

CAYMAN ISLANDS



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GRAND COURT LAW (2008 REVISION) THE GRAND COURT (AMENDMENT) RULES 2008

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THE GRAND COURT (AMENDMENT) RULES 2008

These Rules are made by the Rules Committee pursuant to Section 19(3) of the Grand Court Law (2008 Revision).

1. Citation, Commencement and Interpretation.

- (1) These Rules shall be cited as the Grand Court (Amendment) Rules 2008.
- (2)
 - (a) These Rules shall come into operation on the 24th day of November 2008 referred to in this rule as the "Commencement Date".
 - (b) These rules shall apply to every proceeding which is pending or commenced in the Court on or after the Commencement Date.
- (3) Words and expressions in these Rules which are also used in the Grand Court Rules 1995 (Revised Edition) shall have the same meaning in these Rules as in the Grand Court Rules 1995.

2. Revocation and Replacement of Order 14

- (1) GCR Order 14 is hereby revoked and replaced by the Order contained in the Schedule hereto.

Made by the Rules Committee on the 31st day of October 2008.

The Honourable Anthony Smellie QC, Chief Justice
The Honourable Sam Bulgin QC, Attorney General
Andrew J Jones QC, Legal Practitioner
Graham Ritchie QC, Legal Practitioner

ORDER 14

SUMMARY JUDGMENT

I. APPLICATION BY PLAINTIFF

Application by plaintiff for summary judgment (O.14, r.1)

1. (1) Where in an action to which this rule applies a statement of claim has been served on a defendant and that defendant has given notice of intention to defend the action, the plaintiff may, on the ground that the defendant has no defence to a claim included in the writ, or to a particular part of such a claim, or has no defence to such a claim or part except as to the amount of any damages claimed, apply to the Court for judgment against the defendant.
- (2) This rule applies to every action begun by writ in the Court other than –
 - (a) an action which includes a claim by the plaintiff for libel, slander, malicious prosecution or false imprisonment;
 - (b) an admiralty action in rem; or
 - (c) an action to which Order 86 applies.

Manner in which application under rule 1 must be made (O.14, r.2)

2. (1) An application under rule 1 must be made by summons supported by an affidavit verifying the facts on which the claim, or the part of the claim, to which the application relates is based and stating that in the deponent's belief there is no defence to that claim or part, as the case may be, or no defence except as to the amount of any damages claimed.
- (2) Unless the Court otherwise directs, an affidavit for the purpose of this rule may contain statements of information or belief with the sources and grounds thereof.
- (3) The summons, a copy of the affidavit in support and of any exhibits referred to therein must be served on the defendant not less than 10 clear days before the return day.

Judgment for plaintiff (O.14, r.3)

3. (1) Unless on the hearing of an application under rule 1 either the Court dismisses the application or the defendant satisfies the Court with respect to the claim, or that part of the claim, to which the application relates that there is an issue or question in dispute which ought to be tried, the Court may give such judgment for the plaintiff against that defendant on that claim or part as may be just having regard to the nature of the remedy or relief claimed.

- (2) The Court may by order, and subject to such conditions, if any, as may be just, stay execution of any judgment given against a defendant under this rule until after the trial of any counterclaim made or raised by the defendant in the action.

Leave to defend (O.14, r.4)

4. (1) A defendant may show cause against an application under rule 1 by affidavit or otherwise to the satisfaction of the Court.
- (2) Rule 2(2) applies for the purpose of this rule as it applies for the purposes of that rule.
- (3) The Court may give a defendant against whom such an application is made leave to defend the action with respect to the claim, or the part of a claim, to which the application relates either unconditionally or on such terms as to giving security or time or mode of trial or otherwise as it thinks fit.
- (4) On the hearing of such an application the Court may order a defendant showing cause or, where that defendant is a body corporate, any director, manager, secretary or other similar officer thereof, or any person purporting to act in any such capacity –
- (a) to produce any document;
- (b) if it appears to the Court that there are special circumstances which make it desirable that he should do so, to attend and be examined on oath.

Application for summary judgment on counterclaim (O.14, r.5)

5. (1) Where a defendant to an action begun by writ has served a counterclaim on the plaintiff, then, subject to paragraph (3) the defendant may, on the ground that the plaintiff has no defence to a claim made in the counterclaim, or to a particular part of such a claim, apply to the Court for judgment against the plaintiff on that claim or part.
- (2) Rules 2, 3 and 4 shall apply in relation to an application under this rule as they apply in relation to an application under rule 1 but with the following modifications, that is to say –
- (a) references to the plaintiff and defendant shall be construed as references to the defendant and plaintiff respectively;
- (b) the words in rule 3(2) "any counterclaim made or raised by the defendant in" shall be omitted; and

- (c) the reference in rule 4(3) to the action shall be construed as a reference to the counterclaim to which the application under this rule relates.
- (3) This rule shall not apply to a counterclaim which includes any such claim as is referred to in rule 1(2).

