

tunity to present evidence and legal arguments. Evidence includes witnesses who speak in Court, documents (such as a written contract), Sworn Statements, and reports from doctors or the police.

If a witness does not want to attend, you can make them attend by serving them with a Summons (Form 20), which is a Court order to attend or bring documents to Court.

Step 7: At the end of the hearing, the Court may make a decision immediately or ask you to return later for the decision.

Step 8: If one of the parties does not carry out the decision of the Court, the other party can apply for enforcement of the order. Enforcement proceedings are considered in other brochures.

Can I have a lawyer?

In the Magistrate's Court, parties may be represented by a lawyer or they can represent themselves.

What are Costs?

'Costs' is the term used for a person's legal expenses. The person who wins a case can often ask the Court for an order that the other party pay their costs. This can include the filing fee, money paid for reports, and fees paid to lawyers. It does not include paying you for going to Court or taking time off work.

Where do I find the forms?

To get a copy of the relevant court forms, you can ask your local Magistrates' Court, the Public Solicitor's Office, or the USP Community

Legal Centre. You can also look at the *Civil Procedure Rules* at the USP Library or on the internet:

<http://paclii.org.vu/vu/rules/CPRules2002/CPRMain.html>.

For further information:

Your local **Magistrates' Court**

Public Solicitor's Office

Rue Emile Mercet
Port Vila
Ph. 23450 / Fax. 23451

USP Community Legal Centre

USP Emalus Campus
Port Vila
Ph. 27026 / Fax. 25543

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The information contained in this brochure is only intended as a guide to the law and is not a substitute for obtaining legal advice. If you have any further questions we strongly suggest you seek legal advice.

Note: This information applies to people who live in, or are affected by, the law as it applies in Vanuatu.

The information in this brochure is current as at 30 June 2006.

University of the South Pacific Community Legal Centre
PMB 9072 Port Vila VANUATU Ph: 27026 Fax: 25543
<http://legalcentre.vanuatu.usp.ac.fj/>

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Civil Matters in the Magistrate's Court



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Who is this brochure for?

This brochure is for people who have a civil case in the Magistrate's Court of Vanuatu. There are separate brochures about negotiation, criminal matters in the Magistrate's Court and family law matters, including maintenance.

What is a civil claim?

A civil claim is a dispute between two or more different parties about their rights and obligations. Examples of civil claims are those relating to:

- compensation for personal injury;
- disputes about a breach of contract;
- disputes about property;
- motor vehicle accidents;
- employment claims; and
- landlord and tenant disputes.

What civil matters does the Magistrate's Court deal with?

The Magistrate's Court deals with civil proceedings where:

- the amount in dispute is not more than VT 1,000,000, unless it relates to permanent physical damage to a person; and
- the dispute is between a landlord and tenant, and the amount claimed is not more than VT 2,000,000.

The Magistrate's Court cannot make decisions in relation to the ownership of land.

Does it cost money to go to Court?

It costs VT 8,000 to file a claim in the Magistrate's Court. Other costs may also be incurred, for example, if you hire a private lawyer to repre-

sent you, or if the court order that you pay some or all of the costs of the other party.

What are the steps in going to Court?

A civil proceeding may involve a number of steps. These are outlined below. In addition to these steps, the parties may enter into negotiations in an attempt to resolve the matter at any stage. Resolving the matter out of court can be beneficial to both parties, for example by resolving the matter more quickly or by reducing the stress and inconvenience associated with going to court.

Step 1: The proceeding begins by filing a Magistrate's Court Claim (Form 6). The Claim must set out the relevant facts and what you want the Court to do. You may also need to support the Claim with a Sworn Statement (Form 3), setting out the evidence that you are able to give to support your case.

When you file the Claim, the Court will ask for payment of the filing fee (VT 8,000). You must file at least three copies of all documents; one copy for you, one for the other party (or one for each other party if there is more than one), and one for the Court.

If you file the Claim, you are the **Claimant** and the other party to the proceeding is the **Defendant**. There can be more than one Defendant.

Step 2: When you have filed your Claim (and Sworn Statement), the Court will stamp it, or **seal** it. The Court will write down the date for the first hearing. You must then give (or arrange to be given) a copy of the Claim (and the Sworn Statement) to the Defendant with a copy of a Response (Form 7). This is called **servicing** the Defendant.

After you serve the Defendant, you should write down the place and time of service. This information may be needed to resolve any dispute about whether or not the Defendant received copies of the Claim and Sworn Statement.

If there is some reason why you or a friend cannot serve the Defendant, you can ask the Court to get an **enforcement officer** to serve the documents.

If you do not serve the Claim within 3 months, it expires.

Step 3: The Defendant must file a Response or a Defence within 14 days of service of the Claim. If not, at the first hearing the Complainant can ask the Court for **default judgement**. The Complainant will need to prove that the Claim was served, and this is usually done by providing a Sworn Statement.

If the Defendant does file a Response, at the first hearing the Court will talk about preparing the case for a hearing. It may take a few months for the hearing to happen.

Step 4: If a party needs to protect their interests before the final hearing, they may ask the Court to make a short term order called an **interlocutory order**.

Step 5: Each party must disclose the documents that they intend to rely on at the hearing of the matters. This is done by giving a copy of the documents to the other party at least 14 days before the trial.

A party to the proceedings can also apply to the Court for an order that another party disclose certain documents.

Step 6: At the hearing, each party has an oppor-