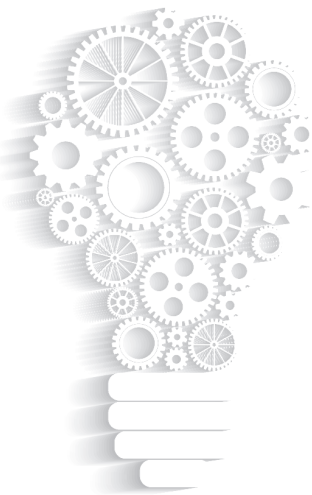




Civil Litigation KNOW-HOW

Practical legal knowledge and resources
to help get your work done

Introducing the first Westlaw NZ *Know-How* product, Civil Litigation, a unique combination of expertly crafted legal workflow and precedents



What is *Know-How*?

Available exclusively on Westlaw NZ, *Know-How* is a new workflow solution from Thomson Reuters which delivers a task oriented step by step guide through legal matters.

Each workflow step combines expertly authored guidance on that step, the identification of tasks related to the step, and seamless integration with relevant checklists and downloadable forms and precedents from Brookers Precedents products on Westlaw NZ.

Know-How serves as both an aide-mémoire and guide for more senior practitioners, and is ideal for supervising and training less experienced staff.

Improve the productivity of your practice and be confident that correct processes are followed.

Civil Litigation Workflow and Precedents

Civil Litigation *Know-How* is designed to provide litigators with step by step information in the form of easy to follow modules about practice, procedure and the various tasks that lawyers involved in civil litigation cases need to complete.

In this first release, Civil Litigation *Know-How* covers the steps that need to be taken by lawyers when they are:

- (1) **Considering whether a case should be litigated;**
- (2) **Preparing a case for civil litigation;**
- (3) **Dealing with the case management process;**
- (4) **Preparing for and running short trials or simplified trials in the District Courts;**
- (5) **Preparing for and running summary judgment applications in the High Court or District Courts;**
- (6) **Enforcing judgments of the District Courts;**
- (7) **Appealing against judgments of the District Courts.**

The modules are designed to be used by those new to civil litigation, non-specialist lawyers who occasionally undertake civil litigation, senior litigators who wish to delegate various litigation tasks to more junior practitioners, and experienced practitioners who need to refresh their memories about aspects of civil litigation that they have not dealt with for a while.

Following this initial release, additional workflows will continue to be added to Civil Litigation *Know-How* with the objective of providing users with a complete suite of modules covering every major aspect of civil litigation practice and process.



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What does *Know-How* include?

- Step by step guide - processes are mapped out into clear and simple steps that efficiently guide you towards the right outcomes.
- Expert guidance - each step is accompanied by expertly written practical assistance and advice.
- Tasks - the steps provide a separate list of tasks that need to be completed at each stage of a process.
- Notes and Further Reading references - highlight and link to related materials that provide guidance and supplementary information.
- Forms and precedents - downloadable templates provided in context for immediate use. Download a precedent as a Microsoft Word document. Used in conjunction with the unique Thomson Reuters Precedents Drafting Aide, users can save and adapt precedents to their own, specific needs.
- Same platform access - related research publications and additional precedents are also available on Westlaw NZ, subject to subscription.

Enforcing Judgments

Steps Resources

STEP 1
Information in aid of execution

STEP 2
Financial assessment application

STEP 3
Financial assessment — examination procedure

STEP 4
Debtor fails to appear

STEP 5
Service in enforcement proceedings

STEP 6
Attachment orders subsequently

**STEP 7
Execution against goods**

STEP 8
Garnishee proceedings and application procedure

STEP 9
Charging orders – nature and application process

STEP 10
Draft orders

STEP 11
Final order application

STEP 12

Step 7. Execution against goods

Last Reviewed: 01 Oct 2015

Either as a result of the evidence at trial, by means of the examination process or some by other means, you may be aware the judgment debtor owns personal property, which could be sold to meet the judgment debt.

In this event, make as detailed a list of the property you can (this may be by general description) and its likely location, and to use the time-honoured expression, send the bailiffs in through a warrant to seize property.

The prescribed application form, District Court Form 56, is Informal (see [DCR056 — Application for warrant to seize property — Form 56](#)), but nonetheless requires completion in as much detail as you have. If there is more than one location of property (residential address, business premises, etc) give all the addresses you can.

