

## **Rule 90 of the Royal Court Civil Rules, 2007**

### **Guidance Notes for Plaintiffs/Claimants**

A person who is considering applying to the Royal Court for permission to pursue in the Guernsey Courts civil proceedings without instructing an Advocate should bear in mind a number of matters.

#### **Directions Hearings**

In the Magistrates Court (claims up to £10,000), there may be direction hearings prior to a full hearing. Such direction hearings would be exceptional in that Court.

In the Royal Court (claims above £10,000), directions hearings are routinely held. Indeed they are a feature of civil litigation in that Court. Directions hearings are fixed at short notice, often only a matter of days in advance. There may be a number of directions hearings depending upon the complexity of the case. The personal presence of the Plaintiff/ Claimant is required at directions hearings if not represented by an Advocate. Inevitably that will give rise to travel costs and perhaps accommodation costs. The Interlocutory Court at which such matters are dealt with sits at 10.00 a.m. on Friday mornings.

For those reasons most non-resident claimants instruct a Guernsey Advocate who can represent them at each directions hearing.

#### **Who actively pursues the Litigation?**

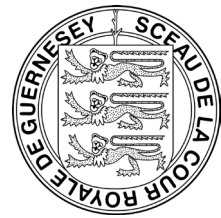
Rule 90 gives discretion to the Bailiff, on application by a Plaintiff/Claimant to dispose with a provision of Guernsey Law that required that an Advocate of the Royal Court should sign a summons.

An Officer of the Court does not conduct proceedings on behalf of a Plaintiff/Claimant. A Plaintiff/Claimant must therefore attend Court on each and every occasion. There is no procedure for a Court Officer to pursue payment on behalf of a Plaintiff/Claimant until the Court has determined liability in the case.

#### **Recoverable Costs**

In the Magistrates Court there is no provision for the Magistrate to award legal costs to either side other than in respect of fees levied by the Court for hearings and for the service by the process server (HM Sergeant) for serving documents.

In the Royal Court the presiding judge has power to award costs and will invariably do so. This will normally be on a recoverable costs basis. The Court also has power to order costs on a full or partial indemnity basis. The maximum recoverable costs rate for an Advocate's time was fixed at £325 per hour with effect from 1 January 2023. This rate increases each year in accordance with the Guernsey Retail Price Index. On a full indemnity basis the Advocates hourly fee rate will be substantially higher than this.



It follows that any Plaintiff/Claimant resident in another jurisdiction unfamiliar with Guernsey Law should consider carefully whether to enter into litigation without the benefit of Guernsey legal advice and representation.

### **Address for Service**

A non-resident Plaintiff/Claimant will be required to state to the Court an address in Guernsey at which documents may be served by the Court or by other parties in a case. It follows that someone must ordinarily be resident there or conducts business there so that such communications can be acted upon swiftly.

### **Security for Costs**

A resident Defendant in Royal Court proceedings will invariably seek an Order that a non-resident Plaintiff/Claimant should lodge with the Royal Court a sum by way of security for costs.

### **Witnesses**

A Plaintiff/Claimant should note that in any disputed case there is every prospect all relevant witnesses will be required to give live evidence in Court.

### **Alternative Dispute Resolution**

Alternative dispute resolution in the form of mediation or arbitration is encouraged by the Guernsey Courts.