

Procedural Fact Sheets (Civil) – Supreme and District Courts

Defending a claim

If a person has been served with a claim and statement of claim, and wants to defend the claim, they must file both a notice of intention to defend and a defence:

- Use [form 6](#) and [form 17](#).
- • For each allegation in the statement of claim, state whether the allegation is true (admitted), false (denied) or not admitted. [rule 166](#)
- • To deny an allegation, you must include the reasons why the allegation is untrue.
- • All material facts intended to rely on in defending the claim must be contained in the defence.
- File and serve the documents on the plaintiff(s) within 28 days after the day the claim is served. [rule 137](#)

A defence is a pleading which explains the defendant's case to the plaintiff and to the court. As a pleading, a defence must be as brief as the nature of the case permits ([rule 149](#)) and contain:

- A statement of all material facts on which the defendant relies, but not the evidence by which the facts are to be proved. A material fact is a fact necessary to proving your case or disproving the opposing party's case.
- A separate allegation in each paragraph or subparagraph. [rule 146](#) An allegation is a factual claim that has not been proved.

The court may strike out all or part of the defence and may order the costs of the strike out application to be paid by the defendant ([rule 171](#)), if the defence:

- Fails to disclose a reasonable defence, or
- Tends to interfere with or delay the fair trial of the proceeding.

Certain matters must be specifically pleaded, e.g., misrepresentation, undue influence, negligence, and breach of contract. [rule 150](#)

More information about [drafting a defence](#) is available from [LawRight](#).