In cases where the amounts at stake are large and the debtor may be concealing assets (notwithstanding answers given in an examination) it may be worthwhile investigating the use of a private investigator to track down assets. This is of course a cost/benefit decision for the client to make.

The bailiffs are then responsible for the execution of the warrant. It has a life of one year from the date and time of its execution. (Time is important, as more than one creditor may be seeking to recover money from the same debtor. Creditors rank in priority according to the time the warrants are issued).

Presumptively goods seized under warrant are sold at public auction unless a Judge or registrar otherwise orders. Unless the goods are perishable or the debtor requests it, the sale must not take place before 7 days have elapsed since the seizure (see s 86 of the District Courts Act 1947). Clearly perishable needs to be approached by reference to the 7 day proscribed period, with the exception of food items indeed would diminish in value in a week.

The warrant to seize property process has another advantage. If the bailiff makes a return the debtor has insufficient goods then the debtor commits an act of bankruptcy, grounding a bankruptcy application under the [Insolvency Act 2006](#).

Note
Brookers *Civil Litigation Precedents* [Ent01 — Practical overview of sealing of judgments and enforcement of judgments at \[3.5\]](#) (Warrant to seize property).

Task
You will need to:

- (from the evidence obtained at the financial assessment hearing), draft an application for a warrant to seize property (use [DCR056 — Application for warrant to seize property — Form 56](#));
- specify all addresses known to contain goods belonging to the judgment debtor, obtained during the financial assessment hearing;
- file the application with the filing fee;
- (In the covering letter) request to be notified of date and time the warrant is issued;
- request to be notified of the date of execution of the warrant and any goods obtained.

After completing the tasks proceed to Step 8.

Further Reading
District Courts Act 1947
Section [86](#) Period to elapse before sale
District Courts Rules 2014
Rule [19.47](#) Application for warrant to seize property
Rule [19.49](#) Issue, duration, and renewal
Insolvency Act 2006
Section [26](#) Return that sufficient goods not found under execution process



Enforcing Judgments

Steps Resources

These resources are maintained, meaning that we monitor developments on a regular basis and update them as soon as possible

| Title | Resource Type | Last Reviewed |
|--|---------------|---------------|
| STEP 2. FINANCIAL ASSESSMENT APPLICATION | | |
| Ent02 — Notice of application for order for examination of judgment debtor | Template | 07 Sep 2015 |
| Ent03 — Affidavit in support of application for order for examination — District Court | Template | 07 Sep 2015 |
| STEP 6. ATTACHMENT ORDERS SUBSEQUENTLY | | |
| DCR018 — Interlocutory application without notice — Form 18 | Template | 23 Jul 2015 |
| Ent04 — Notice of application for attachment order | Template | 05 Oct 2015 |
| Ent05 — Affidavit in support of application for attachment order | Template | 05 Oct 2015 |
| STEP 7. EXECUTION AGAINST GOODS | | |
| DCR056 — Application for warrant to seize property — Form 56 | Template | 23 Jul 2015 |
| STEP 8. GARNISHEE PROCEDURE | | |
| DCR070 — Affidavit in support of garnishee summons — Form 70 | Template | 23 Jul 2015 |
| DCR071 — Garnishee summons to sub-debtor — Form 71 | Template | 23 Jul 2015 |
| DCR072 — Notice to judgment debtor of issue of garnishee summons — Form 72 | Template | 23 Jul 2015 |
| DCR074 — Notice by sub-debtor that sub-debtor disputes debt claimed — Form 74 | Template | 23 Jul 2015 |

The forms and precedents related to each step are handily grouped together in the Resources tab

Back

DCR056 — Application for warrant to seize property — Form 56

Forms & Precedents **Drafting Aide** Variable Information Cited Documents Related Documents

Precedent Type: Statutory Form
 Jurisdiction: New Zealand
 Last Reviewed: July 2014

Precedents Drafting Aide

[Download and Install Drafting Aide](#)

Brookers Precedents and Forms & Templates have a document automation feature called the Precedents Drafting Aide. The Drafting Aide is a Microsoft Word Macro which has been specially created to help you draft and complete documents with speed and efficiency.

You only have to install the Drafting Aide once on your computer, and it will be available to you every time you use Microsoft Word.

