

## **PART 17 Statements Of Case**

### **PART 17**

#### **Exceptions to this part 17.1 - 17.3**

##### **17.1**

This Part does not apply where the **claimant** uses the procedure set out in Part 8 (alternative procedure for claims).

##### **17.2**

Where special provisions about statements of case are made by the **Rules** and Practice Directions applying to particular types of proceedings, the provisions of this Part apply only to the extent that they are not inconsistent with those Rules and Practice Directions.

##### **17.3**

The **Court** may at any time before or after the issue of the claim form order a claim to proceed without the **filing** or **service** of statements of case.

#### **Heading of claim form 17.4**

##### **17.4**

The claim form must be headed with the title of the proceedings, including the full name of each party. The full name means, in each case where it is known:

(1) in the case of an individual, his full unabbreviated name and title by which he is known;

(2) in the case of an individual carrying on business in a name other than his own name, the full unabbreviated name of the individual, together with the title by which he is known, and the full trading name;

(3) in the case of a partnership (other than a limited liability partnership (LLP))—

(a) where partners are being sued in the name of the partnership, the full name by which the partnership is known, together with the words '(A Firm)'; or

(b) where partners are being sued as individuals, the full unabbreviated name of each partner and the title by which he is known;

(4) in the case of a company or limited liability partnership registered in the DIFC, the full registered name, including suffix (LLC, limited, LLP, etc), if any;

(5) in the case of any other company or corporation, the full name by which it is known, including suffix where appropriate.

## **Claimant's address to be included in the claim form 17.5 - 17.7**

### **17.5**

The claim form must include the claimant's mailing address or an address at which the claimant resides or carries on business. This Rule applies even though the claimant's address for service is the business address of his legal representative .

### **17.6**

Where the defendant is an individual, the claimant should (if he is able to do so) include in the claim form the defendant's mailing address or an address at which the defendant resides or carries on business. This Rule applies even though the defendant's legal representative has agreed to accept service on the defendant's behalf.

### **17.7**

If the claim form does not show an address as required by Rule 17.5, the claim form will not be issued. The Court will notify the claimant .

## **Contents of the claim form 17.8 - 17.13**

### **17.8**

The claim form must:

- (1) contain a concise statement of the nature of the claim;
- (2) specify the remedy which the claimant seeks;
- (3) where the claimant's only claim is for a specified sum, contain a statement of the interest accrued on that sum; and
- (4) contain such other matters as may be set out in a Practice Direction.

### **17.9**

In proceedings against the Government , the Centre Authority or any of the Centre's Bodies, the claim form must comply with the requirements of Part 41.

**17.10**

If the particulars of claim are not contained in, or are not served with the claim form, the claimant must state on the claim form that the particulars of claim will follow if an acknowledgement of service is filed which indicates an intention to defend the claim.

**17.11**

If the claimant is claiming in a representative capacity, the claim form must state what that capacity is.

**17.12**

If the defendant is sued in a representative capacity, the claim form must state what that capacity is.

**17.13**

The Court may grant any remedy to which the claimant is entitled even if that remedy is not specified in the claim form.

**Contents of the particulars of claim - General 17.14 - 17.18****17.14**

A claimant is not required to serve particulars of claim unless and until the defendant serves an acknowledgment of service in response to the claim form.

**17.15**

Where the claimant does not include the particulars of claim in the claim form, particulars of claim may be served separately:

(1) either at the same time as the claim form, or

(2) within 28 days of the filing of an acknowledgment of service which indicates an intention to defend.

**17.16**

Particulars of claim served separately from the claim form must also contain:

(1) [deleted],

(2) the claim number,

- (3) the title of the proceedings, and
- (4) the claimant's address for service .

**17.17**

Particulars of claim must include:

- (1) a concise statement of the facts on which the claimant relies;
- (2) if the claimant is seeking interest, a statement to that effect and the details set out in paragraph 17.18;
- (3) if the claimant is seeking multiple damages under Article 40(2) of the Law of Damages and Remedies 2005, a statement to that effect and his grounds for claiming them;
- (4) such other matters as may be set out in a Practice Direction.

**17.18**

If the claimant is seeking interest he must:

- (1) state whether he is doing so:
  - (a) under the terms of a contract;
  - (b) under an enactment and if so which; or
  - (c) on some other basis and if so what that basis is; and
- (2) if the claim is for a specified amount of money, state:
  - (a) the percentage rate at which interest is claimed;
  - (b) the date from which it is claimed;
  - (c) the date to which it is calculated, which must not be later than the date on which the claim form is issued;
  - (d) the total amount of interest claimed to the date of calculation; and
  - (e) the daily rate at which interest accrues after that date.

**Contents of the particulars of claim - Specific 17.19 - 17.21**

**17.19**

Where a claim is made for an **injunction** or declaration in respect of or relating to any land the particulars of claim must:

- (1) state whether or not the injunction or declaration relates to residential premises, and
- (2) identify the land (by reference to a plan where necessary).

**17.20**

Where a claim is brought to enforce a right to recover possession of goods the particulars of claim must contain a statement showing the value of the goods.

**17.21**

Where a claim is brought for personal injury:

- (1) the particulars of claim must contain:
  - (a) the claimant's date of birth, and
  - (b) brief details of the claimant's personal injuries;
- (2) the claimant must attach to his particulars of claim a schedule of details of any past and future expenses and losses which he claims; and
- (3) where the claimant is relying on the evidence of a medical **practitioner** the claimant must attach to or serve with his particulars of claim a report from a medical practitioner about the personal injuries which he alleges in his claim.

