

PRACTICE DIRECTION – SMALL CLAIMS TRACK

THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 27

JUDGES

- 1 The functions of the court described in Part 27 which are to be carried out by a judge will generally be carried out by a district judge but may be carried out by a Circuit Judge.

CASE MANAGEMENT DIRECTIONS

- 2.1 Rule 27.4 explains how directions will be given, and rule 27.6 contains provisions about the holding of a preliminary hearing and the court's powers at such a hearing.
- 2.2 Appendix A sets out the Standard Directions which the court may give.

REPRESENTATION AT A HEARING

- 3.1 In this paragraph:
 - (1) a lawyer means a barrister, a solicitor or a legal executive employed by a solicitor, and
 - (2) a lay representative means any other person.
- 3.2
 - (1) A party may present his own case at a hearing or a lawyer or lay representative may present it for him.
 - (2) The Lay Representatives (Right of Audience) Order 1999 provides that a lay representative may not exercise any right of audience:–
 - (a) where his client does not attend the hearing;
 - (b) at any stage after judgment; or
 - (c) on any appeal brought against any decision made by the district judge in the proceedings.
 - (3) However the court, exercising its general discretion to hear anybody, may hear a lay representative even in circumstances excluded by the Order.
 - (4) Any of its officers or employees may represent a corporate party.

SMALL CLAIM HEARING

- 4.1
 - (1) The general rule is that a small claim hearing will be in public.

- (2) The judge may decide to hold it in private if:
 - (a) the parties agree, or
 - (b) a ground mentioned in rule 39.2(3) applies.
 - (3) A hearing or part of a hearing which takes place other than at the court, for example at the home or business premises of a party, will not be in public.
- 4.2 A hearing that takes place at the court will generally be in the judge's room but it may take place in a courtroom.
- 4.3 Rule 27.8 allows the court to adopt any method of proceeding that it considers to be fair and to limit cross-examination. The judge may in particular:
- (1) ask questions of any witness himself before allowing any other person to do so,
 - (2) ask questions of all or any of the witnesses himself before allowing any other person to ask questions of any witnesses,
 - (3) refuse to allow cross-examination of any witness until all the witnesses have given evidence in chief,
 - (4) limit cross-examination of a witness to a fixed time or to a particular subject or issue, or both.

RECORDING EVIDENCE AND THE GIVING OF REASONS

- 5.1 The judge may direct that all or any part of the proceedings will be tape recorded by the court. A party may obtain a transcript of such a recording on payment of the proper transcriber's charges.
- 5.2 Attention is drawn to section 9 of the Contempt of Court Act 1981 (which deals with the unauthorised use of tape recorders in court) and to the Practice Direction ([1981] 1 WLR 1526) which relates to it.
- 5.3 The judge will make a note of the central points of the oral evidence unless it is tape recorded by the court.
- 5.4 The judge will make a note of the central reasons for his judgment unless it is given orally and tape recorded by the court.
- 5.5 (1) The judge may give his reasons as briefly and simply as the nature of the case allows.
(2) He will normally do so orally at the hearing, but he may give them later either in writing or at a hearing fixed for him to do so.
- 5.6 Where the judge decides the case without a hearing under rule 27.10 or a party who has given notice under rule 27.9(1) does not attend the hearing, the judge will prepare a note of his reasons and the court will send a copy to each party.

- 5.7 A party is entitled to a copy of any note made by the judge under sub-paragraphs 5.3 or 5.4.
- 5.8 Nothing in this practice direction affects the duty of a judge at the request of a party to make a note of the matters referred to in section 80 of the County Courts Act 1984.

NON-ATTENDANCE OF A PARTY AT A HEARING

- 6.1 Attention is drawn to rule 27.9 (which enables a party to give notice that he will not attend a final hearing and sets out the effect of his giving such notice and of not doing so), and to paragraph 3 above.
- 6.2 Nothing in those provisions affects the general power of the court to adjourn a hearing, for example where a party who wishes to attend a hearing on the date fixed cannot do so for a good reason.

COSTS

- 7.1 Attention is drawn to Rule 27.14 which contains provisions about the costs which may be ordered to be paid by one party to another.
- 7.2 The amount which a party may be ordered to pay under rule 27.14(2)(b) (for legal advice and assistance in claims including an injunction or specific performance) is a sum not exceeding £260.
- 7.3 The amounts which a party may be ordered to pay under rule 27.14(3)(c) (loss of earnings) and (d) (experts' fees) are:
 - (1) for the loss of earnings of each party or witness due to attending a hearing or staying away from home for the purpose of attending a hearing, a sum not exceeding £50 per day for each person, and
 - (2) for expert's fees, a sum not exceeding £200 for each expert.

