PART 22 Statements Of Truth

PART 22

Documents to be verified by a statement of truth 22.1 - 22.9

22.1

The following documents must be verified by a statement of truth:

(1) a statement of case ;

(2) a response complying with an order under Rule 19.1 to provide further information;

(3) a witness statement;

(4) an acknowledgement of service in a claim begun by way of the Part 8 procedure;

(5) a certificate of service ;

(6) any other document where a Rule or Practice Direction requires;

(7) an application notice for:

(a) a charging order under Article 43 of the Law of Damages and Remedies 2005;

(b) an order for attachment of future assets under Article 44 of the Law of Damages and Remedies 2005; and

(c) an order for execution against assets under Article 45 of the Law of Damages and Remedies 2005;

(8) a notice of objections to an account being taken by the Court , unless verified by an affidavit or witness statement; and

(9) a schedule or counter-schedule of expenses and losses in a personal injury claim, and any amendments to such a schedule or counter-schedule, whether or not they are contained in a statement of case .

22.2

An expert’s report should also be verified by a statement of truth. For the form of the statement of truth verifying an expert’s report (which differs from that set out below) see Rule 31.55.

22.3

The statement of truth may be contained in the document it verifies or it may be in a separate document served subsequently, in which case it must identify the document to which it relates.

22.4

Where the form to be used includes a jurat for the content to be verified by an affidavit then a statement of truth is not required in addition.

22.5

Where a statement of case is amended, the amendments must be verified by a statement of truth unless the Court orders otherwise.

22.6

If an applicant wishes to rely on matters set out in his application notice as evidence, the application notice must be verified by a statement of truth.

22.7

A statement of truth is a statement that:

(1) the party putting forward the document;

(2) in the case of a witness statement, the maker of the witness statement; or

(3) in the case of a certificate of service , the person who signs the certificate;

believes the facts stated in the document are true.

22.8

The statement of truth must be signed by:

(1) in the case of a statement of case , a response or an application:

(a) the party; or

(b) the legal representative on behalf of the party; and

(2) in the case of a witness statement, the maker of the statement.

22.9

A statement of truth in a statement of case may be made by:

(1) a person who is not a party; or

(2) by two parties jointly.

Form of the statement of truth 22.10 - 22.12

22.10

The form of the statement of truth verifying a statement of case , a response, an application notice or a notice of objections should be as follows:

[I believe][The (claimant or as may be) believes] that the facts stated in this [name document being verified] are true.'

22.11

The form of the statement of truth verifying a witness statement should be as follows:

'I believe that the facts stated in this witness statement are true.'

22.12

Where the statement of truth is contained in a separate document, the document containing the statement of truth must be headed with the title of the proceedings and the claim number. The document being verified should be identified in the statement of truth as follows:

(1) claim form: 'the claim form issued on [date]';

(2) particulars of claim: 'the particulars of claim issued on [date]';

(3) statement of case : 'the [defence or as may be] served on the [name of party] on [date]';

(4) application notice : 'the application notice issued on [date] for [set out the remedy sought]'; or

(5) witness statement: 'the witness statement filed on [date] or served on [party] on [date]'.

Who may sign the statement of truth 22.13 - 22.26

22.13

In a statement of case , a response or an application notice , the statement of truth must be signed by:

(1) the party; or

(2) the party’s legal representative .

22.14

A statement of truth verifying a witness statement must be signed by the witness.

22.15

A statement of truth verifying a notice of objections to an account must be signed by the objecting party or his legal representative .

22.16

Where a document is to be verified on behalf of a company or other corporation, subject to Rule 22.21 below, the statement of truth must be signed by a person holding a senior position in the company or corporation. That person must state the office or position he holds.

22.17

Each of the following persons is a person holding a senior position:

(1) in respect of a registered company or corporation, a director, the treasurer, secretary, chief executive, manager or other officer of the company or corporation; and

(2) in respect of a corporation which is not a registered company, in addition to those persons set out in (1), the mayor, chairman, president or other similar officer of the corporation.

22.18

Where the document is to be verified on behalf of a partnership, those who may sign the statement of truth are:

(1) any of the partners; or

(2) a person having the control or management of the partnership business.

