

## Procedural Fact Sheets (Civil) – Supreme and District Courts

### Starting a claim

**NB:** Think carefully and seek legal advice before commencing a claim. There may be serious costs consequences for you if you are unsuccessful. See the fact sheet about costs.

Important information about [commencing court proceedings](#) is available from LawRight, an independent, community legal centre that coordinates pro bono legal services for individuals and community groups involved in current or potential proceedings in Queensland courts. Depending on your circumstances, LawRight may be able to provide you with legal advice and assistance. You can find more information on LawRight's website.

### When should a proceeding be started by claim?

- A civil claim can be commenced by filing and serving either a claim and statement of claim or an originating application.
- A proceeding must be started by claim unless the [UCPR](#) require or permit the proceeding to be started by application. [rule 9](#)

### How to start a proceeding by claim

- To start a proceeding by claim, complete, file, and serve both:
  - A claim (using [form 2](#)), and
  - A statement of claim (using [form 16](#)).

### Preparing a claim

- Briefly state the nature of the claim made, or relief applied for, in the proceeding. [rule 22](#)
- If self-represented, include your residential or business address, telephone number (or, if you don't have one, a number on which you can be contacted by telephone), your fax number (if you have one), and your email address. [rule 17](#)
- NB: If you change your residential or business address (your address for service) at any time during the proceeding, file and serve a [form 90](#) Notice of Change of Address on all other parties. [rule 17\(3\)](#)
- Sign the claim. [rule 19](#)

### What is a statement of claim?

- A statement of claim is a pleading.
- A pleading is a statement of a party's case, clearly expressed so that the opposing party has a fair opportunity to respond.
- Pleadings define the issues to be decided by the court and enable the court to determine the relevance and admissibility of the evidence that each party intends to rely on at trial.
- A pleading should be a concise statement of material facts. A material fact is a fact necessary to proving your case or disproving the opposing party's case.

- Chapter 6 of the [Uniform Civil Procedure Rules 1999 \(Qld\)](#) (UCPR) explains how each party's case must be pleaded, to ensure that it is clearly set out and easily understood.

## Preparing a statement of claim

A statement of claim must be as brief as the nature of the case permits ([rule 149](#)) and contain:

- A statement of all material facts on which the party relies, but not the evidence by which the facts are to be proved.
- A separate allegation in each paragraph or subparagraph. [rule 146](#) An allegation is a factual claim that has not been proved.

The court may strike out all or part of the statement of claim and may order the costs of the strike out application to be paid by the party relying on it ([rule 171](#)), if the statement of claim:

- Fails to disclose a reasonable cause of action, or
- Tends to prejudice or delay the fair trial of the proceeding.

Certain matters must be specifically pleaded in a statement of claim, e.g., misrepresentation, undue influence, negligence, and breach of contract. [rule 150](#)

There are special rules about the way a plaintiff must plead any damages claimed. Damages are a sum of money awarded by the court for the purpose of replacing the value of the plaintiff's property or rights which have been lost or damaged, or to cover expenses, loss, pain, and suffering relating to a person's injury or death.

The statement of claim must state:

- The type/s of general damages [rule 155](#)
- The nature of the damage claimed for each type [rule 155](#)
- The monetary amount of damages claimed
- The type of loss suffered
- The circumstances in which the loss was suffered
- The basis on which the amount claimed has been worked out
- Other matters which must be specifically pleaded [rule 150](#)

More information about [drafting a statement of claim](#) is available from [LawRight](#).

## Filing and serving a claim and statement of claim

- The claim must be filed in the central registry of the court (Brisbane) or in the geographical [district](#) where the cause of action arose or the defendant resides. [rule 35](#)
- The claim and statement of claim must be filed together.
- The claim is "in force" (i.e., capable of being served) for one year after it has been filed. [rule 24](#)
- If one year has passed since filing, and the claim has not yet been served, you may ask the registrar to renew the claim for another year. Your request may be made in person at the registry or by post. The registrar will renew the claim if satisfied that you have made reasonable efforts to serve the defendant or that there is another good reason to renew the claim. [rule 24](#)
- Personally serve the claim and statement of claim on the defendant(s). [rule 105](#) Rules about serving court documents are contained in Chapter 4 [UCPR](#). See LawRight for [an explanation](#) of these rules.

