

RULES OF COURT—MATRIMONIAL CAUSES JURISDICTION, PAPUA.⁽¹⁾⁽²⁾

PART I.

Preliminary.

1. These Rules may be cited as the *Rules of Court—Matrimonial Causes Jurisdiction, Papua*;⁽¹⁾⁽²⁾ and shall come into operation on Monday, the eighth day of January, 1951, and shall as far as practicable apply, unless otherwise expressly ordered, to all actions and proceedings then pending as well as to all actions and proceedings taken on or after that date.

2. In these Rules:—

“Address for service” means the address of the respective party, or of his or her solicitor, which address must be within five miles of the Registry, and at which all documents not required to be served personally may be left. And the leaving at that address of any document not required to be served personally shall be deemed to be due service of that document on that respective party.

“Clear days” means days exclusive of Sundays and Court holidays, and the day of service.

“Office copy” means a true copy of an original document checked in the Registry and certified in the Registry on each page as an office copy and sealed on each page with the Seal of the Court. And before any office copy is so checked, certified and sealed the original of that document shall be filed in the Registry.

PART II.

Writ of Summons.

3. An action for dissolution of marriage, nullity of marriage, restitution of conjugal rights or jactitation of marriage shall be commenced by a Writ of Summons, which Writ of Summons may be issued without leave.

(1) The *Rules of Court—Matrimonial Causes Jurisdiction, Papua* (made under the *Matrimonial Causes Ordinance, 1941–1950*) comprise the original *Rules of Court—Matrimonial Causes Jurisdiction, Papua* as amended by the other *Rules of Court* referred to in the following Table:—

RULES OF COURT MADE BY THE JUSTICES OF THE SUPREME COURT.

Citation or Description.	Date on which made by Justices of Supreme Court.	Date on which published in Papua and N.G. Govt. Gaz.	Date on which took effect and came into operation.
<i>Rules of Court—Matrimonial Causes Jurisdiction, Papua</i>	5.1.1951	15.2.1951	8.1.1951 (Rule 1, <i>Rules of Court — Matrimonial Causes Jurisdiction, Papua</i>)
<i>Amending Rules of Court</i>	2.7.1951	28.6.1951	(a)

(a) The *Amending Rules of Court* were expressed to have been made as of 2.7.1951, although published in Papua and N.G. Govt. Gaz. of 28.6.1951. *Semble*, they took effect from 2.7.1951.

(2) Amendments made by the *Amending Rules of Court* (dated 2.7.1951) (printed in this Volume on p. 1558.) to the *Rules of Court—Matrimonial Causes Jurisdiction, Papua* have been indicated by a footnote to the latter *Rules of Court*. Words deleted by the *Amending Rules of Court* have been enclosed in square brackets and printed in *italics*.

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4. Every Writ of Summons shall bear date on the day on which it is issued and shall be tested in the name of the Chief Judge, and shall briefly state the nature of the claim made and the relief sought, and shall be endorsed with an address for service and a notice to the defendant regarding entry of appearance and filing defence.

5. Every Writ of Summons shall be accompanied by a Statement of Claim.

6. Every Writ of Summons shall remain in force for twelve calendar months from the date of issue, but this time may be extended by leave of a Judge.

7. The time to be limited in the Writ of Summons for the appearance of a defendant shall be according to the location of the place of service, that is to say:—

Place of Service.	Time for appearance.
1. <i>In the Territory of Papua—</i>	
Within 20 miles of the Registry at Port Moresby	14 clear days
Beyond 20 miles of the Registry at Port Moresby	14 clear days with an additional clear day for each 10 miles or part thereof in excess of 20 miles
2. <i>Beyond the Territory of Papua—</i>	
In a State or Territory of the Commonwealth or in New Zealand ..	2 calendar months
Elsewhere	3 calendar months

PART III.

Statement of Claim.

8. Every Statement of Claim shall be filed in the Registry, and shall be supported by and annexed to an affidavit made by the plaintiff verifying the allegations of facts set out in the Statement of Claim so far as he or she has personal knowledge thereof, and deposing as to his or her belief in the truth of the rest of the allegations of facts set out in the Statement of Claim.

9. In cases where the plaintiff claims a decree for dissolution of marriage or nullity of marriage, the Statement of Claim shall set out that there has been no collusion or connivance between the plaintiff and any other party to the action, and that the plaintiff has not resorted to the Territory for the purpose of instituting the action.

10. In cases where the plaintiff claims a decree for restitution of conjugal rights, the Statement of Claim shall set out that a written demand for cohabitation and restitution of conjugal rights has been made by the plaintiff upon the other party to the marriage, and that, after a reasonable opportunity for compliance therewith, cohabitation and restitution of conjugal rights has been withheld.

11. Every Statement of Claim shall be endorsed with an address for service.

PART IV.

Service of Writ of Summons and Statement of Claim.

12. In an action where the domicile of a defendant is within the jurisdiction, or the plaintiff, a wife, is by virtue of Section forty-seven of the *Matrimonial Causes Ordinance*, 1941-1950,⁽³⁾ deemed, for the purposes of that Ordinance, to have retained her Territory domicile or to be domiciled in the Territory, service of the Writ of Summons and Statement of Claim may be effected out of the jurisdiction.