Online Installation

The process for installing the Drafting Aide varies slightly depending on what version of Microsoft Word you use, and whether you are using the Westlaw platform or Checkpoint platform. The instructions below set out the installation process for Westlaw and Checkpoint users for: [Word 2010](#), [Word 2007](#), [Word 2003](#), [Word 2000](#), [Word 97](#).

Please note: While Brookers Precedents are not compatible with Apple Macs (they were designed for use with PCs and have never been compatible with Apple Macs), if the user is running Windows emulation software, both the Precedents and the Precedents Drafting Aide should run as normal inside the emulated Windows environment.

Please note: When installing the Precedents Drafting Aide, please ensure all email applications are closed. This will ensure the Precedents Drafting Aide is set up completely.

Use the Precedents Drafting Aide to draft and complete your documents with speed and efficiency



Why Choose *Know-How*?

Currency that will keep you agile

With updates during the year from our experienced practitioner authors, you can be confident that our workflow and precedents reflect the significance of ongoing legislative and regulatory change.

Day-to-day workflow, precedents, and research together on one powerful platform

Seamlessly move between workflows, precedents, and research and enjoy all the authority, reliability and flexibility of Westlaw NZ.

Achieve day-to-day efficiency

Whether you are managing high-volume work, coming new to a particular area of practice or supervising more junior members of staff, *Know-How* helps you save time and money. *Know-How* ensures no steps are missed and tasks are accurately completed so you can minimise the risk of mistakes and maximise time and cost efficiencies for your business and your clients.



CIVIL LITIGATION EXPERT AUTHORS

Douglas Ewen



Douglas is the architect of the Civil Litigation workflow steps and author of the expert guidance that accompanies each step.

Douglas has practiced as a barrister since 1996. His work varies from human rights cases and judicial review to criminal jury trials and appeals.

Prior to post-admission legal practice, he worked as an outdoor clerk and then litigation legal executive for 4½ years in both London and New Zealand, in both the private and public sectors.

His early experiences led to one of Douglas's abiding interests and subsequent specialisation in matters of procedure, civil and criminal. Pleading practice, a field replete with technical requirements, is an area of particular interest and research. Douglas has been involved in efforts to innovate the way civil pleadings are presented through use of merged pleadings, in an effort to simplify and clarify issues in a case.

Douglas runs a mixed civil and criminal practice, in the High Court and District Courts. Whilst formerly running a general civil caseload, these days through choice the civil litigation side of his practice concentrates on human rights cases, with a particular focus on wrongful detention cases.

Douglas has also lectured at Victoria University, School of Law, in advanced procedure, and was appointed as a member of the Legal Aid Review Panel by the Attorney-General, until its disestablishment in 2011.



Kensington Swan are the authors of the Brookers Civil Litigation Precedents on Westlaw NZ which are an integral part of the Civil Litigation *Know-How* solution.

The expertly drafted precedents, together with a comprehensive collection of prescribed forms, are extensively referenced, with links, from the steps in the Civil Litigation workflow.

Hayden Wilson and Helen Brown also worked with Thomson Reuters to help architect the Summary Judgment module of the workflow.

Kensington Swan has skilled advocates and is experienced in all aspects of dispute resolution. They regularly appear in all jurisdictions including the District Court, High Court, Court of Appeal and specialist tribunals and courts.



Hayden Wilson (Partner)

Hayden heads Kensington Swan's Wellington-based Government and Regulatory team.

He is an experienced litigator and has acted for a number of organisations in both the public and private sector in dispute resolution. Hayden has appeared in the Court of Appeal, the High Court, and the District Court. He has also appeared before a number of administrative tribunals



Helen Brown (Senior Associate)

Helen is a Senior Associate in the litigation, public law, and construction teams at Kensington Swan.

She has vast experience in general litigation, including a particular interest in the medico-legal field. Helen regularly advises clients on dispute resolution strategies and has appeared in the District Court, High Court, Health Practitioners Disciplinary Tribunal, and the Weathertight Homes Tribunal.

Ready to try out the Civil Litigation Know-How workflow? Request a free trial today.

Contact your Thomson Reuters Account Manager or email marketingNZ@thomsonreuters.com

For more information visit www.thomsonreuters.co.nz/workflow



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