(As to recovery of pre-allocation costs in a case in which an admission by the defendant has reduced the amount in dispute to a figure below £5,000, reference should be made to paragraph 7.4 of the Practice Direction supplementing CPR Part 26 and to paragraph 5.1(3) of the Costs Directions relating to CPR Part 44)

APPEALS FROM DECISIONS OF DISTRICT JUDGES

- 8.1 An appeal from a decision of a district judge under Part 27 will be dealt with by a Circuit Judge.
- 8.2 Attention is drawn to rule 27.12 and 13 and in particular to the limited grounds of appeal and the time limits for giving notice of appeal.
- 8.3 A notice of appeal must set out particulars of the serious irregularity or mistake of law relied on.

- 8.4 When a notice of appeal is filed it will be put before a Circuit Judge as soon as possible after it is filed and he will decide how to deal with the appeal.
- 8.5 The court will serve a copy of the notice on all other parties.
- 8.6 The Circuit Judge may either:
 - (1) dismiss the appeal without a hearing if no sufficient ground is shown in the notice of appeal, or
 - (2) order that the appeal is to be listed for hearing.
- 8.7 The Circuit Judge will give any necessary directions:
 - (1) about the filing of any evidence concerning any allegation of serious irregularity, and
 - (2) about the supply to the parties of copies of any document (including any note made by the judge who heard the case) which he has taken or may have taken into account in dealing with the appeal.
- 8.8 Where the Circuit Judge dismisses the appeal without a hearing his order will contain brief reasons for his decision.
- 8.9 Where the Circuit Judge directs that the appeal is to be listed for hearing the court will give at least seven days notice of the hearing to all parties.
- 8.10 If the appeal is allowed, the Circuit Judge will if possible dispose of the case at the same time without ordering the claim to be reheard. He may do so without hearing further evidence.

Appendix A

FORM A – THE STANDARD DIRECTIONS

(for use where the district judge specifies no other directions)

THE COURT DIRECTS

- 1 Each party shall deliver to every other party and to the court office copies of all documents (including any experts' report) on which he intends to rely at the hearing no later than [] [14 days before the hearing].
- 2 The original documents shall be brought to the hearing.
- 3 [Notice of hearing date and time allowed.]
- 4 The court must be informed immediately if the case is settled by agreement before the hearing date.

FORM B – STANDARD DIRECTIONS FOR USE IN CLAIMS ARISING OUT OF ROAD ACCIDENTS

THE COURT DIRECTS

- 1 Each party shall deliver to every other party and to the court office copies of all documents on which he intends to rely at the hearing. These may include:
 - experts' reports (including medical reports where damages for personal injury are claimed),
 - witness statements,
 - invoices and estimates for repairs,
 - documents which relate to other losses, such as loss of earnings,
 - sketch plans and photographs.
- 2 The copies shall be delivered no later than [] [14 days before the hearing].
- 3 The original documents shall be brought to the hearing.
- 4 Before the date of the hearing the parties shall try to agree the cost of the repairs and any other losses claimed subject to the court's decision about whose fault the accident was.
- 5 Signed statements setting out the evidence of all witnesses on whom each party intends to rely shall be prepared and copies included in the documents mentioned in paragraph 1. This includes the evidence of the parties themselves and of any other witness, whether or not he is going to come to court to give evidence.
- 6 The parties should note that:
 - (a) In deciding the case the court will find it very helpful to have a sketch plan and photographs of the place where the accident happened,
 - (b) The court may decide not to take into account a document or the evidence of a witness if no copy of that document or no copy of a statement or report by that witness has been supplied to the other parties.
- 7 [Notice of hearing date and time allowed.]
- 8 The court must be informed immediately if the case is settled by agreement before the hearing date.

FORM C – STANDARD DIRECTIONS FOR USE IN CLAIMS ARISING OUT OF BUILDING DISPUTES, VEHICLE REPAIRS AND SIMILAR CONTRACTUAL CLAIMS

THE COURT DIRECTS

- 1 Each party shall deliver to every other party and to the court office copies of all documents on which he intends to rely at the hearing. These may include:
 - the contract,
 - witness statements,
 - experts' reports,
 - photographs,
 - invoices for work done or goods supplied,
 - estimates for work to be done.
- 2 The copies shall be delivered no later than [] [14 days before the hearing].
- 3 The original documents shall be brought to the hearing.
- 4 [The] shall deliver to the and to the court office [no later than] [with his copy documents] a list showing all items of work which he complains about and why, and the amount claimed for putting each item right.]
- 5 [The] shall deliver to the and to the court office [no later than] [with his copy documents] a breakdown of the amount he is claiming showing all work done and materials supplied.]
- 6 Before the date of the hearing the parties shall try to agree about the nature and cost of any remedial work required, subject to the court's decision about any other issue in the case.
- 7 [Signed statements setting out the evidence of all witnesses on whom each party intends to rely shall be prepared and included in the documents mentioned in paragraph 1. This includes the evidence of the parties themselves and of any other witness, whether or not he is going to come to court to give evidence.]
- 8 The parties should note that:
 - (a) in deciding the case the judge may find it helpful to have photographs showing the work in question,
 - (b) the judge may decide not to take into account a document or the evidence of a witness if no copy of that document or no copy of a statement or report by that witness has been supplied to the other parties.

