

Procedural Fact Sheets (Civil) – Supreme and District Courts

Glossary of Commonly Used Terms

Act (of Parliament): Written law created or changed by parliament

Adjournment: Postponement of a hearing to a later time

Admit (into evidence): If the information a party wants to rely on in proving their case complies with the legal rules about evidence, when the party tenders that information during a trial the court will accept that information as part of the evidence in the case, to be considered by the court in making its decision. In other words, the information will be “admitted into evidence”.

Adversarial (system): A litigation process where opposing parties each present their own side of the dispute to the judge, whose role is to decide the dispute

Affidavit: A written statement, sworn on oath or affirmed before an authorised person, for the purpose of presenting evidence to the court

Allegation: An unproved statement by a person making a claim that another has performed a wrongful act or omission which has caused the claimant to suffer loss or damage

Applicant: A person filing an interlocutory or originating application

Applications List Manager: A registry officer who manages the listing of interlocutory and originating applications in the Applications List

Associate: An assistant to the judge, who ensures the effective and efficient conduct of court hearings

Bailiff: A uniformed officer who assists the judge and the associate and keeps the courtroom in order

Callover: Where there are several proceedings requiring the allocation of hearing dates/times, the court conducts a callover (a relatively brief process conducted in a courtroom) to obtain some information from the parties about each proceeding, so that dates/times can be allocated appropriately.

Cause of action: A set of facts which gives a person a right to a remedy enforceable by a claim in a court of law

Civil claim: A claim for compensation, or some other relief, by one or more persons against another person or persons for loss or damage caused by the other’s wrongful act or omission

Civil jurisdiction: The power to make legal decisions and judgments about civil disputes

Civil List: A record of events taking place in proceedings in the civil jurisdiction of the court (interlocutory applications, reviews, or trials) which have been allocated a date or dates for hearing (NB: Interlocutory applications are only recorded in the civil list where it has been estimated that the hearing will take more than two hours.)

Civil List Manager: A registry officer who manages the listing of all hearings in the civil trial division of the court

Claim: A document that is filed to commence a proceeding, asking the court to resolve a civil dispute

Contempt of court: A serious offence, punishable by fine or imprisonment, committed by a person who acts in a way that is disobedient or discourteous to the court

Curia advisari vult: Means “the court wishes to consider” and indicates that the court is taking time to consider the evidence before making a judgment (often recorded in writing as CAV)

Damages: Monetary compensation designed to put a plaintiff, as far as possible, in the position in which they would have been, had the defendant’s wrongful act not occurred

Default judgment: Judgment by the court in favour of the plaintiff against the defendant without a trial because the defendant failed to file a defence to the claim within the required time frame.

Defendant: A person responding to/defending a claim

Deponent: A person making an affidavit

Direction: Order made by the court which is designed to progress the proceeding to resolution quickly and efficiently

Disbursement: Literally meaning to take money out of a purse, a disbursement is money spent by a party during a claim, which expenditure was necessary to progress the matter.

Enforcement creditor: Person in whose favour an order for the payment of money has been made by the court, who has not received the money within the timeframe imposed by the court order

Enforcement debtor: Person ordered by the court to pay money to another party, who has not paid all or part of that money within the timeframe imposed by the court order

Evidence: Information gathered by a party to prove the facts on which the party relies in proving their claim or defence (There are legal rules about what information may be relied on.)

Ex parte: Means “for one party” and refers to applications or hearings where one party applies or appears in the absence of the other party or parties.

Ex tempore: Means “at the time” and refers to a judgment delivered by a judge at the end of a hearing, rather than later, after a period of deliberation

Filing: The process of lodging a document with the court registry so that it is placed on the court file and becomes part of the file (Usually, the registry will apply the court seal to a copy of the document and provide this to the person filing the document, as proof that it has been filed.)

Hearing: An event in a proceeding held in a courtroom before a judge and attended by the parties for the purpose of progressing or deciding a claim (A hearing may be for a trial or for the purpose of deciding directions or an interlocutory application.)

Interlocutory (application): The process of applying to a judge to decide an issue between the parties prior to final determination of the claim

Issue (legal): A question about facts or law to be decided by the court

Judgment: The decision reached by the court by deciding the issues relevant to the final outcome of the case, on the facts established by the evidence after applying the relevant legal rules

Judgment Creditor: A person in whose favour an order for payment of damages has been made, which damages have not yet been paid

Judgment Debtor: A person against whom an order for payment of damages has been made, which damages have not yet been paid

Jurisdiction: The power to make legal decisions and judgments

Leave (of the court): Permission given by the judge for a party to do a certain thing



Legal professional privilege: The right to claim that the contents of a document are confidential because the document was prepared for the dominant purpose of providing or obtaining legal advice or for use in anticipated or existing litigation, and to refuse to produce the document in the proceeding for that reason

Legislation: Written law created or changed by parliament

Listing: The act of allocating a date and time for a court hearing

Litigation: The process of resolving a dispute by bringing and defending a claim in a court of law

Material (fact): An important fact which will have an impact on the outcome of a dispute

Mediation: A structured process of negotiation in which an independent person helps parties to communicate effectively with a view to resolving their dispute

Opposing (party): The person(s) on the other side of the dispute, for example, for a plaintiff, the defendant is the opposing party

Originating (application): A document that is filed to commence a proceeding, requesting the court to resolve a civil dispute

Party: A person directly involved in a proceeding, who is named in the proceeding as applicant, respondent, plaintiff, defendant, or third party

Plaintiff: A person who applies to the court for determination of a civil dispute by filing a claim

Pleading: A court document which explains the case relied on by the person making the claim or the person defending the claim (Pleadings include the statement of claim, defence, and reply.)

Practice direction: Procedural guidelines issued by judges to complement existing legal rules, including with respect to courtroom appearances and case management

Pro bono (services): Means “for the good” and refers to professional legal services provided without charge.

Proceeding: A dispute commenced by a claim, or originating application, that has been filed in the court registry and has been given a court file number

Relief: The remedy for which the plaintiff, applicant, or claimant applies to the court, for example, damages

Reserved (judgment): After the trial the judge may spend time considering the evidence and deciding the issues before making a final decision. During this period of deliberation, judgment is said to be ‘reserved’.

Respondent: A person responding to/defending an interlocutory or originating application

Service: The act of giving a court document to another party in a way specified by legal rules, so that it is more certain that the other person has received the document

Statute: Written law created or changed by Parliament

Stay (of proceeding): A temporary or permanent suspension of a proceeding by order of the court.

Summary (judgment): Final judgment given in favour of one party against another party without a trial taking place

Tender (a document): A party tenders a document when they ask the court to accept information contained in a document as part of the evidence to be considered in deciding the dispute.

Without prejudice: Use of these words at the top of a written communication (letter or email), or at the start of an oral conversation, indicates to the opposing party that the communication contains statements made in a genuine attempt to negotiate a settlement of the dispute, and that the



writer/speaker relies on the legal rule which prevents such statements from being later tendered in court if the dispute is not resolved.