22.19

An insurer may sign a statement of truth in a statement of case on behalf of a party where the insurer has a financial interest in the result of proceedings brought wholly or partially by or against that party.

22.20

If insurers are conducting proceedings on behalf of many claimants or defendants , a statement of truth in a statement of case may be signed by a senior person responsible for the case at a lead insurer, but;

(1) the person signing must specify the capacity in which he signs;

(2) the statement of truth must be a statement that the lead insurer believes that the facts stated in the document are true; and

(3) the Court may order that a statement of truth also be signed by one or more of the parties.

22.21

Where a party is legally represented, the legal representative may sign the statement of truth on his behalf. The statement signed by the legal representative will refer to the client's belief, not his own. In signing he must state the capacity in which he signs and the name of his firm where appropriate.

22.22

Where a legal representative has signed a statement of truth, his signature will be taken by the Court as his statement:

(1) that the client on whose behalf he has signed had authorised him to do so;

(2) that before signing he had explained to the client that in signing the statement of truth he would be confirming the client's belief that the facts stated in the document were true; and

(3) that before signing he had informed the client of the possible consequences to the client if it should subsequently appear that the client did not have an honest belief in the truth of those facts (see Section VI of Part 29).

22.23

The individual who signs a statement of truth must print his full name clearly beneath his signature.

22.24

A legal representative who signs a statement of truth must sign in his own name and not that of his firm or employer.

22.25

The following are examples of the possible application of this Part describing who may sign a statement of truth verifying statements in documents other than a witness statement. These are only

examples and not an indication of how a Court might apply this Part to a specific situation.

Managing Agent An agent who manages property or investments for the party cannot sign a statement of truth. It must be signed by the party or by the legal representative of the party.

Trusts Where some or all of the trustees comprise a single party one, some or all of the trustees comprising the party may sign a statement of truth. The legal representative of the trustees may sign it.

Insurers If an insurer has a financial interest in a claim involving its insured then, if the insured is the party, the insurer may sign a statement of truth in a statement of case for the insured party. Rules 22.16 and 22.17 apply to the insurer if it is a company. The claims manager employed by the insurer responsible for handling the insurance claim or managing the staff handling the claim may sign the statement of truth for the insurer (see next example).

Companies Rules 22.16 and 22.17. The word ‘manager’ will be construed in the context of the phrase ‘a person holding a senior position’ which it is used to define. The Court will consider the size of the company and the size and nature of the claim. It would expect the manager signing the statement of truth to have personal knowledge of the content of the document or to be responsible for managing those who have that knowledge of the content. A small company may not have a manager, apart from the directors, who holds a senior position. A large company will have many such managers. In a larger company with specialist claims, insurance or legal departments the statement may be signed by the manager of such a department if he or she is responsible for handling the claim or managing the staff handling it.

In-house legal representatives Legal representative is defined in the Schedule to Part 2. A legal representative employed by a party may sign a statement of truth. A person employed by the company who is not legally qualified cannot sign a statement of truth on behalf of the party.

22.26

A party may apply to the Court for permission that a statement of truth be signed by a person other than one of those required by the Part.

Power of the Court to require a document to be verified 22.27 - 22.29

22.27

The Court may order a person who has failed to verify a document in accordance with Rule 22.1 to verify the document.

22.28

Any party may apply to the Court for an order under Rule 22.27 that unless within such period as the Court may specify the statement of case is verified by the service of a statement of truth, the statement of case will be struck out.

22.29

The usual order for the costs of an application referred to in Rule 22.28 will be that the costs be paid by the party who had failed to verify in any event and forthwith.

Failure to verify a statement of case 22.30 - 22.31

22.30

If a party fails to verify his statement of case by a statement of truth:

(1) the statement of case shall remain effective unless struck out; but

(2) the party may not rely on the statement of case as evidence of any of the matters set out in it.

22.31

The Court may strike out a statement of case which is not verified by a statement of truth.

Penalty 22.32

22.32

Attention is drawn to Section VI of Part 29 which sets out the consequences of verifying a statement of case containing a false statement without an honest belief in its truth.