- 9 [Notice of hearing date and time allowed.]
- 10 The court must be informed immediately if the case is settled by agreement before the hearing date.

FORM D – TENANTS’ CLAIMS FOR THE RETURN OF DEPOSITS/LANDLORDS CLAIMS FOR DAMAGE CAUSED

THE COURT DIRECTS

- 1 Each party shall deliver to every other party and to the court office copies of all documents on which he intends to rely at the hearing. These may include:
 - the tenancy agreement and any inventory,
 - the rent book or other evidence of rent and other payments made by the _____ to the _____,
 - photographs,
 - witness statements,
 - invoices or estimates for work and goods.
- 2 The copies shall be delivered no later than [_____] [14 days before the hearing].
- 3 The original documents shall be brought to the hearing.
- 4 The _____ shall deliver with his copy documents a list showing each item of loss or damage for which he claims the _____ ought to pay, and the amount he claims for the replacement or repair.
- 5 The parties shall before the hearing date try to agree about the nature and cost of any repairs and replacements needed, subject to the court’s decision about any other issue in the case.
- 6 [Signed statements setting out the evidence of all witnesses on whom each party intends to rely shall be prepared and included in the documents mentioned in paragraph 1. This includes the evidence of the parties themselves and of any other witness whether or not he is going to come to court to give evidence.]
- 7 The parties should note that:
 - a) in deciding the case the judge may find it helpful to have photographs showing the condition of the property,
 - b) the judge may decide not to take into account a document or the evidence of a witness if no copy of that document or no copy of a statement or report by that witness has been supplied to the other parties.
- 8 [Notice of hearing date and time allowed.]
- 9 The court must be informed immediately if the case is settled by agreement before the hearing date.

FORM E – HOLIDAY AND WEDDING CLAIMS**THE COURT DIRECTS**

- 1 Each party shall deliver to every other party and to the court office copies of all documents on which he intends to rely at the hearing. These may include:
 - any written contract, brochure or booking form,
 - photographs,
 - documents showing payments made,
 - witness statements,
 - letters.
- 2 The copies shall be delivered no later than [] [14 days before the hearing].
- 3 The original documents shall be brought to the hearing.
- 4 Signed statements setting out the evidence of all witnesses on whom each party intends to rely shall be prepared and copies included in the documents mentioned in paragraph 1. This includes the evidence of the parties themselves and of any other witness, whether or not he is going to come to court to give evidence.
- 5 If either party intends to show a video as evidence he must:
 - (a) contact the court at once to make arrangements for him to do so, because the court may not have the necessary equipment, and
 - (b) provide the other party with a copy of the video or the opportunity to see it (if he asks) at least 2 weeks before the hearing.
- 6 The parties should note that the court may decide not to take into account a document or the evidence of a witness or a video if these directions have not been complied with.
- 7 [Notice of hearing date and time allowed.]
- 8 The court must be told immediately if the case is settled by agreement before the hearing date.

FORM F – SOME SPECIAL DIRECTIONS

The _____ must clarify his case.
 He must do this by delivering to the court office and to the _____
 no later than _____
 [a list of _____]
 [details of _____]
 [_____]

The _____ shall allow the _____ to
 inspect _____ by appointment within
 _____ days of receiving a request to do so.

The hearing will not take place at the court but at _____.

The _____ must bring to court at the hearing the _____.

Signed statements setting out the evidence of all witnesses on whom each party intends to rely shall be prepared and copies included in the documents mentioned in paragraph 1. This includes the evidence of the parties themselves and of any other witness, whether or not he is going to come to court to give evidence.

The court may decide not to take into account a document [or video] or the evidence of a witness if these directions have not been complied with.

If he does not [do so] [_____] his [Claim]
 [Defence] [and Counterclaim] and will be struck out and [(specify consequence)].

It appears to the court that expert evidence is necessary on the issue of
 [_____]
 and that that evidence should be given by a single expert
 [_____]
 to be instructed by the parties jointly. If the parties cannot agree about who to chose and what arrangements to make about paying his fee, either party may apply to the court for further directions.

If either party intends to show a video as evidence he must

- (a) contact the court at once to make arrangements for him to do so, because the court may not have the necessary equipment, and
- (b) provide the other party with a copy of the video or the opportunity to see it at least[_____] before the hearing.