**Matters which must be specifically set out in the particulars of claim if relied on 17.22****17.22**

A claimant who wishes to rely on:

- (1) a Certificate of Contravention under Article 55 of the Markets Law 2004; or
- (2) a Certificate setting out a decision of the Financial Markets **Tribunal** under Article 34(6) of the Regulatory Law 2004;

must include in his particulars of claim a statement to that effect and give the following details:

- (a) the type of finding and its date;
- (b) the issue in the claim to which it relates.

## **Contents of defence 17.23 - 17.32**

### **17.23**

If the defendant has not filed an acknowledgment of service under Part 11, he must give an address for service .

### **17.24**

Where the defendant is an individual, and the claim form does not contain an address for the defendant in accordance with Rule 17.6, or contains an incorrect address, the defendant must provide such an address in the defence.

### **17.25**

Where the defendant's address for service is not the defendant's mailing address or the address where he resides or carries on business, the defendant must still provide the address required by Rule 17.24.

### **17.26**

In his defence, the defendant must state:

- (1) which of the allegations in the particulars of claim he denies;
- (2) which allegations he is unable to admit or deny, but which he requires the claimant to prove; and
- (3) which allegations he admits.

### **17.27**

Where the defendant denies an allegation:

- (1) he must state his reasons for doing so; and
- (2) if he intends to put forward a different version of events from that given by the claimant , he must state his own version.

### **17.28**

A defendant who:

(1) fails to deal with an allegation; but

(2) has set out in his defence the nature of his case in relation to the issue to which that allegation is relevant,

shall be taken to require that allegation to be proved.

#### **17.29**

Where the claim includes a money claim, a defendant shall be taken to require that any allegation relating to the amount of money claimed be proved unless he expressly admits the allegation.

#### **17.30**

Subject to Rules 17.28 and 17.29, a defendant who fails to deal with an allegation shall be taken to admit that allegation.

#### **17.31**

If the defendant is defending in a representative capacity, he must state what that capacity is.

#### **17.32**

The defendant must give details of the expiry of any relevant **limitation period** relied on.

### **Defence of set-off 17.33**

#### **17.33**

Where a defendant :

(1) contends he is entitled to money from the claimant ; and

(2) relies on this as a defence to the whole or part of the claim,

the contention may be included in the defence and set off against the claim, whether or not it is also a **counterclaim** .

### **Reply to defence 17.34 - 17.35**

#### **17.34**

A claimant who does not file a reply to the defence shall not be taken to admit the matters raised in

the defence.

### **17.35**

A claimant who:

- (1) files a reply to a defence; but
- (2) fails to deal with a matter raised in the defence,

shall be taken to require that matter to be proved.

## **General Rules about statements of case 17.36 - 17.50**

### **17.36**

Particulars of claim, the defence and any reply must be set out in separate consecutively numbered paragraphs and be as brief and concise as possible.

### **17.37**

A party may:

- (1) refer in his statement of case to any point of law on which his claim or defence, as the case may be, is based;
- (2) give in his statement of case the name of any witness he proposes to call; and
- (3) serve with his statement of case a copy of any document which he considers is necessary to his claim or defence, as the case may be.

### **17.38**

If it is necessary for the proper understanding of the statement of case to include substantial parts of a lengthy document the passages in question may be set out in a schedule rather than in the body of the statement of case .

### **17.39**

Only the relevant parts of those documents which are obviously of critical importance and necessary for a proper understanding of the statement of case should be attached to or served with it. The statement of case must itself refer to the fact that documents are attached to or served with it.



**17.40**

If documents are to be served at the same time as a statement of case they should normally be served separately from rather than attached to the statement of case .

**17.41**

Where a party relies on an oral agreement, the statement of case should set out the contractual words used and state by whom, to whom, when and where they were spoken.

**17.42**

Where a party relies on an agreement by conduct, the statement of case must specify the conduct relied on and state by whom, when and where the acts constituting the conduct were done.

**17.43**

A party must specifically set out the following matters in his statement of case where he wishes to rely on them in support of his case:

- (1) full and specific details of any allegation of fraud, dishonesty, malice or illegality;
- (2) details of any misrepresentation;
- (3) details of all breaches of trust;
- (4) notice or knowledge of a fact;
- (5) details of unsoundness of mind or undue influence;
- (6) details of wilful default; and
- (7) any facts relating to mitigation of loss or damage.

**17.44**

Any legislative provision on which an allegation is based must be clearly identified and the basis of its application explained.

**17.45**

Any principle of foreign law or foreign legislative provision on which a party's case is based must be clearly identified and the basis of its application explained.

**17.46**

An expert's report should not be attached to the statement of case and should not be filed with the

statement of case at the Registry. A party must obtain permission from the Court in order to adduce expert evidence at trial and therefore any party which serves an expert's report without obtaining such permission does so at his own risk as to costs.

**17.47**

If a statement of case exceeds 25 pages (excluding schedules), a summary, not exceeding 4 pages, must also be filed and served at the same time as the statement of case . The summary should cross-refer to the paragraph numbering of the full statement of case . The summary is to be included in the case management bundle.

**17.48**

A statement of case must be signed by the individual person(s) who drafted it or bear the name of the lawyer by whom it was settled.

**17.49**

A statement of case must be verified by a statement of truth, the form of which is as follows:

[I believe][the claimant/defendant believes] that the facts stated in this claim form/these particulars of claim/this defence [and counterclaim/this reply and defence to counterclaim] are true.'

**17.50**

A subsequent statement of case must not contradict or be inconsistent with an earlier one; for example a reply to a defence must not bring in a new claim. Where new matters have come to light the appropriate course is to seek the Court's permission to amend the statement of case .