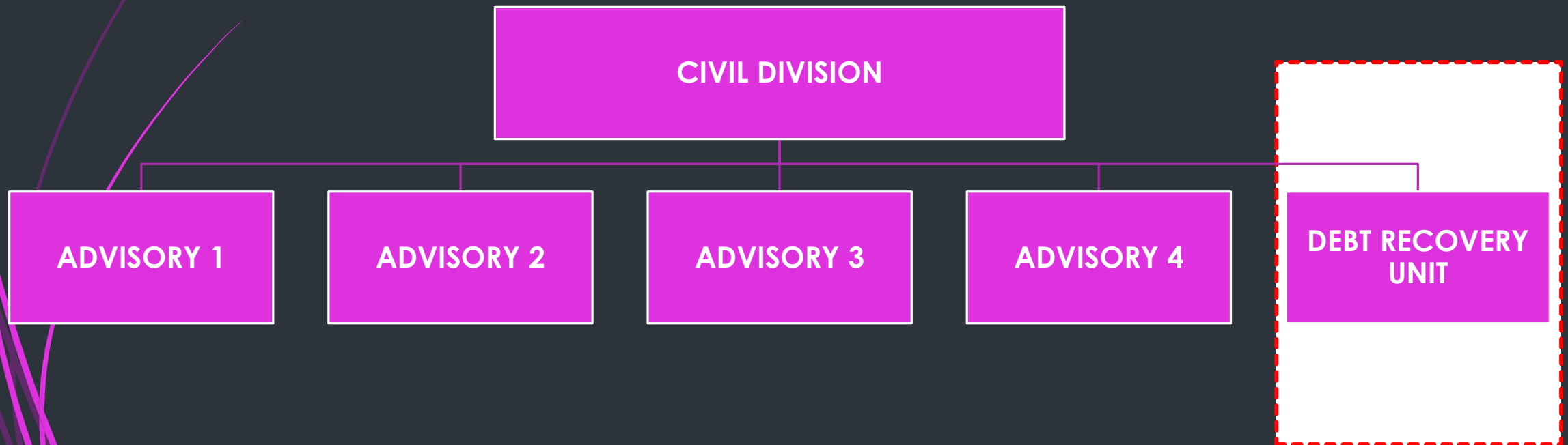





DEBT RECOVERY

By: Kamilah Mohamad, DRU, Civil Counsel

DEBT RECOVERY UNIT



- 
- DRU is one of the units under Civil Division
 - DRU has: 7 officers including the Head of Unit
1 Legal Assistant; and
4 staff
***13 officers from Advisory Unit
 - Total number of files: 5,432 files (as of 12 November 2020)



F U N C T I O N S

- Debt recovery;
- Representing the Government in making civil claims;
- Representing the Government in bankruptcy matters;
- Representing the Attorney General in matters and proceedings under the Legal Profession Act (Cap 132);

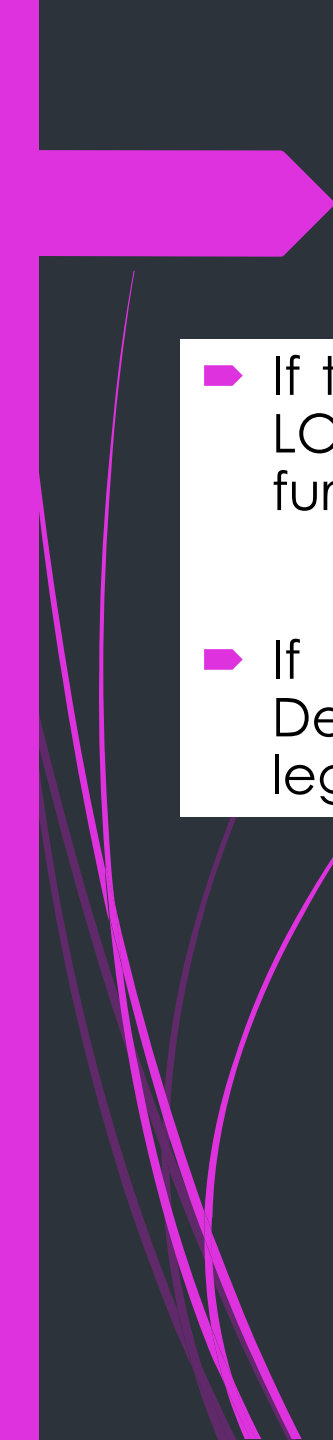


“ Going to court should be a last resort... ”