13. When a defendant is outside British or Australian dominions a Notice of the Writ of Summons, and not the Writ of Summons itself, shall be served personally on that defendant. Service of that notice shall have the same force and effect as service of the Writ of Summons itself.

14. Unless otherwise prescribed or allowed, service of the Writ of Summons, or Notice of the Writ of Summons, and Statement of Claim shall be effected by personally delivering an office copy of each of the said documents to the party to be served. But personal service shall not be required when the party to be served, by his or her solicitor, undertakes in writing to accept service, and enters an appearance.

15. In cases where personal service cannot be effected, application may be made to a Judge by motion supported by affidavit, to substitute service by way of advertisement of notice or by some other mode of service, or to dispense with service altogether.

16. When service of the Writ of Summons, or Notice of the Writ of Summons, and Statement of Claim has been effected, the person serving them shall, within four clear days after service, swear an affidavit of service, otherwise the plaintiff shall not, without leave of a Judge, be at liberty, in case of default of appearance, to proceed as upon default. That affidavit of service shall be filed in the Registry.

PART V.

Entering Appearances.

17. Any entry of appearance in an action by or on behalf of a defendant shall be filed in the Registry, and shall be endorsed with an address for service. A copy of the entry of appearance shall be served on the plaintiff, or on his or her solicitor, on the day on which the original thereof is filed.

18. An appearance may be entered without leave at any time before any proceedings have been taken in default of appearance, or afterwards by leave of a Judge.

19. No further proceedings shall be taken in an action after the service of the Writ of Summons, or Notice of Writ of Summons, and Statement of Claim without the leave of a Judge until an appearance has been entered by or on behalf of the defendant or all the defendants, if more than one; or until it be proved by affidavit filed in the Registry that each defendant who has not appeared has been duly served with

(3) The *Matrimonial Causes Ordinance*, 1941 is printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. III., on pp. 2965-2976; as to subsequent amendments see the Supplementary Table printed in this Volume on p. 1392.

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the Writ of Summons, or Notice of the Writ of Summons, and Statement of Claim, and that, when the time for that defendant's appearance had lapsed a proper search in the Registry has been made and disclosed that no appearance has been entered by or on behalf of that defendant.

* (4) * * * * *

PART VI.

Defence.

20. A defendant who has entered an appearance may, within fourteen clear days after the time limited for entering an appearance, file in the Registry a Defence to the Statement of Claim.

21. An office copy of the Defence shall be served on the plaintiff, or on his or her solicitor, on the day on which that Defence is filed.

22. A Defence which contains matter other than simple denials of the allegations of facts set out in the Statement of Claim shall be supported by and annexed to an affidavit made by the defendant verifying that other matter so far as he or she has personal knowledge thereof, and deposing as to his or her belief in the truth of the rest of that other matter.

PART VII.

Further Pleadings.

23. When a Defence contains any allegations other than simple denials of the allegations of facts set out in the Statement of Claim the plaintiff may, within fourteen clear days after the service of the Defence, file in the Registry a Reply thereto.

24. When a Reply contains matter other than simple denials of the allegations of facts set out in the Defence the defendant may, within fourteen clear days after the service thereof, file in the Registry a Rejoinder thereto.

25. An office copy of every Reply and of every Rejoinder shall be served on the opposite party, or on his or her solicitor, on the day on which that Reply or Rejoinder is filed.

26. Every Reply or Rejoinder which contains matter other than simple denials of the allegations of facts set out in the preceding pleading shall be supported by and annexed to an affidavit made by the party making the Reply or Rejoinder verifying that other matter so far as he or she has personal knowledge thereof, and deposing as to his or her belief in the truth of the rest of that other matter.

PART VIII.

General Rules as to Pleadings.

27. A Judge may at any time, on the application of any party to an action, allow or order the amendment of any pleading upon any terms and conditions as the Judge may deem fit.

(4) Rule 19A has been added by *Amending Rules of Court* printed in this Volume on p. 1558.

28. Any party to an action may object to any pleading of the opposite party, and may apply to a Judge by motion supported by affidavit for an order that any part thereof be struck out, or for further and better particulars, or otherwise as the Judge may direct. A copy of the notice of motion and of the affidavit in support thereof shall be served on the opposite party, or on his or her solicitor, on the day on which the originals thereof are filed.

29. When any pleading has been ordered to be amended, a Judge may also order that further service of the amended pleading be dispensed with, or that it be served and a fixed time after service be allowed for answering or replying thereto.

30. If no order is made dispensing with service of any amended pleading, or fixing a time for replying or answering thereto, an office copy of the amended pleading shall be served on the opposite party, or on his or her solicitor, within four clear days after the order for amendment is made; and the time for filing and serving the next pleading shall be reckoned from the time of service of the amended pleading.

31. When any pleading has been filed and subsequently thereto the pleading to which it is a reply has been amended, the party who has filed that pleading in reply shall be at liberty to amend that pleading within fourteen clear days, or within any further time as may be allowed by a Judge, after service of the amended pleading.

