHAMPTON Q 4700

## **Southport**

Level 2  
7 Bay Street  
SOUTHPORT Q 4215

## **Toowoomba**

1st Floor  
154 Hume Street  
TOOWOOMBA Q 4350

## **Townsville**

Level 4  
Northern Securities Building  
22 Walker Street  
TOWNSVILLE Q 4810

## **Woodridge**

1st Floor, Woodridge Place  
Cnr Ewing Road and  
Carmody Street  
WOODRIDGE Q 4114



**For more information about our services visit [legalaid.qld.gov.au](http://legalaid.qld.gov.au)**  
or phone 1300 65 11 88 or 1300 650 143 (Aboriginal and Torres Strait Islander Information Line)

