

THE CIVIL PROCEEDINGS (AMENDMENT) RULES, 2011

**Arrangement of Rules**

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LEGAL NOTICE NO. 126

REPUBLIC OF TRINIDAD AND TOBAGO

THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

RULES

MADE BY THE RULES COMMITTEE UNDER SECTION 78 OF THE SUPREME COURT OF JUDICATURE ACT AND SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

THE CIVIL PROCEEDINGS (AMENDMENT) RULES, 2011

1. These Rules may be cited as the Civil Proceedings (Amendment) Rules, 2011. Citation
2. In these Rules, “the Rules” means the Civil Proceedings Rules, 1998. Interpretation
3. Rule 2.2 of the Rules is amended by deleting paragraph (3) and substituting the following paragraph: Rule 2.2 amended
  - “(3) These Rules do not apply to proceedings of the following kinds:
    - (a) insolvency (including winding up of companies);
    - (b) non-contentious probate proceedings;
    - (c) family proceedings except as provided in the Family Proceedings Rules; and
    - (d) proceedings when the High Court is acting as a Prize Court.”.
4. Rule 8.13 of the Rules is revoked and the following rule is substituted: Rule 8.3 revoked and substituted

**“Time within which a claim form may be served**

- 8.13**
- (1) The general rule is that a claim form may only be served within four months after the date when the claim was issued.
  - (2) The period of service is six months where the claim form is to be served out of the jurisdiction.
  - (3) The period of service of an admiralty claim form *in rem* is twelve months.

- (4) A claim (including a counter-claim, ancillary claim and other similar claims) shall be automatically struck out if a claim form is not served within six months of the time fixed by paragraph (1), or extended for service.
- (5) Where a claim form is duly served and a defendant either does not enter an appearance or file a defence and the claimant who can, does not apply for judgment pursuant to Part 12 within six months of becoming entitled to do so, the claim (including a counter-claim, ancillary claim and other similar claims) shall be automatically struck out.
- (6) The striking out of a claim under this rule shall not prevent a party from filing new proceedings in respect of the same cause or matter within the relevant period of limitation, except that where a claim is twice struck out, the claimant shall obtain the permission of the court to file new proceedings in respect of such cause or matter.

(Part 7 deals with service out of the jurisdiction; Part 74 deals with admiralty proceedings; Part 9 deals with appearance and notice of intention to defend; Part 10 deals with filing of a defence; Part 12 deals with default judgments; Part 18 deals with counter-claims, ancillary claims and other similar claims)”.

Rule 9.4  
amended

5. Rule 9.4 of the Rules is amended by deleting paragraph (2) and substituting the following paragraph:

“(2) A copy of the appearance and any statement of fact filed with it must be annexed to the notice.”.

Rule 10.2  
amended

6. Rule 10.2 of the Rules is amended by deleting paragraph (2) and substituting the following paragraph:

“(2) Where a defendant admits liability, but wishes to be heard on the issue of quantum, he need not file a defence but shall indicate on his appearance form referred to in rule 9.4(2) that he wishes to—

- (a) cross-examine any witness called on behalf of the claimant;
- (b) make submissions to the court; or

- (c) call any evidence, in which case he shall file with the appearance form a statement of facts upon which he intends to rely.”.

7. Rule 12.11 of the Rules is revoked and the following rule is substituted: Rule 12.11  
amended

**“Defendant’s rights following default judgment**

**12.11** Unless he obtains an order for the judgment to be set aside, the only matters on which a defendant against whom a default judgment has been entered may be heard are—

- (a) the assessment of damages, provided that he has indicated that he wishes to be heard—
  - (i) on the appearance form; or
  - (ii) in a Notice under rule 16.2 (4);
- (b) costs;
- (c) the time of payment of any judgment debt; and
- (d) enforcement.

(Part 10.2 deals with a defendant who admits liability but wishes to be heard on the issue of quantum and Part 13 deals with setting aside or varying default judgments”).