32. If the time limited for filing or serving any pleading has expired that time may be enlarged by the written consent of each opposite party, or of his or her solicitor. Failing that written consent the party desiring to file or serve that pleading may make application to a Judge by motion supported by affidavit for leave to file or serve the same, subject to any order as the Judge may deem fit to make as to costs. A copy of the notice of motion and of the affidavit in support thereof shall be served on each opposite party, or on his or her solicitor, on the day on which the originals thereof are filed.

33. If no Defence, Reply or Rejoinder is served within the time limited therefor, the pleadings shall, subject to any order a Judge may deem fit to make as to filing any Defence, Reply, or other pleading be deemed to be closed at the expiration of that time; and the allegations of facts in the pleading last filed and served shall be deemed to have been denied, and put in issue.

PART IX.

Trial.

34. When no appearance has been entered by or on behalf of the defendant or all the defendants, if more than one, or when the pleadings are closed, or deemed to be closed, the plaintiff may make application to a Judge by motion for directions as to date of hearing and whether the action or any of the matters in issue therein shall be tried by oral evidence or on affidavit, or in part by oral evidence and in part by affidavit, and as to matters incidental to trial generally. When the Judge directs that the trial shall be partly on affidavit, the part so to be tried shall be specified in the order for directions.

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35. In defended cases, if the plaintiff fails to apply for directions for trial within fourteen clear days after the date of service of the concluding pleading, any defendant, on whose behalf any question has been raised by the pleadings, may apply for those directions.

36. [A]⁽⁵⁾ copy of any notice of motion under the two preceding rules shall be served on each opposite party, or on his or her solicitor, on the day on which the original thereof is filed.

37. [When]⁽⁶⁾ directions for trial have been given the party who applied for directions shall take out the order for directions within four clear days after the making of that order, and shall serve a copy of the order for directions on each opposite party, or on his or her solicitor, on the day on which the order is taken out; or otherwise as the Judge may direct.

38. The hearing of an action, whether wholly upon oral evidence or partly upon oral evidence and partly upon evidence by affidavit, shall be conducted in Court, unless a Judge shall otherwise order.

39. The finding and decree of the Judge shall be entered by the Registrar on the record, and the Registrar shall sign that entry.

PART X.

Interveners.

40. Application by any person other than the Crown Law Officer for leave to appear and intervene may be made at any period of the action to a Judge by motion supported by affidavit.

41. Every person intervening shall join in the proceedings at the stage in which he or she finds them, unless otherwise ordered by the Judge.

PART XI.

Orders Nisi.

42. Every order nisi for dissolution of marriage or nullity of marriage shall be endorsed with a notice to the plaintiff and to the defendant that if he or she marries before the order is made absolute he or she will be guilty of bigamy. A party taking out an order nisi shall serve a copy of that order nisi on the Crown Law Officer on the day on which the order is taken out.

PART XII.

Showing Cause Against a Decree.

43. Any person other than the Crown Law Officer desiring to show cause against making absolute an order nisi for dissolution of marriage or nullity of marriage shall enter an appearance in the action in which that order nisi has been pronounced, and shall give notice of that appearance to all the parties to the action.

44. Every person so entering an appearance shall, within fourteen clear days thereafter, file in the Registry an affidavit made by him or her

(5) The word "A" was omitted and the words "In a defended action a" inserted in its place by *Amending Rules of Court*, printed in this Volume on p. 1558.

(6) The word "when" was omitted and the words "In a defended action when" inserted in its place by *Amending Rules of Court*, printed in this Volume on p. 1558.

setting out the facts upon which he or she relies; and shall, on the same day serve a copy thereof on the party in whose favour the order nisi has been pronounced, or on his or her solicitor.

45. The party in whose favour the order nisi has been pronounced may, within fourteen clear days after the delivery of the affidavit referred to in the preceding Rule, file in the Registry his or her affidavit in answer, and shall on the same day serve a copy thereof on the person showing cause against the order nisi being made absolute, or on his or her solicitor.

46. The person showing cause against the order nisi being made absolute, may, within fourteen clear days after the delivery of the affidavit in answer, file in the Registry an affidavit in reply, and shall on the same day serve a copy thereof on the party supporting the order nisi, or on his or her solicitor.

47. The questions raised on any affidavits so filed shall be argued in any manner and at any time as a Judge shall, on application by motion, direct; and, if he deems fit, he may direct any controverted questions of fact to be tried on oral evidence.

PART XIII.

Decrees Absolute.

48. On any application to make absolute an order nisi for dissolution of marriage or nullity of marriage it must be shown by a certificate from the Registrar that no matter in opposition to the final decree is then pending.

49. After the expiration of the time limited in an order nisi for dissolution of marriage or nullity of marriage that order may be made absolute on the request in writing of the party in whose favour the order nisi has been pronounced, or of his or her solicitor, and upon the certificate from the Registrar that no matter in opposition to the final decree is then pending.

PART XIV.

