




6 - Law introduction

		
Logic Law	2000 + FREE BOOKS >> Shakespeare's plays	Force of Destiny
Shakespeare Concordance	Forest of Rhetoric - Silva Rhetoricae	Fallacies of Logic

Click on pictures or text for each of 6 free sites.

Table of Sections

6 -Law introduction.....	31
Civil Procedure Rules UK.....	31
Part 1 - Overriding Objective – GENERAL.....	31
Contents... 'default judgment' CONDITIONS.....	32
Claims in which default judgment may not be obtained.....	33
PART 22 - STATEMENTS OF TRUTH.....	34
Failure to verify a statement of case.....	34
PRACTICE DIRECTION 22 – STATEMENTS OF TRUTH.....	34
Who may sign the statement of truth.....	34
PART 31 - DISCLOSURE AND INSPECTION OF DOCUMENTS.....	36
Right of inspection of a disclosed document.....	36
31.6 Standard disclosure requires a party to disclose only–.....	36
CASE LAW.....	37

Civil Procedure Rules UK.

- 5 The [main UK legislation Civil Procedure Rule link](#) can be used to look at the relevant Rules for procedures in civil claims.

I suggest the reader focuses on the following parts where I have highlighted important sections & rules.

- 10 CPR - Rules and Directions - Parts 1-10 Web Version Notes on Practice Directions

Part 1 - Overriding Objective – GENERAL.

Rule 1.1 Application by the court of the overriding objective

Rule 1.2 Duty of the parties

- 15 Rule 1.3 Court's duty to manage cases

Rule 1.4 The overriding objective

1.1

(1) These Rules are a new procedural code with the overriding objective of enabling the court to deal with cases justly and at proportionate cost.

(2) Dealing with a case justly and at proportionate cost includes, so far as is practicable –

(a) ensuring that the parties are on an equal footing;

(b) saving expense;

(c) dealing with the case in ways which are proportionate –

5 (i) to the amount of money involved;

(ii) to the importance of the case;

(iii) to the complexity of the issues; and

(iv) to the financial position of each party;

(d) ensuring that it is dealt with expeditiously and fairly;

10 (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases; and

(f) enforcing compliance with rules, practice directions and orders. Application by the court of the overriding objective

1.2 The court must seek to give effect to the overriding objective when it –

15 (a) exercises any power given to it by the Rules; or

(b) interprets any rule subject to rules 76.2, 79.2 and 80.2, 82.2 and 88.2. Duty of the parties

1.3 The parties are required to help the court to further the overriding objective. Court's duty to manage cases

20 1.4

(1) The court must further the overriding objective by actively managing cases.

(2) Active case management includes –

(a) encouraging the parties to co-operate with each other in the conduct of the proceedings;

25 (b) identifying the issues at an early stage;

(c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;

(d) deciding the order in which issues are to be resolved;

30 (e) encouraging the parties to use an alternative dispute resolution(GL)procedure if the court considers that appropriate and facilitating the use of such procedure;

(f) helping the parties to settle the whole or part of the case;

(g) fixing timetables or otherwise controlling the progress of the case;

(h) considering whether the likely benefits of taking a particular step justify the cost of taking it;

35 (i) dealing with as many aspects of the case as it can on the same occasion;

(j) dealing with the case without the parties needing to attend at court;

(k) making use of technology; and

(l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

Updated: Monday, 30 January 2017

Contents... 'default judgment' CONDITIONS.

- 5 Rule 12.1 Claims in which default judgment may not be obtained
Rule 12.2 **Conditions to be satisfied**
Rule 12.3 Procedure for obtaining default judgment Rule
12.11 Meaning of 'default judgment'
- 12.1 In these Rules, 'default judgment' means judgment without trial where a
10 defendant –
(a) **has failed to file** an acknowledgment of service; or
(b) **has failed to file** a defence.
(Part 10 contains provisions about filing an acknowledgment of service and
Part 15 contains provisions about filing a defence)
- 15 **Claims in which default judgment may not be obtained**
12.2 A claimant may **not obtain a default judgment** –
(a) on a claim for delivery of goods subject to an agreement regulated by the
Consumer Credit Act 19741;
(b) where he uses the procedure set out in Part 8 (alternative procedure for
20 claims); or
(c) in any other case where a practice direction provides that the **claimant
may not obtain default judgment.**
Conditions to be satisfied
12.3
- 25 (1) The claimant may obtain judgment in default of an acknowledgment of
service **only if** –
(a) **the defendant has not filed** an acknowledgment of service or a defence to
the claim (or any part of the claim); and
(b) **the relevant time** for doing so **has expired.**
- 30 (2) Judgment in default of defence may be obtained **only** –
(a) **where an acknowledgement of service has been** filed **but a defence has
not been filed;**
(b) in a counterclaim made under rule 20.4, where a defence has not been
filed, and, in either case, the relevant time limit for doing so has expired.

