FORM 7

Checklist for an Application to Rescind the Default Judgment

- You must complete a form before you file it. These instructions will help you complete the forms.
- The Clerk of the Court cannot complete a form for you.
- Attach a copy of any document referred to in the form.
- Keep a copy of all docu ments for your records.
- Attend all court hearings.
- Some forms may not apply in your case.

(1) Application to Rescind the Default Judgment

- ☐ On the first page of Form 1A or 1B (whichever one might be applicable to your application) fill in the case number of the matter on the right hand side in the space provided for it.
- ☐ If you are applying to rescind the default judgment then you are the Applicant. Fill in your name in the space on the left hand side provided for the Applicant's name. The plaintiff/judgment creditor is the Respondent. Put his/her/its name in the space on the left hand side provided for the Respondent's name.
- ☐ Select a date for hearing that is convenient for you and the court. Bear in mind that in terms of the Practice Guidelines for Applications on Motion the roll for a particular week closes at 12h00 on the Thursday preceding the week. If the Thursday is a public holiday the roll closes one day earlier. Fill in the date you want the application to be heard in the space provided between the phrase "Be pleased to take note that application will be made to the above honourable court on_____ at 9:00 in court room 28"
- ☐ Next to the words "The affidavit of_____" you again fill in your name.
- ☐ Next to the words "dated and signed at_____" you state the town/city you signed the application and then next to it complete the date.
- ☐ Fill in your name and contact information at the bottom of the first page where the space is provided.
- ☐ Attach any required documents and forms.

(2) Consent

- If you and the plaintiff/judgment creditor agree about the rescission of the default judgment, work with the plaintiff/judgment creditor to complete the

consent and file it attached to the application. The consent must be completed and signed by the plaintiff/judgment creditor.

- The plaintiff/judgment creditor should send the forms and attachments back to you to attach to the application and file with the Clerk of the Court.

(3) Affidavit(s) Supporting the Application

• A party may file more than one statement.

☐ On the first page of Form 2A or 2B (whichever one might be applicable to your application) fill in put the case number of the matter on the right hand side in the space provided for it.

☐ If you are applying to rescind the default judgment then you are the Applicant. Fill in your name in the space on the left hand side provided for the Applicant's name. The plaintiff/judgment creditor is the Respondent. Fill in his/her/its name in the space on the left hand side provided for the Respondent's name.

☐ Next to the words "I, the undersigned_____" you fill in your full names and surname.

☐ Attach any required documents and forms.

☐ The affidavit in support of the application needs to be properly commissioned. A Commissioner of Oaths will properly administer the oath and once that is done you sign the affidavit in the presence of the Commissioner of Oaths.

(4) Service of the application

☐ In instances where it is necessary for the application to be served (i.e. in instances where the plaintiff/judgment creditor did not waive service of the application) attach an additional page to provide for the service. Ensure that a signature is affixed and the person on whom you served the document is properly identified and authorized to receive the application. Complete the Certificate of Service.

☐ Serve the form and any attachments on the plaintiff/judgment creditor by one of the methods described in the certificate of service. Where the application is served otherwise than by the Sheriff of the Court, the provisions of rule 9(17)(b) and 9(17A) have to be complied with.

(5) Filing with Clerk of the Court

☐ File the original form 1A or 1B, attachments, including the Consent and certificate of service with the Clerk of the Court dealing with motion court.

(6) Attend the Hearing

• If there is a hearing, be sure to attend.

(7) Order of Rescission of Judgment

- ☐ If you wish to receive an Order of Rescission of Judgment then complete Form 3.
- ☐ On Form 3 fill in the case number of the matter on the right hand side in the space provided for it.
- ☐ Fill in your name in the space on the left hand side provided for the Applicant's name. Fill in the plaintiff/judgment creditor's name in the space provided on the left hand for the Respondent's name.