Reversal of Decrees for Judicial Separation.

50. Any party desiring to apply for the reversal of a decree for judicial separation shall first enter, or cause to be entered on his or her behalf, an appearance in the action in which the decree has been made.

51. An application for the reversal of a decree for judicial separation shall be made to a Judge by motion supported by affidavit, which motion may be moved at any time. The motion shall set out the grounds upon which the moving party relies, and shall be endorsed with an address for service.

52. An office copy of the notice of motion and an office copy of the affidavit in support thereof shall be served personally on the party in the action in whose favour the decree has been made, which party may file in the Registry his or her answer thereto within the time prescribed in Rule 7, according to the location of the place of service.

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53. Any further proceedings arising from the notice of motion and answer shall be carried on, *mutatis mutandis*, in the same manner as provided in Parts III. to IX. in respect of an original action for judicial separation, so far as those provisions are applicable.

PART XV.

Maintenance Pendente Lite.

54. A party to a marriage being a plaintiff in an action may claim maintenance by the other party to the marriage pending the hearing of the action at any time after the Writ of Summons, or Notice of the Writ of Summons, and Statement of Claim have been duly served, or after an order has been made by a Judge dispensing with service thereof, provided the fact of marriage between the parties is established by affidavit previously filed in the Registry.

55. A party to the marriage being a defendant in an action may, after having entered an appearance, claim maintenance by the other party to the marriage pending the action, provided the fact of the marriage between them has been established by affidavit previously filed in the Registry.

56. A claim for maintenance pending action shall be made on application to a Judge by motion supported by affidavit. A copy of the notice of motion and of the affidavit in support thereof shall be served on the opposite party, or on his or her solicitor, on the day on which the originals thereof are filed.

57. A party to the claim shall enter, or cause to be entered on his or her behalf, an appearance in the action before filing an answer to the claim.

58. The party so served with the notice of motion and affidavit in support thereof shall, within fourteen clear days after the service thereof, file in the Registry his or her affidavit in answer to the claim, and shall on the same day serve a copy of that affidavit in answer on the party making the claim, or on his or her solicitor.

59. A party may object to any affidavit of the opposite party, and may apply to a Judge by motion supported by affidavit for an order that any part thereof be struck out, or for further and better particulars or otherwise as the Judge may direct. A copy of the notice of motion and of the affidavit in support thereof shall be served on the opposite party, or on his or her solicitor, on the day on which the originals thereof are filed.

60. When an affidavit in answer contains matter other than simple denials of the matters contained in the affidavit in support of the motion, the opposite party may within fourteen clear days after the delivery of the affidavit in answer file an affidavit in reply thereto, and shall on the same day serve a copy of that affidavit in reply on the party defending the claim, or on his or her solicitor.

61. When these proceedings are complete the moving party, or his or her solicitor, may bring the matter on for hearing by serving the opposite party, or his or her solicitor, with four clear days notice of

motion; and in such notice of motion may give to the opposite party notice that he or she is required to produce documents or books, or to attend for the purpose of examination.

62. When any party intends to examine witnesses on the hearing of the motion written notice thereof shall be given to the opposite party, or to his or her solicitor. If no party intends to examine witnesses the matter shall be heard on the affidavits so filed, and no fresh affidavits shall be filed or used except by special leave of the Judge.

63. A Judge may refer to the Registrar for his report on the claim, and on that reference the Registrar shall have power to require the attendance of the husband and wife, or either of them or of any other witness, for the purpose of examination; and power to issue subpoenas to, and to take the oral evidence of, any witness; and power to require the production of any documents; and power to call for affidavits.

64. Unless the Judge therein otherwise directs, the costs of a party arising out of the claim shall not be allowed against the opposite party before the final decree of the Court in the principal action.

PART XVI.

Permanent Maintenance and Settlements.

65. A party who has obtained a decree for dissolution of marriage, or judicial separation, or restitution of conjugal rights, which last mentioned decree has not been complied with, may claim permanent maintenance by the other party to the marriage.

66. A claim for permanent maintenance shall be made on application to a Judge by motion supported by affidavit.

67. Unless a Judge shall otherwise order, a copy of the notice of motion and of the affidavit in support thereof shall be served personally on the husband or wife, as the case may be, and on any person or persons who may have any legal or equitable interest in any property in respect of which any part of the claim is made.

68. Any further proceedings arising out of the claim shall be carried on, *mutatis mutandis*, in the same manner as provided in Part XV. in respect of a claim for maintenance pending action, so far as those provisions are applicable.

69. Unless otherwise ordered by a Judge, permanent maintenance shall commence and be computed from the date of the final decree of the Court in the principal action.

PART XVII.

Variation of Maintenance.

70. At any time after maintenance, whether maintenance pending action or permanent maintenance, has been ordered, a party may apply for an increase of the amount of that maintenance by reason of the increased means of the person liable to pay that maintenance; or for diminution of the amount of that maintenance by reason of the reduced means of the person liable to pay that maintenance. And the proceedings

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arising from any application hereunder shall be carried on, *mutatis mutandis*, in the same manner as provided by these Rules in respect of the original claim for that maintenance, so far as those provisions are applicable.

