

121. Every allegation not denied shall be deemed to be admitted.

122. When an affirmative defence is intended the statement of defence shall show the general nature thereof.

123. If the plaintiff is prepared to admit any allegations of fact in the defendant's statement of claim, he shall, within _____ days after the same has been served upon him, serve upon the defendant a notice stating distinctly the allegations he admits, and any allegation of fact not so admitted shall be deemed to be denied.

SET-OFF AND COUNTER CLAIM.

124. If the defendant have a counter claim against the plaintiff alone, he may, without issuing a writ of summons within the time limited for filing his statement of defence, file a statement of such claim.

125. Such statement of claim shall be headed with the words "Counter Claim," but shall in all other respects conform to the rules as to statements of claim.

126. A copy of such statement of claim shall be served upon the plaintiff, and all further proceedings thereon shall be taken in the same manner as if the defendant had commenced an independent action against the plaintiff, except that the plaintiff shall file his statement of defence in the same office, and the said counter claim shall be tried at the same place as the statement of claim in the original action, and such trial shall take place immediately after the trial of the original action.

127. The Court or a Judge may order that the plaintiff's claim and the defendant's counter claim be tried together if it be made to appear that such claim and counter claim can be disposed of more conveniently by hearing them together than separately.

128. If the counter claim be against the plaintiff jointly with other persons it must be prosecuted by independent action.

129. The Court or a Judge may adjourn the hearing of a counter claim if it be made to appear that the plaintiff will be prejudiced by the trial taking place as hereinbefore provided.

STATEMENTS OF CLAIM AND OF DEFENCE GENERALLY

130. The statements of claim and defence respectively shall give such particulars of time, place, amount, names of persons, dates of instruments, and other circumstances as may suffice to inform the opposite party of the cause of action or ground of defence, as the case may be.

131. If at the trial it appear to the Judge presiding at the trial that either party is taken by surprise by the nature of the case or defence set up by the opposite party, the Judge presiding at the trial may adjourn the trial to such time and place as shall seem just.

132. If at the trial of the action the Judge presiding at the trial shall be of opinion that any allegation of fact not admitted by either party under the provisions hereinbefore contained ought to have been admitted, the Judge presiding at the trial may order that the cost of proving such allegation be borne by the party not admitting the same, whatever be the result of the action.

133. The statements of claim and of defence shall be divided into paragraphs numbered consecutively, and each paragraph containing as nearly as may be a separate allegation. Dates, sums, and numbers shall be expressed in figures and not in words.

134. Distinct causes of action and distinct grounds of defence, founded on separate and distinct facts, shall be stated as nearly as may be separately and distinctly.

135. If either party wishes to deny the right of any other party to claim as executor or trustee, whether in bankruptcy or otherwise, or in any representative or other alleged capacity, or the alleged constitution of any partnership firm, he shall deny the same specifically.

136. A bare denial of a contract shall be construed only as a denial of the making of the contract in fact, and not of its legality or sufficiency in law, whether with reference to the Statute of Frauds or otherwise.

137. If either party in his statement relies upon any document it shall be sufficient to state the effect thereof as briefly as possible, without setting it out.

AMENDMENT OF STATEMENTS OF CLAIM AND DEFENCE.

138. Either party may at any time before trial file an amended statement of claim or of defence, and serve a copy thereof on the opposite party.

139. Each party may, by notice, require the opposite party to file and serve, within four days after the service of such notice, a more explicit statement of claim or of defence.

140. Such notice shall indicate as clearly as may be the points in which the statement, in respect of which it has been served, is considered defective.

141. If the party on whom such notice is served neglect or refuse to comply with the same, the Court or a Judge may, if the statement objected to appear not to give fair notice of the cause of action or ground of defence, order a fuller and more explicit statement to be filed.

142. When an amended statement of claim or defence has been filed under the foregoing rules, the party filing such amended statement shall bear all the costs of the original statement, and any application for amendment, unless the Court or Judge shall otherwise order.

143. When any ground of defence to a claim or counter claim arises after the commencement of an action, the defendant or the plaintiff, as the case may be, may, within _____ days after such ground of defence has arisen, by leave of the Court or Judge, file and serve a special statement of defence setting forth the same.

144. Whenever either party in his original or in any special statement of defence to a claim or counter claim alleges any ground of defence which has arisen after the commencement of the action, the other party may deliver a confession of such defence, which confession may be in the Form No. _____ in the Schedule hereto, and may thereupon sign judgment for his costs up to the time of filing such statement of defence, unless the Court or a Judge shall, either before or after the delivery of such confession, otherwise order.