Directions (O.14, r.6)

6. Where the Court -

- (a) orders that a defendant or a plaintiff have leave (whether conditional or unconditional) to defend an action or counterclaim, as the case may be, with respect to a claim or a part of a claim; or
- (b) gives judgment for a plaintiff or a defendant on a claim or part of a claim but also orders that execution of the judgment be stayed pending the trial of a counterclaim or of the action, as the case may be,

the Court shall give directions as to the further conduct of the action and Order 25, rules 2 to 7 shall, with the omission of so much of rule 7(1) as requires parties to serve a notice specifying the orders and directions which they require and with any other necessary modifications, apply as if the application under rule 1 of this Order or rule 5, as the case may be, on which the order was made were a summons for directions.

Costs (O.14, r.7)

- 7. (1) If the plaintiff makes an application under rule 1 where the case is not within this Order or if it appears to the Court that the plaintiff knew that the defendant relied on a contention which would entitle him to unconditional leave to defend, then, the Court may dismiss the application with costs and may, if the plaintiff is not a legally aided person, require the costs to be paid by him forthwith.
- (2) The Court shall have the same power to dismiss an application under rule 5 as it has under paragraph (1) to dismiss an application under rule 1, and that paragraph shall apply accordingly with the necessary modifications.

Right to proceed with residue of action or counterclaim (O.14, r.8)

- 8. (1) Where on an application under rule 1 the plaintiff obtains judgment on a claim or a part of a claim against any defendant, he may proceed with the action as respects any other claim or as respects the remainder of the claim or against any other defendant.
- (2) Where on an application under rule 5 a defendant obtains judgment on a claim or part of a claim made in a counterclaim against the plaintiff, he may proceed with the counterclaim as respects any other claim or as respects the remainder of the claim or against any other defendant to the counterclaim.

Judgment for delivery up of chattel (O.14, r.9)

9. Where the claim to which an application under rule 1 or rule 5 relates is for the delivery of a specific chattel and the Court gives judgment under this Order for the applicant, it shall have the same power to order the party against whom judgment is given to deliver up the chattel without giving him an option to retain it on paying the assessed value thereof as if the judgment had been given after trial.

Relief against forfeiture (O.14, r.10)

10. A tenant shall have the same right to apply for relief after judgment for possession of land on the ground of forfeiture for non-payment of rent has been given under this Order as if the judgment had been given after trial.

Setting aside judgment (O.14, r.11)

11. Any judgment given against a party who does not appear at the hearing of an application under rule 1 or rule 5 may be set aside or varied by the Court on such terms as it thinks just.

II. APPLICATION BY DEFENDANT**Application by defendant for summary judgment (O.14, r.12)**

12. (1) Where in an action to which this rule applies a defence has been served by any defendant, that defendant may, on the ground that the whole or part of the plaintiff's claim has no prospect of success or that the plaintiff has no prospect of recovering more than nominal damages, apply to the Court for the plaintiff's claim to be dismissed and judgment entered for the defendant on the whole or part of the claim.
- (2) This rule applies to every action begun by writ in the Court other than one of a kind mentioned in rule 1(2).

Manner in which application under rule 12 must be made (O.14, r.13)

13. (1) An application under rule 12 must be made by summons supported by an affidavit verifying the facts pleaded in the defence and stating the deponent's belief that the plaintiff's claim has no prospect of success or that the plaintiff has no prospect of recovering more than nominal damages, as the case may be.
- (2) Rule 2(2) shall apply to applications under rule 12.
- (3) A plaintiff may show cause against an application under rule 12 by –
- (a) filing and serving a reply; or
 - (b) filing and serving an affidavit in reply.

Judgment for defendant (O.14, r.14)

- 14.** (1) Unless on the hearing of an application under rule 12 either the Court dismisses the application or the plaintiff satisfies the Court that he has a prospect of succeeding on the whole or part of his claim and, where the claim includes a claim for damages, that he has a prospect of recovering more than nominal damages, the Court may dismiss the whole or part claim and give judgment for the defendant.
- (2) Where the Court dismisses an application under rule 12 and allows the plaintiff to proceed with his claim, it shall give directions as to the further conduct of the action and Order 25, rules 2 to 7 shall, with the omission of so much of rule 7(1) as requires parties to serve a notice specifying the orders and directions which they require and with any other necessary modifications, apply as if the application under rule 1 of this Order or rule 5 thereof, as the case may be, on which the order was made were a summons for directions.