PART XVIII.

Custody, Maintenance and Education of Children.

71. Application for the custody, maintenance and education of any child or children of the marriage which is the subject of an action, may be made to a Judge by motion supported by affidavit, either before, or at the time of, or after the final decree of the Court in the principal action. And the proceedings arising from any application hereunder shall be carried on, *mutatis mutandis*, in the same manner as provided in Part XV. in respect of an application for maintenance pending action, so far as those provisions are applicable.

PART XIX.

Taking out Orders and Decrees.

72. Every order and decree shall be taken out within fourteen clear days after the same has been made. Provided that if the party having the original carriage of any order or decree fails to take out the same within fourteen clear days after that order or decree has been made, any other party in the action or matter shall be entitled to take out that order or decree at the cost of the party who had the original carriage thereof.

PART XX.

General Practice and Miscellaneous Matters.

73. If an order is obtained without due notice to the opposite party or parties, as the case may be, then, except where otherwise provided by these Rules, that order may be rescinded on an application to a Judge by motion supported by the affidavit of the party or parties on whom the notice should have been served; and the costs and expenses of and arising from the rescinding of that order shall be borne by the party who obtained that order, unless the Judge shall otherwise direct.

74. Applications to a Judge by motion may be set down for hearing as the Judge shall from time to time direct, or at any time by leave of the Judge.

75. Whenever by these Rules a time is fixed for the performance of any act or of any proceeding a Judge may, whether the time fixed has expired or not, extend that time with any qualifications or restrictions, or on any terms as he may deem fit; provided that in any case a Judge may, on application by motion supported by affidavit, abridge that time if the requirements of justice appear to him to require that abridgment.

76. Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceedings void unless a Judge so directs; but such proceedings may be set aside either wholly or in part as irregular, or amended or otherwise dealt with in any manner and upon any terms as a Judge may direct.

77. The Registrar shall have the custody of all documents brought in or filed in the Registry, and of all entries of orders or documents made in any action or matter depending in the Court; and no documents brought in or filed as aforesaid shall be disclosed to any person, except to the parties to the action or matter, or to their solicitors, without the special order of a Judge.

78. Forms of documents shown in Schedule No. 1 shall be used under these Rules so far as those forms are applicable, but those forms may be varied as circumstances require. In any case where a form of document is not shown in that Schedule a form of that particular document as allowed by a Judge may be used.

79. Fees to be taken in the Registry under these Rules shall be as shown in Schedule No. 2.

80. Costs which may be charged by solicitors under these Rules shall be as shown in Schedule No. 3.

81. If in any action or matter circumstances arise not provided for by these Rules, or if there is any doubt or dispute as to the proper procedure to be followed, a Judge may direct what shall be done in the particular instance, or that the procedure already adopted shall be deemed proper; and his directions shall be of the same validity as if incorporated in these Rules.

SCHEDULE No. 1.

FORM No. 1.

Headings.

Documents, other than orders and decrees.

IN THE SUPREME COURT OF THE TERRITORY OF PAPUA AND NEW GUINEA	}	No.	of 19
Matrimonial Causes Jurisdiction, Papua.			

Between:

S	T	H	Plaintiff.
	and		
N	O	H	Defendant.
	and		
H	S	C	Co-Defendant.

FORM No. 2.

Orders and Decrees.

As in Form No. 1, but with insertion of the Judge's name—
THE CHIEF JUDGE (or MR. JUSTICE) under the words "Matrimonial Causes Jurisdiction, Papua".

FORM No. 3.

Writ of Summons.

(Heading.)

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:
To (full name of Defendant) of (full address of Defendant).

(If Co-Defendant joined)

And to (Full name of Co-Defendant) of (full address of Co-Defendant).

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WE command you that within (*time limited*) after the service on you of this Writ of Summons, you do cause an appearance to be entered for you in Our Supreme Court of Papua and New Guinea, at Port Moresby, in an action at the suit of (*full name of Plaintiff*); and take notice that in default of your so doing the Plaintiff may, by leave of a Judge, proceed therein, and judgment may be given in your absence.

Witness: THE HONOURABLE FREDERICK BEAUMONT PHILLIPS, Chief Judge of the Supreme Court of the Territory of Papua and New Guinea, at Port Moresby, the day of in the year of Our Lord One thousand nine hundred and .

Registrar.

N.B. This Writ of Summons shall remain in force for twelve calendar months from the date of issue, but this time may be extended by leave of a Judge.

(If for service beyond the jurisdiction) This Writ of Summons is to be served out of the Territory of Papua and New Guinea and in the of .

Your appearance to this Writ of Summons must give an address at some place within five miles of the Office of the Supreme Court of the Territory of Papua and New Guinea, at Port Moresby, at which address proceedings and notices for you may be left. Appearance may be entered either personally or by solicitor.

You are required within fourteen clear days after the time hereby limited for your appearance to file in the said Court your Defence to the Plaintiff's Statement of Claim in this action, which is served upon you with this Writ of Summons.

