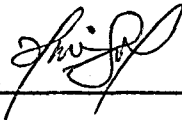


SUMMARY JUDGMENT : ITS APPLICATION IN MALAYSIA

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## PREFACE

This project paper on summary Judgment and It Application in Malaysia is intended to discuss the application of the Summary Judgment Order or commonly known as Order 14 Judgment in Malaysia generally.

It laid down the object and the procedure in application of Summary Judgment whether in High Court or in Subordinate Court.

In addition, in earlier chapter of this project paper is in the light of the development, historical and application of the Order 14 Judgment into the Malaysian Courts.

The remainder of this paper included the usage and the procedure in application for Order 14 Judgment.

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## CHAPTER 1

### INTRODUCTION

#### i) CONCEPT OF SUMMARY JUDGEMENT

The concept of summary judgment procedure has found permanent foothold in Malaysia civil procedure. The rule of summary judgment (or order 14 judgment) as commonly known was decided or originated from the English procedure in England. A brief historical excursion should not be out of place.

"Before the middle of the nineteenth century a defendant sued in the plainest of plain cases - e.g. for the price of goods sold and delivered or upon a dishonoured cheque - had merely to put upon the record a plea, no matter how devoid of merits or remote from the actual facts, and the case had to go for trial with all the delay and expenses necessarily involved. At the trial the defendant very often did not appear. Eventually the bankers and other holders of bills in the city of London complained so vigorously that in 1855 the Summary Procedure on Bills of Exchange Act (Commonly called "Keating's Act") was passed. In cases to which the Act applied the defendant had to get leave to appear, which he could only do by paying the money into court or setting out his defence in an affidavit. By the Judicature Act, 1973, and later by the Rules of Supreme Court, 1883,