Justice Minister Lord Faulk

CARTA ALIRAN PROSES MEMBUAT TUNTUTAN FLOW CHART TO MAKE CLAIM

- ▶ Instructing Departments are to obtain and compile relevant and complete set of documents before issuing a letter of demand;
- ▶ Instructing Departments are to ensure that the debtor's address is updated and accurate;
- ▶ Instructing Departments are to contact and to meet or visit the debtor at his latest known address;
- ▶ Instructing Departments are required to exhaust all means necessary to claim the debt from the debtor;
- ▶ If the debtor wishes to make payment by way of installment or wishes to negotiate with the Instructing Departments, the debtor required to sign an agreement with the Instructing Department on behalf of the Government.

- 
- ▶ If there is a default in payment, the Instructing Departments should issue their first LOD giving the debtor a deadline by which to make the payment or to negotiate further with the Instructing Department;
 - ▶ If the debtor fails to make payment or fails to negotiate with the Instructing Department, the Instructing Department should forward this matter to AGC for legal action.

INSTRUCTING DEPARTMENT

- **Letter of Demand:**

- - “Dukacita dimaklumkan bahawa jika Awang/Dayang tidak membuat pembayaran bagi tuntutan ini di dalam tempoh 14 hari dari tarikh surat ini, Jabatan ini tidak mempunyai pilihan melainkan menghadapkan tuntutan ini kepada Pejabat Peguam Negara bagi tujuan tindakan undang-undang di mahkamah dikenakan ke atas Awang/Dayang”.
- LOD – payment – please sign an agreement;
- Agreement – failed to make payment – proceed to AGC

CHECK LIST: DEBT RECOVERY

Details of the Debtor (copies of relevant documents to be provided):

- ✓ Debtors includes the natural person, companies, enterprises, societies, co-operation etc.
- ✓ For a natural person UP-TO-DATE details as follows:
 - NRIC No.,
 - Latest address which can be obtained from driver's license or BruHIMS details (relevant departments to be contacted to obtain required information).
- ✓ If the debtor is an enterprise or sole proprietor, e.g. ABC Enterprise or ABC & Anak-Anak, to include details of their business registration under Business Names Act (Cap 92)
- ✓ If the debtor is a company such as ABC Sdn Bhd or ABC Bhd please provide Certificate of Incorporation under the Companies Act (Cap 39)



If the Debtor has passed away:

Relevant information on Letters of Administration from the Probate Office, Supreme Court Brunei.

- **If the enterprise; sole proprietorship; or company, is no longer doing business or no longer in operation:**

Relevant information from Registry of Companies and Business Names (ROCBN).

- **Details of debt:**

- To provide latest information on the debt, the basis and breakdown of the debt e.g. agreement or contract or outstanding utilities charges, rental, Municipal Board taxes, or fees for Government services, etc.

- Provide the date when the debt incurred or date of the last payment by the debtor.



- **Other documents:**

The documents should include:

- any agreement or contract that is related to the debt;
- details of the instructing Departments' initiatives to recover from the Debtor such as copies of reminder letters or letter of demand and confirmation that the Departments' representatives have also made attempts to meet with the debtor or visit the debtor at the last known address;
- details of last payment;
- any agreement to settle payment or to pay by installments.