This Writ of Summons was issued by Solicitor for the Plaintiff,
whose address for service is at Street, Port Moresby, Papua.

Endorsement of Claim.

The Plaintiff claims:—

1. A dissolution of his (*her*) marriage with the Defendant
(*full name of Defendant*).
2. (*If custody*) Custody of the children of the said marriage.
3. (*If damages*) £ damages against the Co-Defendant
(*full name of Co-Defendant*).
4. Any further or other relief as to the Court may seem meet.

Solicitor for Plaintiff.

FORM No. 4.

Pleadings.

STATEMENT OF CLAIM.

(Heading.)

STATEMENT OF CLAIM.

Dated the day of 19 .

1. The Plaintiff is a (*occupation*) and resides at in the of .
2. The Defendant is a (*occupation*) and resides at in the of .
3. (*If Co-Defendant joined*) The Co-Defendant is a (*occupation*) and resides at in the of .
4. The Plaintiff is domiciled in the Territory of Papua, and at the date hereof has been domiciled therein for years at least, and has not resorted to the said Territory for the purpose of instituting this action.
5. The Plaintiff was lawfully married to the Defendant on the day of 19 , in the (*name of Church*) at in the of , by (*name of officiating Minister*), according to the rites of the Church.

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6. After the said marriage the Plaintiff and the Defendant lived and cohabited together at _____ in the _____ of _____, and at _____ in the _____ of _____, and there is issue of the said marriage, (number) children named (full names), and aged _____ and _____ respectively.

7. (If desertion) The Defendant deserted the Plaintiff without reasonable excuse on the _____ day of _____ 19____, and has continuously so deserted the Plaintiff up to the date hereof.

8. (If adultery) The Defendant committed adultery with the Co-Defendant on the _____ day of _____ 19____, at _____ in the _____ of _____, and (set out any additional acts of adultery relied upon).

9. (If adultery) The Co-Defendant committed adultery with the Defendant on _____ (as in paragraph 8).

10. The Plaintiff has not condoned the said desertion (or adultery).

11. There has been no collusion or connivance between the Plaintiff and the Defendant (or the Co-Defendant).

THE PLAINTIFF CLAIMS—

1. A dissolution of the said marriage.
2. (If custody) Custody of the said children.
3. (If damages) £ _____ damages against the Co-Defendant.
4. Any further or other relief as to the Court may seem meet.

Plaintiff.

Address for Service: c/o _____, Solicitor for Plaintiff, _____ Street, Port Moresby, Papua (or other address).

To the Defendant:

You are required to file your Defence to this Statement of Claim within fourteen clear days after the time limited in the Writ of Summons for entry of your appearance in this action; otherwise the above allegations will be deemed to be denied by you and put in issue.

FORM No. 5.

DEFENCE OF DEFENDANT.

(Heading.)

DEFENCE OF DEFENDANT.

Dated the _____ day of _____ 19____.

1. The Defendant admits the allegations contained in paragraph 1 of the Statement of Claim.

2. The Defendant admits the allegations contained in paragraph 2 of the Statement of Claim.

3. (If unable to admit) The Defendant is unable to admit the allegations contained in paragraph 3 of the Statement of Claim because (set out reasons).

4. (If denied) The Defendant denies that the Plaintiff is domiciled in the Territory of Papua. The Defendant says that the Plaintiff is domiciled in the (country of domicile); and that the Plaintiff has resorted to the Territory of Papua for the purposes of instituting this action (or other reason for resorting to the Territory).

5. The Defendant admits the allegations contained in paragraph 5 of the Statement of Claim.

6. The Defendant admits the allegations contained in paragraph 6 of the Statement of Claim.

7. (If desertion) The Defendant denies the allegations contained in paragraph 7 of the Statement of Claim and says that (set out material facts, e.g., refusal to provide home, refusal to receive back, etc.).

(If admitting but setting up justification) The Defendant admits that he (she) did leave the Plaintiff on the date alleged in paragraph 7 of the Statement of Claim but he (she) had reasonable excuse for so doing because (set out reasons).

PART B: MARRIAGE AND DIVORCE—

8. (*If adultery*) The Defendant denies the allegations contained in paragraph 8 of the Statement of Claim.

(*If admitting but setting up condonation*) The Defendant admits that he (*she*) did commit adultery as alleged in paragraph 8 of the Statement of Claim but the Plaintiff condoned that adultery and forgave the Defendant thereon.

9. (*If adultery*) As in paragraph 8, with variation to cover Co-Defendant.

10. (*If setting up condonation*) The Defendant says that the Plaintiff condoned the said desertion (*or adultery*) and forgave the Defendant thereon when the Plaintiff (*set out circumstances of condonation*).

11. The Defendant says there has been no collusion or connivance between the Plaintiff and the Defendant.

Address for Service: c/o _____, Solicitor for Defendant,
Port Moresby, Papua (*or other address*).

Defendant.
Street,

To the Plaintiff:

You are required to file your Answer to this Defence within fourteen clear days after service hereof, otherwise the above allegations will be deemed to be denied by you and put in issue.

FORM No. 6.