8. Rule 16.2 of the Rules is amended— Rule 16.2  
amended

- (a) by deleting paragraph (2) and substituting the following paragraph:

“(2) Unless the claimant states that he is not in a position to prove the amount of damages, the court office shall—

- (a) fix a date for the assessment of damages; and
- (b) give the parties at least 28 days notice of the date, time and place fixed for the hearing.”;

- (b) by deleting paragraph (3) and substituting the following paragraph:

“(3) If the claimant is not in a position to prove the amount of damages, the court office shall—

- (a) fix a period within which the assessment of damages will take place;
- (b) fix a date by which a listing questionnaire shall be sent to the claimant; and

(c) give the parties at least 28 days notice of the date, time and place fixed for the hearing.

(Rules 27.10 and 27.11 deal with the fixing of a date for trial”); and

(c) by inserting after paragraph (3), the following paragraph:

“(4) Where a defendant against whom a default judgment is entered wishes to be heard on the issue of quantum and he has not so indicated under rule 10.2(2), he shall within 14 days of receipt of notice under rules 16.2(2) or (3), file and serve a Notice in Form 7A indicating whether he wishes to—

(a) cross-examine any witness called on behalf of the claimant;

(b) make submissions to the court; or

(c) call any evidence, in which case he shall file with the Notice a statement of facts upon which he intends to rely.”.

Rule 16.3  
amended

9. Rule 16.3 of the Rules is amended—

(a) by deleting paragraph (2) and substituting the following paragraph:

“(2) Unless the claimant states that he is not in a position to prove the amount of damages, the court office shall—

(a) fix a date for the assessment of damages; and

(b) give the parties at least 28 days notice of the date, time and place fixed for the hearing.”; and

(b) by deleting paragraph (3) and substituting the following paragraph:

“(3) If the claimant is not in a position to prove the amount of damages, the court office shall—

(a) fix a period within which the assessment of damages will take place;

(b) fix a date by which a listing questionnaire shall be sent to the claimant; and

(c) give the parties at least 28 days notice of the date, time and place fixed for the hearing.

(Rules 27.10 and 27.11 deal with the fixing of a date for trial)".

10. Rule 18.5 of the Rules is amended by deleting paragraph (5) and substituting the following paragraphs: Rule 18.5  
amended

“(5) The court shall not give the defendant such permission after the first case management conference, unless it is satisfied that—

(a) there is a good explanation for the counter-claim not having been made prior to that case management conference; and

(b) the application to make the counter-claim was made promptly.

(5A) In considering whether to give permission, the court shall have regard to—

(a) the interests of the administration of justice;

(b) whether there has been a significant change in the circumstances which became known after the first case management conference;

(c) whether the failure to file the counter-claim arose because of a failure of the party or his attorney;

(d) whether the trial date or any likely trial date can still be met if permission is given; and

(e) whether any prejudice may be caused to the parties if permission is given or refused.”.

11. Rule 20.1 of the Rules is amended by deleting paragraph (3) and substituting the following paragraphs: Rule 20.1  
amended

“(3) The court shall not give permission to change a statement of case after the first case management conference, unless it is satisfied that—

(a) there is a good explanation for the change not having been made prior to that case management conference; and

(b) the application to make the change was made promptly.

- (3A) In considering whether to give permission, the court shall have regard to—
- (a) the interests of the administration of justice;
  - (b) whether the change has become necessary because of a failure of the party or his attorney;
  - (c) whether the change is factually inconsistent with what is already certified to be the truth;
  - (d) whether the change is necessary because of some circumstance which became known after the date of the first case management conference;
  - (e) whether the trial date or any likely trial date can still be met if permission is given; and
  - (f) whether any prejudice may be caused to the parties if permission is given or refused.”.

Rule 27.3  
revoked and  
substituted

12. Rule 27.3 of the Rules is revoked and the following rule is substituted:

**“Case management conference**

- 27.3 (1) The general rule is that the court office shall fix a case management conference immediately upon the filing of a defence to a claim other than a fixed date claim form.
- (2) Where there are two or more defendants and at least one of them files a defence, the court office shall fix a case management conference—
- (a) when all the defendants have filed a defence; or
  - (b) when the period for the filing of the last defence has expired,
- whichever is sooner.
- (3) If the court does not—
- (a) dispense with a case management conference under rule 27.4(1) and give directions under rule 27.4(2); or
  - (b) give notice of a case management conference within—
    - (i) 14 days of the filing of a defence, where there is only one defendant;
    - (ii) 14 days of the filing of the last defence, where there are two or more defendants; or

- (iii) 14 days of the expiration of the period for the filing of the last defence, where there are two or more defendants,

the claimant shall within 28 days of the relevant period identified in subparagraph (b) apply for a date to be fixed for the case management conference.