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graph TD; ID[INSTRUCTING DEPARTMENT] --> DRU[DRU]; DRU --> CP[COURT PROCEEDINGS];
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INSTRUCTING DEPARTMENT

- Issue Letters of Demand
- Non-payment – refer to AGC with supporting documents

DRU

- 1st LOD: 30 days
- Final LOD: 14 days
- Note: ID to inform if payment had been made; to update on the status of Parties/Debtor

COURT PROCEEDINGS



COURTS

High Court

- Unlimited jurisdiction

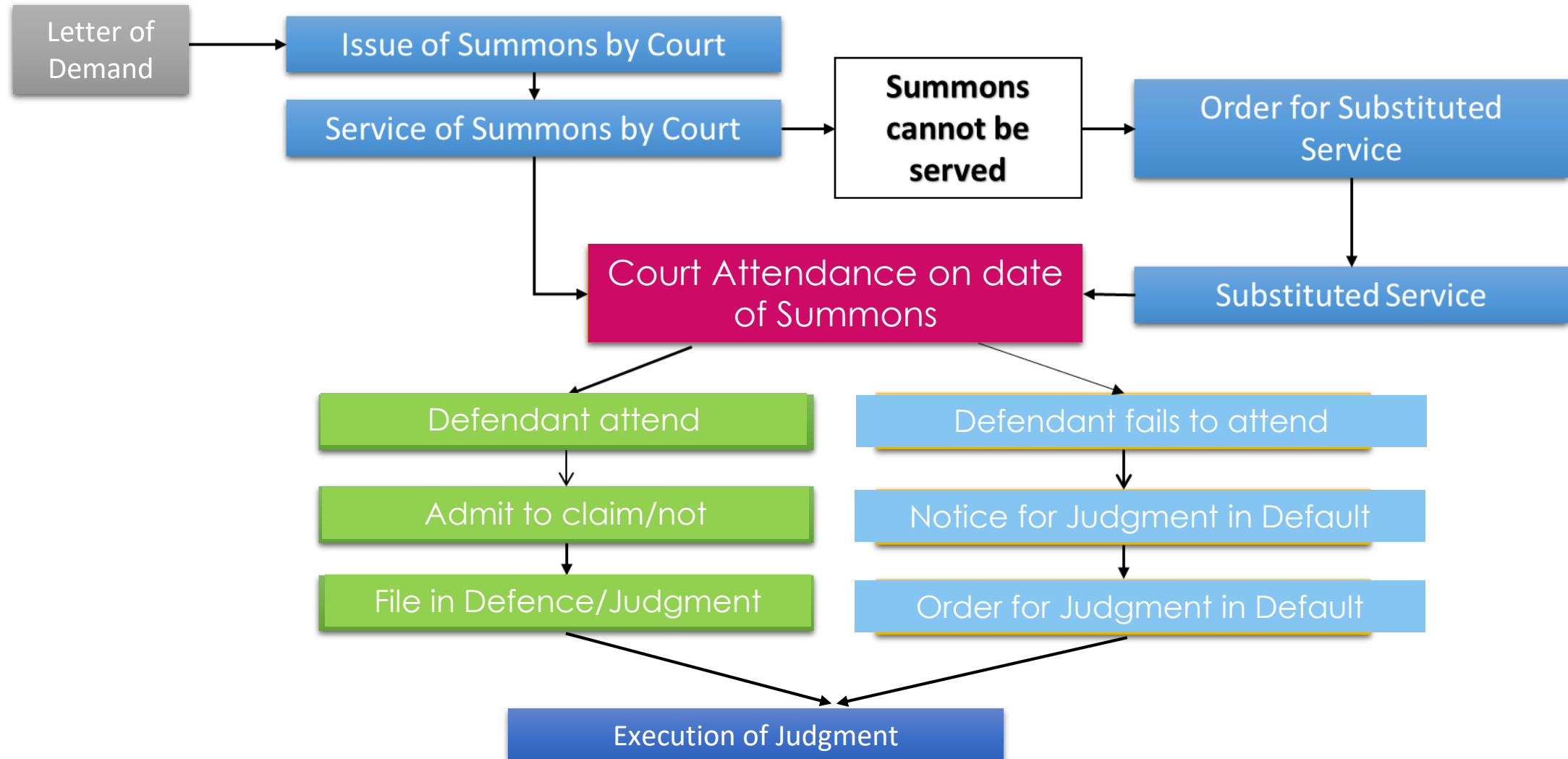
Intermediate Court

- Claim that does not exceed BND\$300,000

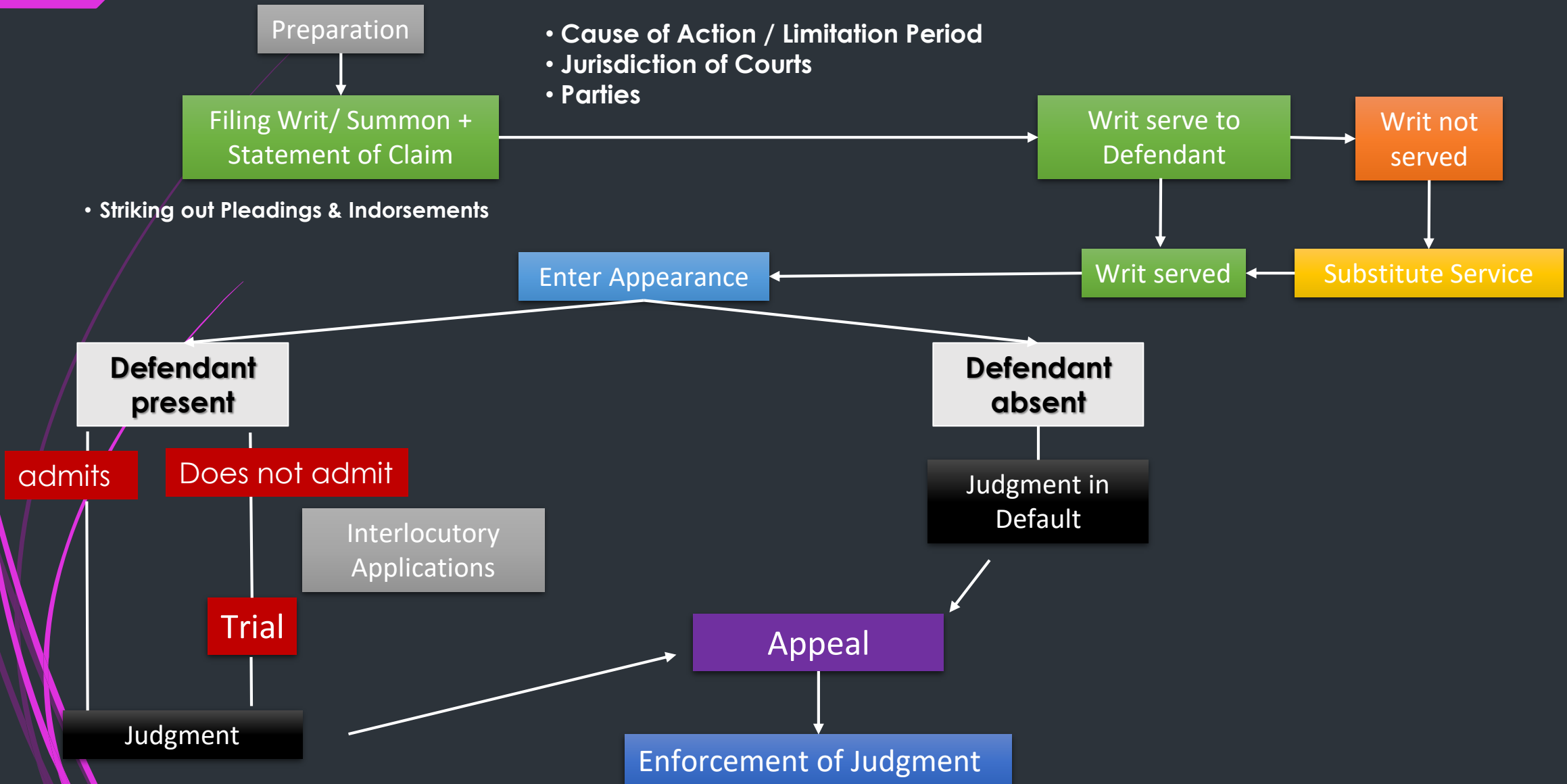
Magistrate Court

- Claim up to BND \$50,000

FLOW FOR MAGISTRATE COURT



PROCESS FLOW FOR HIGH COURT & INTERMEDIATE COURT



BANKRUPTCY / WINDING UP

- ▶ The case will be *adjourned sine die* and to continue the matter at the Bankruptcy Office – Proof of Debt has to be filed – Creditor's Meeting.



THANK YOU