Affidavits.

AFFIDAVIT VERIFYING.

(Heading.)

I, (*full name*) of _____ in the _____ of _____, (*occupation*),
make oath and say as follows:—

1. I am the Plaintiff (*Defendant*) in this action.

2. So much of the statements in the Statement of Claim (*or other document*) annexed hereto and marked "A" as relates to myself and to my own acts is true, and so much thereof as relates to any other person or to the acts of any other person is true to the best of my knowledge and belief.

Signed and Sworn by the above-
named Deponent at _____
said this _____ day of _____

19 _____

} Before me—

A Justice of the Peace
for the _____ of _____
(*or if a Commissioner*)

A Commissioner for Taking Affidavits
in the Supreme Court of the Territory
of Papua and New Guinea, resident in
the _____ of _____

FORM No. 7.

AFFIDAVIT OF SERVICE.

(Heading.)

I, etc. (*as in Form No. 6*).

1. On the _____ day of _____ 19 _____, at (*place of service*)
in the _____ of _____, I did personally serve the above-named
Defendant with the Writ of Summons and Statement of Claim in this action
by delivering to and leaving with him (*her*) an office copy of the said Writ of
Summons and an office copy of the said Statement of Claim.

2. (*If written acknowledgment*) At the time of service the person on whom
I served the said documents admitted to me that he (*she*) is the Defendant in this
action, and at my request and in my sight he (*she*) signed an acknowledgment of
service, being the paper writing annexed hereto and marked "A".

3. (*If by personal identification*) At the time of service I was accompanied by (*full name*) of (*full address*) who informed me, and as I verily believe, that the Plaintiff and the Defendant are well known to him (*her*), and he (*she*) pointed out and identified the person on whom I served the said documents as being the Defendant in this action.

4. (*If identification by photograph*) At the time of service I produced to the Defendant the photograph annexed hereto and marked "A", and at my request, and in my sight, he (*she*) signed the endorsement as appears on the back of the said photograph and acknowledged that the said photograph is of him (*her*).

5. At the time of service the following conversation took place between the Defendant and (*person identifying*) and me:—(*set out conversation regarding identification, acknowledgment and service, etc. The Affidavit of Service must not include any conversation directed to any admission of the acts grounding the action. If it is intended to ask leave to prove these acts by affidavit they must be sworn to in a separate affidavit*).

Signed, etc. (*as in Form No. 6*).

FORM NO. 8.

AFFIDAVIT OF IDENTIFICATION.

(Heading.)

I, etc. (*as in Form No. 6*).

1. The above-named Plaintiff (*full name*) is well known to me. I have known him (*her*) personally for years, during which time (*set out association and means of knowledge*).

2. The above-named Defendant (*full name*) is (*as in paragraph 1*).

3. I ask leave to refer to the affidavit of (*full name of server*) sworn herein the day of 19 .

4. On the day of 19 , I accompanied the said (*full name of server*) when he served on the Defendant two documents which the said (*full name of server*) informed me, and as I verily believe, were an office copy of the Writ of Summons and an office copy of the Statement of Claim in this action.

5. At the time of service I pointed out and identified the Defendant in this action. The person so served with the said documents is the Defendant in this action.

6. At the time of service the following conversation took place between the said (*full name of server*) and the Defendant and me:—

(*see note to Form No. 7*).

Signed, etc. (*as in Form No. 6*).

FORM NO. 9.

NOTICE OF MOTION.

(Heading.)

Take Notice that this Honourable Court will be moved before the Honourable the Chief Judge (*Mr. Justice*) at the hour of o'clock in the noon on (*day*) the day of 19 , or as soon thereafter as Counsel can be heard, by Counsel on behalf of the Plaintiff (*Defendant*) for an order that (*set out order sought*); AND for any further order as to the said Judge may seem meet.

Dated this day of 19 .

Solicitor for Plaintiff (*Defendant*).

To the Registrar

And to Mr. , Solicitor for Plaintiff (*Defendant*).

On the hearing of the Motion it is intended to read the following Affidavits:—

Affidavit of (*full name*) filed the 19 .

Affidavit of (*full name*) filed the 19 .

PART B: MARRIAGE AND DIVORCE—

FORM No. 10.

Orders and Decrees.

By a Judge.

(Heading.)

The day of 19

Upon Hearing Mr. _____ of Counsel for the Plaintiff, and Mr. _____ of Counsel for the Defendant, and Upon Reading the Notice of Motion dated the _____ day of _____ 19____; and the Affidavit of (full name) _____ sworn the _____ day of _____ 19____, and the affidavit of (full name) _____ sworn the _____ day of _____ 19____, filed herein, I do order that (*set out order as made*) AND that the costs of and incidental to this application be costs in the cause (*or other order as to costs*).

FORM No. 11.

By the Court.

ORDER NISI—ON ADULTERY.

(Heading.)

