

PLEADINGS

Pleadings

- Pleadings are documents which parties to a proceeding in a civil suit exchange between themselves. They consist of all material facts on which the parties rely for the purpose of establishing a claim or defence.
- Pleadings include a statement of claim, a counterclaim, a defence and a defence to counterclaim, a reply and subsequent responses to be filed and served with the leave of the court.

Functions of Pleadings

- To define issues between the parties , i.e issues which required to be tried
- To enable the defendant to know the exact nature of the plaintiff's claim and the relief(s) sought by him
- To allow the plaintiff to ascertain the exact nature nature of the defendant's defence
- To assist the court in determining the issues in dispute
- To narrow down the case to the exact issues to be tried by the court
- To eliminate the element of surprise
- To save time of the parties, counsels and the courts and hence reduce costs

Statement of Claim (SOC)

- The function of Statement of Claim is to put the defendant on notice of the exact nature of the plaintiff's claim, the grounds on which it is based and also relief(s) sought by the plaintiff.
- S63(1) SCCP (Sgor)2003: every SOC must be signed by the plaintiff or his Peguam Syarie.

- S63(1) SCCP (Sgor)2003: the SOC must contain the concise and sufficient facts relied by the plaintiff, reliefs and other particulars (if any).
- If there are more than one cause of action, they must be mentioned separately.

Statement of Defence (SOD)

- S65(1) SCCP (Sgor)2003: the defendant may either admit or deny every material fact alleged- then state concisely any new facts
- S66 SCCP (Sgor)2003: counterclaim is done similar to the manner of how SOC and SOD are done.

DISCOVERY & INSPECTION OF DOCUMENTS

Discovery and Inspection of Documents

- The court may where necessary order any party to state an oath or by affidavit what document he has: S85 SCCP (Sgor)2003
- S86 SCCP (Sgor)2003: any party may inspect and copy any document in the possession of the other party.
- The process of discovery enables the parties to inspect the documents intended to be relied upon by the other party and to facilitate the proof of these documents by agreeing with them.

Process of Discovery

- It involves discovering the documents, inspecting them and producing them (making copies).

Functions of Discovery

- To provide the parties with relevant documentary material before trial to enable them to appraise the strength or weakness of their respective cases
- To eliminate the element of surprise relating to documentary evidence

Privileged Communications & Documents

- If any information is confidential so as to be prejudicial to the public interest or professional employment or communications during marriage, such person having the information cannot be compelled to disclose the information.
- S87 SCCP (Sgor)2003: production and inspection of documents shall be subject to any law relating to privileged communications and documents.
- E.g matters relating to affairs of the state, husband & wife, legal professional communication, or matters which may injure public interest.