- (4) If the claimant does not so apply, the claim shall be automatically struck out.
- (5) The claimant may apply for relief within 3 months from the date of the service of the defence from the sanction imposed by paragraph (4).
- (6) In considering whether the court grants relief, the court shall have regard only to whether the defendant has suffered any prejudice and rule 26.7 shall not apply.
- (7) If the court grants relief, the case management conference shall take place within 28 days of the order.
- (8) The application under paragraph (5) shall be made with notice and shall be supported by evidence.
- (9) The case management conference shall take place not less than four weeks nor more than eight weeks after—
  - (a) the defence is filed where there is only one defendant;
  - (b) the final defence is filed where there are two or more defendants; or
  - (c) the expiration date for the filing of the last defence where there are two or more defendants, unless any rule prescribes a shorter or longer period or the case is urgent.
- (10) However, a party may apply to the court to fix a case management conference at a time earlier than that provided in paragraph (1) or (2).
- (11) The application may be made without notice but shall state the reasons for the application.

(12) The court shall fix a case management conference on application if it is satisfied that it will enable it to deal with the case justly.

(13) The court office shall give all parties not less than 14 days notice of the date, time and place of the case management conference.

(14) The court may with or without an application direct that shorter notice be given—

(a) if the parties agree; or

(b) in urgent cases.

(15) Unless the court orders otherwise, time for fixing a case management conference shall not run in the long vacation.”.

Rule 64.9  
amended

13. Rule 64.9 of the Rules is amended—

(a) by deleting paragraph (4) and substituting the following paragraph:

“(4) The hearing shall take place not more than 28 days after the notice of appeal was filed and, for the purposes of this paragraph, time shall not run during the vacations specified in rule 79.1(2).”; and

(b) by deleting paragraph (6) and substituting the following paragraph:

“(6) The decision and the reasons for it may be given orally but in any event, shall be given promptly.”.

Rule 67.5  
amended

14. Rule 67.5 of the Rules is amended by deleting paragraph (2) and substituting the following paragraph:

“(2) In determining such costs, the “value” of the claim shall be decided—

(a) in the case of a claimant, by the amount agreed or ordered to be paid;

(b) in the case of a defendant—

(i) by the amount claimed by the claimant in his claim form; or

(ii) if the claim is for damages and the claim form does not specify an amount that is claimed, be such sum as may be agreed between the party entitled to, and the party liable for, such costs or if not agreed, a sum stipulated by the court as the value of the claim; or

(c) if the claim is not for a monetary sum, as if it were a claim for \$50,000.”.

15. Appendix D of Part 67 of the Rules is amended—

Appendix D  
of Part 67  
amended

(a) by inserting immediately before the heading “**WRITS OF HABEAS CORPUS**”, the following section:

“ **COURT TRANSCRIPTS AND  
ELECTRONIC RECORDINGS**

Per page rate for a printed copy of proceedings before a court:

For each page or part thereof ... ..	10.00
For requests expedited within 21 days ...	12.00
For daily copies ... ..	20.00
Additional copies ... ..	6.00

For electronic copies of proceedings before a court:

3.5 floppy disk ... ..	50.00
CD Rom ... ..	50.00

For a copy of electronic record via Audio Digital System:

Day’s proceedings ... ..	30.00 per CD Rom
Additional days on same CD ...	6.00 per day”; and



The full **statement of facts** upon which reliance will be placed is attached to this Notice and certified to be true as provided for in Rules 10.7 (4), (5) and (6).

Dated .....

Signed: .....

Defendant/Attorney-at-law

The **court office** is at [the Hall of Justice, Knox Street, Port-of-Spain] telephone number xxx xxxx, Fax xxx xxxxx. The office is open between [8:00 a.m.] and [4:00 p.m.]. Mondays to Fridays except public holidays and court holidays.”

Dated this 29th day of June, 2011.

I. ARCHIE  
*Chief Justice*

P. JAMADAR  
*Judge of the Court of Appeal*

C. PEMBERTON  
*Judge of the High Court*

A. RAMLOGAN  
*Attorney General*

E. A. PETERSEN  
*Registrar of the Supreme Court*