

RULE 20 – PLEADINGS GENERALLY

Contents

- (1) A pleading shall be as brief as the nature of the case will permit and must contain a statement in summary form of the material facts on which the party relies, but not the evidence by which the facts are to be proved.
- (2) The effect of any document or the purport of any conversation referred to in a pleading, if material, shall be stated briefly and the precise words of the documents or conversation shall not be stated, except in so far as those words are themselves material.
- (3) A party need not plead a fact if it is presumed by law to be true or if the burden of disproving it lies on the other party.
- (4) A party need not plead the performance of a condition precedent necessary for the party's case, unless the other party has specifically denied it in that other party's pleadings.

Form

- (5) A pleading shall be divided into paragraphs numbered consecutively, each allegation being contained in a separate paragraph.

Matters arising since commencement

- (6) A party may plead a matter which has arisen since the commencement of the proceeding.

Inconsistent allegations

- (7) A party shall not plead an allegation of fact or a new ground or claim inconsistent with the party's previous pleading.

Alternative allegations

- (8) Subrule (7) does not affect the right of a party to make allegations in the alternative or to amend or apply for leave to amend a pleading.

Objection in point of law

- (9) A party may raise in a pleading an objection in point of law.

Pleading conclusions of law

- (10) Conclusions of law may be pleaded only if the material facts supporting them are pleaded.

Status admitted

- (11) Unless the incorporation of a corporate party or the office or status of a party is specifically denied, it shall be deemed to be admitted.

Where particulars necessary

- (12) Where the party pleading relies on misrepresentation, fraud, breach of trust, wilful default or undue influence, or where particulars may be necessary, full particulars, with dates and items if applicable, shall be stated in the pleading. If the particulars of debt, expenses or damages are lengthy, the party may refer to this fact and instead of pleading the particulars shall deliver the particulars in a separate document either before or with the pleading.

Further particulars

- (13) Particulars need only be pleaded to the extent that they are known at the date of pleading, but further particulars may be delivered after they become known, and shall be delivered within 10 days of a demand being made in writing.

Particulars in libel or slander

- (14) In an action for libel or slander,
- (a) where the plaintiff alleges that the words or matter complained of were used in a derogatory sense other than their ordinary meaning, the plaintiff shall give particulars of the facts and matters on which the plaintiff relies in support of that sense, and
- (b) where the defendant alleges that, in so far as the words complained of consist of statements of fact, they are true in substance and in fact, and that in so far as they consist of expressions of opinion, they are fair comment on a matter of public interest, the defendant shall give particulars stating which of the words complained of the defendant alleges are statements of fact and of the facts and matters relied on in support of the allegation that the words are true.

Set-off or counterclaim

- (15) A defendant in an action may set off or set up by way of counterclaim any right or claim, whether the set-off or counterclaim is for damages or not, so as to enable the court to pronounce a final judgment on all claims in the same action.

Filing and delivery of pleadings

- (16) A pleading shall be filed and a copy delivered to all parties of record and shall contain the style of proceeding, the description of the pleading, and the name and address for delivery of the party delivering the same.

Pleading after the statement of claim

- (17) In a pleading subsequent to a statement of claim a party shall plead specifically any matter of fact or point of law that
- (a) the party alleges makes a claim or defence of the opposite party not maintainable,
 - (b) if not specifically pleaded, might take the other party by surprise, or
 - (c) raises issues of fact not arising out of the preceding pleading.

Order for particulars

- (18) The court may order a party to deliver further and better particulars of a matter stated in a pleading.

Demand for particulars

- (19) Before applying to the court for particulars, a party shall demand them in writing from the other party.

Demand for particulars not a stay of proceedings

- (20) A demand for particulars does not operate as a stay of proceedings or give an extension of time, but a party may apply for an extension of time for delivering a pleading on the ground that the party cannot answer that pleading until particulars are provided.

Denial required if fact not admitted

- (21) An allegation of fact in a pleading, if not denied or stated to be not admitted in the pleading of the opposite party, shall be taken to be admitted, except as against an infant or mentally incompetent person.

General denial sufficient except where proving different facts

- (22) It is not necessary in a pleading to deny specifically each allegation made in a preceding pleading and a general denial is sufficient of allegations which are not admitted, but where a party intends to prove material facts that differ from those pleaded by an opposite party, a denial of the facts so pleaded is not sufficient, but the party shall plead his or her own statement of facts if those facts have not been previously pleaded.

Substance to be answered

- (23) If a party in a pleading denies an allegation of fact in the previous pleading of the opposite party, the party shall not do so evasively but shall answer the point of substance.

Denial of contract

- (24) If a contract, promise or agreement is alleged in a pleading, a bare denial of it by the opposite party shall be construed only as a denial of fact of the express contract, promise or agreement alleged, or of the matters of fact from which it may be implied by law, and not as a denial of the legality or sufficiency in law of that contract, promise or agreement.

Allegation of malice

- (25) It is sufficient to allege malice, fraudulent intention, knowledge or other condition of the mind of a person as a fact, without setting out the circumstances from which it is to be inferred.

Scandalous, frivolous or vexatious matters

- (26) At any stage of a proceeding the court may order to be struck out or amended the whole or any part of an endorsement, pleading, petition or other document on the ground that
- (a) it discloses no reasonable claim or defence as the case may be,
 - (b) it is unnecessary, scandalous, frivolous or vexatious,
 - (c) it may prejudice, embarrass or delay the fair trial or hearing of the proceeding, or
 - (d) it is otherwise an abuse of the process of the court,
- and the court may grant judgment or order the proceeding to be stayed or dismissed and may order the costs of the application to be paid as special costs.
- (27) Where on the filing of a document a clerk considers that the whole or any part of an endorsement, pleading, petition or other document could be the subject of an order under subrule (26), the clerk may, notwithstanding any other provision of these rules, retain it and all filed copies of it, and refer it to the court and the court may, after a summary hearing as the court directs, make an order under subrule (26).
- (28) Where the court makes such an order, the clerk shall give notification of the order, in the manner directed by the court, to the person who filed the document, and that person may, within 7 days of being notified, apply to the court and the court may confirm, vary or rescind the order.
- (29) No evidence is admissible on an application under subrule (26)(a).

Vexatious litigant

- (30) At any stage of a proceeding, the court on its own motion or on application, if satisfied that a person has persistently and without reasonable grounds commenced vexatious proceedings or conducted proceedings in a vexatious manner, may order

(a) that the person may not commence a proceeding in the court without leave of a judge, or

(b) that a proceeding previously commenced by the person in the court may not be continued without leave of a judge.

General damages shall not be pleaded

(31) Where general damages are claimed, the amount of the general damages claimed shall not be stated in the originating process or in any pleading.