

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF _____

HELD AT _____

CASE NUMBER: _____

IN THE MATTER BETWEEN:

APPLICANT/PLAINTIFF

and

RESPONDENT/DEFENDANT

NOTICE OF MOTION

TAKE NOTICE that _____ (hereinafter called the applicant) intends to make application to this Court for an order with the following terms:

- (a) That the trial herein be transferred to the seat of the above honourable court at _____ in terms of section 35(1) of the Magistrate’s Court Act, 32 of 1944;
- (b) That costs to be awarded to the applicant only if the application is defended;
- (c) Further and/or alternative relief.

PLEASE FURTHER TAKE NOTE that the accompanying affidavit of _____ will be used in support thereof.

PLEASE TAKE NOTICE FURTHER that the applicant has appointed the following address

_____ at which applicant will accept notice and service of all process in these proceedings.

PLEASE TAKE NOTICE FURTHER that if you intend opposing this application you are required:

- (a) to notify applicant or applicant's attorney in writing on or before the _____ (date)
- (b) and within 10 days after you have so given notice of your intention to oppose the application, to file your answering affidavit, if any; and further that you are required to appoint in such notification an address referred to in rule 55(1)(g) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the _____ at _____ (time)

DATED at _____ **this** _____ **day of** _____ **20** _____

Applicant or Applicant’s Attorney
_____ (Name)
_____ (Address)

TO: THE RESPONDENT:

_____ (Name)

_____ (Address)

Ref No: _____

AND TO: THE ASSISTANT-REGISTRAR

Regional Division of _____

Office: _____

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF _____

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IN THE MATTER BETWEEN:

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and

RESPONDENT/DEFENDANT

FOUNDING AFFIDAVIT

I, the undersigned _____ (Full Names)

Hereby states under oath:-

1. I am the Applicant in this case, an adult male/female* who resides at _____ (Physical Address, including province).
2. The facts herein contained are to the best of my belief true and correct and falls within my personal knowledge unless the contrary is stated or appears from the contents.
3. The Respondent is _____ (Full names and Surname) (born _____), an adult male/female* who resides at _____ (Physical Address, including province) and is my husband/wife/spouse.
4. The parties were married to each other at _____ (place) on _____ (date) as follows:
 - by civil marriage (Marriages Act, 25 of 1961)
 - by customary union (Recognition of Customary Marriages Act, 120 of 1998)
 - by civil union (Civil Union Act, 17 of 2006)
 And the matrimonial property dispensation applicable is:
 - in community of property;
 - out of community of property with the inclusion of the accrual system;
 - out of community of property with the exclusion of the accrual system;
 and the marriage still subsists.

5. Both parties are /Applicant/Respondent* is:

Domiciled in the area of jurisdiction the Court on the date on which the action is instituted;

OR

Ordinarily resident in the area of jurisdiction of the court on date on which the action is instituted and have / has been ordinarily residing in the Republic for a period of not less than one year immediately prior to the date on which the action is instituted.

The above honourable court has jurisdiction to hear this application.

6. I have instituted divorce proceedings against the Respondent in this Honourable Court under case number _____ in which I have claimed a decree of divorce on the grounds of irretrievable breakdown of the marriage together with ancillary and/or alternative relief.

OR

6. Divorce proceedings were instituted against me in this Honourable Court under case number _____ in which is claimed a decree of divorce on the grounds of irretrievable breakdown of the marriage together with ancillary and/or alternative relief.

7. I have been advised that it is the Respondent's intention not/to defend the matter.

OR

7. I intend to defend the matter.

8. I am advised, which advise I accept, that I may apply for the transferral of the matter to the seat of above honourable court at _____ for the following reasons:

I am residing in _____. The seat of court wherefrom the proceedings were issued is _____ which is a distance of _____ km away.

I am unemployed and do not have the means to travel from my place of residence to the seat of the court.

All the witnesses I intend calling in this matter resides in _____ which may lead to undue expense or inconvenience to me because of the costs involved for procuring their attendance at court.

The first available trial date is _____ and is an earlier date available at _____ which will result in the matter being finalised earlier which is in the interest of the parties.

The matter was settled and is it convenient that the matter be heard at the court in _____.

- 9. A transfer will not result in any inconvenience for the Respondent and is not done to delay the matter.
- 10. I further submit that the court at _____ is a seat of the above court for purposes of adjudicating criminal matters and may the matter be heard there as well.
- 11. It is respectfully submitted that such a transfer shall be in the best interest of both the Applicant and the Respondent and will prevent undue expense and inconvenience to both parties.

Wherefore the Applicant prays for an order as set out in the Notice of Motion.

SIGNED AT _____ ON THIS THE _____ DAY OF _____
20____

DEPONENT

I HEREBY CERTIFY that the Deponent has acknowledged that he/she knows and understands the contents of this affidavit which was signed and sworn to before me at _____ on this ____ day of _____ 20____ after the provisions of the regulation contained in Government Notice No. 1258 published in the Government Gazette No 3619 dated 21st July 1972, as amended by Government Gazette Notice No. 1648 dated 19 August 1977, have been complied with.

COMMISSIONER OF OATHS

FULL NAME: _____
DESIGNATION: _____
AREA/DISTRICT: _____
DATE: _____