(Rule 20.4 makes general provision for a defendant's counterclaim against a claimant, and rule 20.4(3) provides that Part 10 (acknowledgement of service) does not apply to a counterclaim made under that rule)

(3) The claimant may **not obtain a default judgment if** –

5 (a) the defendant has applied –

(i) **to have the claimant's statement of case struck out under rule 3.4;** (P1,18 & 20) or

(ii) for summary judgment under Part 24, and, in either case, that application has not been disposed of;

10 (b) the defendant has satisfied the whole claim (including any claim for costs) on which the claimant is seeking judgment;

PART 22 - STATEMENTS OF TRUTH

Documents to be verified by a statement of truth

22.1

(1) The following documents **must** be verified by a statement of truth –

15 (a) a statement of case;

Failure to verify a statement of case

22.2

(1) If a party fails to verify his statement of case by a statement of truth –

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

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

(2) The court may strike out(GL) a statement of case which is not verified by a statement of truth.

25 PRACTICE DIRECTION 22 – STATEMENTS OF TRUTH

Documents to be verified by a statement of truth

1.1 Rule 22.1(1) sets out the documents which must be verified by a statement of truth. The documents include:

(1) a statement of case,

30

Who may sign the statement of truth

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

- (1) the party or his litigation friend ², or
- (2) the legal representative ³ of the party or litigation friend.

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

- 5 3.3 A statement of truth verifying a notice of objections to an account must be signed by the objecting party or his legal representative.

3.4 Where a document is to be verified on behalf of a company or other corporation, subject to paragraph 3.7 below, the statement of truth must be signed by a person holding a senior position⁴ in the company or corporation.
10 That person must state the office or position held.

3.5 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
- 15 (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 town clerk or other similar officer of the corporation.

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

- 20 (1) any of the partners, or
- (2) a person having the control or management of the partnership business.

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

3.6 B 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;
- 30 (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.

3.7 Where a party is legally represented, the legal representative may sign
35 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.

3.8 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,

5 (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 rule 32.14).

10 3.9 The individual who signs a statement of truth must print his full name clearly beneath his signature.

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

15

PART 31 - DISCLOSURE AND INSPECTION OF DOCUMENTS

Meaning of disclosure

31.2 A party discloses a document by stating that the document exists or has existed.

20

Right of inspection of a disclosed document

31.3

(1) A party to whom a document has been disclosed has a right to inspect that document except where – Standard disclosure – what documents are to be disclosed

25

31.6 Standard disclosure requires a party to disclose only–

(a) the documents on which he relies; and

(b) the documents which –

(i) adversely affect his own case;

30 (ii) adversely affect another party's case; or

(iii) support another party's case; and

(c) the documents which he is required to disclose by a relevant practice direction. Duty of search

31.7

(1) When giving standard disclosure, a party is required to make a reasonable search for documents falling within rule 31.6(b) or (c). Procedure for standard disclosure

31.10

5 (1) The procedure for standard disclosure is as follows.

(2) Each party must make and serve on every other party, a list of documents in the relevant practice form.

(3) The list must identify the documents in a convenient order and manner and as concisely as possible. Duty of disclosure continues during

10 proceedings

31.11

(1) Any duty of disclosure continues until the proceedings are concluded.

(2) If documents to which that duty extends come to a party's notice at any time during the proceedings, he must immediately notify every other party.

15 Disclosure in stages

31.13 The parties may agree in writing, or the court may direct, that disclosure or inspection or both shall take place in stages.

Documents referred to in statements of case etc.

31.14

20 (1) A party may inspect a document mentioned in –

(a) a statement of case;

(b) a witness statement;

(c) a witness summary; or

(d) an affidavit(GL).

25 **CASE LAW**

Lord Denning states in the Pelias Construction Case (Van Lynn Developments v Pelias Construction Co Ltd 1968 [3] All ER 824) the debtor is entitled to "view the sale agreement,".

30 After receiving the notice, the debtor will be entitled, of course, to require a sight of the assignment so as to be satisfied that it is valid, and that the assignee can give him a good discharge. as per s 136(1)c of the Law of Property Act 1925.

35 Lord Denning in his ruling in Van Lynn Developments v Pelias Construction Co Ltd 1968 [3] All ER 82, ... the mere fact of giving a notice does not, of itself, create an assignment and that there must be an actual assignment in