The day of 19

This Action having this day been tried before the Honourable the Chief Judge (*Mr. Justice*) in the presence of Counsel for the Plaintiff, and Counsel for the Defendant and Co-Defendant (*if undefended—there being no appearance for the Defendant or Co-Defendant*), AND the said (*Chief*) Judge having found that the Plaintiff is domiciled in the Territory of Papua; that the Plaintiff and the Defendant were lawfully married on the day of 19 , in the (*name of Church*) at in the of by (*name of officiating Minister*) according to the rites of the Church; that the Defendant committed adultery with the Co-Defendant on the day of 19 , at in the of ; and that the Co-Defendant committed adultery with the Defendant on the day of 19 , at in the of ; This Court Doth Order and Adjudge that the said Marriage be dissolved unless cause to the contrary be shown unto this Court within six months from this day, And that the Plaintiff do recover against the Co-Defendant his (*her*) costs of this action to be taxed (*or if fixed—which are hereby fixed at £*).

By the Court,

Registrar.

To the Plaintiff, and to the Defendant:

Take notice that if you marry again before this Order Nisi shall have been made absolute you will be guilty of bigamy.

FORM No. 12.

DECRETE ABSOLUTE.

(Heading.)

The day of 19 .

Upon Reading the Request of the above-named Plaintiff, dated the _____ day of _____ 19____, and the Order Nisi made the _____ day of _____ 19____, and the Certificate of the Registrar dated the _____ day of _____ 19____, filed herein; And no cause being shown to the contrary; This Court Doth Order and Adjudge that the marriage between the above-named (full name of Plaintiff) and the above-named (full name of Defendant) solemnized on the _____ day of _____ 19____, in the (name of Church) at _____ in the _____ of _____ by (name of officiating Minister) according to the rites of the _____ Church, be, and the same is hereby, dissolved.

By the Court,

Registrar.

Rules of Court—Matrimonial Causes Jurisdiction, Papua—cont.

SCHEDULE No. 2.

Fees to be taken in the Registry.

Item No. 1.—On sealing and issuing:—	£	s.	d.
(a) Any Writ of Summons, order or decree	0	10	0
(b) Every other document	0	5	0
Item No. 2.—On filing every document, other than any original under Item No. 1 which original is filed only for the purpose of obtaining an office copy thereof	0	5	0
Item No. 3.—On checking every office copy, at per folio of 72 words; to include certifying	0	0	4
Item No. 4.—On every search	0	5	0
Item No. 5.—On transcribing or typing through the Registry any document including Judge's notes of evidence and judgment, at per folio of 72 words:—			
(a) Original copy	0	1	0
(b) Each carbon copy	0	0	4
to include checking and, when necessary, certifying.			
Item No. 6.—On every reference before the Registrar, at per hour ..	1	0	0
Item No. 7.—On every taxation of bill of costs, at per hour ..	0	10	0

SCHEDULE No. 3.

Solicitor's Costs.

Item No. 1.—Instructions for:—	£	s.	d.
(a) Writ of Summons or Notice of Motion	1	11	6
(b) Statement of Claim, Defence, Affidavit under Rules 44, 45, 56, 58, 66 and 71, or Evidence on Commission	5	5	0
(c) Every other pleading, and every other affidavit, excepting verifying affidavits	2	12	6
(d) Any other matter which, in the Taxation Officer's opinion, necessitates instructions	1	1	0
Item No. 2.—Drawing every document, including correspondence, at per folio of 72 words	0	1	0
Item No. 3.—Engrossing every document, including correspondence, at per folio of 72 words:—			
(a) Original copy	0	1	0
(b) Each necessary carbon copy	0	0	4
Item No. 4.—Perusal of every document, including correspondence, at per folio of 72 words	0	1	0
Item No. 5.—Attendances:—			
(a) By solicitor personally	0	10	0
(b) By solicitor on telephone	0	5	0
(c) By clerk	0	2	6
Item No. 6.—Service of any document on any party personally Plus reasonable travelling and sustenance allowance in the Taxation Officer's discretion.	0	10	0
Item No. 7.—Conferences, at per hour	2	12	6
Item No. 8.—Appearances of Counsel:—			
(1) On other than hearing of action, at per hour	3	3	0
(2) On hearing of action:—			
(a) First day	26	5	0
(b) Each subsequent day, at per hour	4	4	0

PART B: MARRIAGE AND DIVORCE—

SCHEDULE NO. 3—Solicitor's Costs—*continued*.

Item No. 9.—Preparation of every Brief:—

	£	s.	d.
(1) Documents at per folio of 72 words:—			
(a) Necessary carbon copies of client's documents ..	0	0	4
(b) Necessary typed copy, for Judge, of any document for production in evidence	0	1	0
(c) Necessary carbon copy of (b) for Counsel for opposite party	0	0	4
(d) Necessary carbon copy of (b) for Brief ..	0	0	4

(2) Notes for Brief: Any amount in the Taxation Officer's discretion.

(3) Care and consideration: Any amount in the Taxation Officer's discretion.

Item No. 10.—Taxation of costs, at per hour 1 1 0

F. B. PHILLIPS, C.J.
RALPH T. GORE, J.
E. B. BIGNOLD, J.
A. KELLY, J.

J. T. GIBNEY, Registrar.