

EASTERN CARIBBEAN SUPREME COURT CIVIL PROCEDURE RULES

PRACTICE DIRECTION 62(D)

No. 3 of 2014

(Re-Issue)

SKELETON ARGUMENTS AND LISTS OF AUTHORITIES

This practice direction is made pursuant to Rule 4.2(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 and is applicable to the British Virgin Islands.

Practice direction 62(D), No. 10 of 2011 is revoked and substituted by this practice direction.

1. Introduction

- 1.1 This practice direction supplements Rule 62.11.
- 1.2 Skeleton arguments and lists of authorities must be lodged either in support of or in opposition to every application or appeal. A skeleton argument should be concise and succinct. It should at the same time be comprehensive, in that, it should state all the points which a legal practitioner intends to raise and summarize the argument on each of those points. A point not raised or an argument not advanced in a party's skeleton argument may not be pursued at the hearing of the application or appeal without the leave of the court.

2. Context

2.1 In this practice direction -

- (1) **"Central Registry"** means the Central Registry of the Court of Appeal situated at the Eastern Caribbean Supreme Court Headquarters in St. Lucia;
- (2) **"court"** means the Court of Appeal;

3. Format

- 3.1 Skeleton arguments must comply with the provisions of Rule 62.11 and must–
- (a) not normally exceed 10 pages in the case of an appeal on law and 15 pages in the case of an appeal on fact. Legal practitioners should not, assume that longer cases justify proportionately longer skeleton arguments and, in the case of interlocutory and shorter final appeals, it should normally be possible to do justice to the relevant points in a skeleton argument of considerably less than 10 pages;
 - (b) be printed on “letter size” paper, in not less than 12 point font and 1.5 line spacing. It is important that skeleton arguments be presented in a format that is easily visible. In particular, any size under 12 point font shall be inappropriate and may be rejected by the court.
- 3.2 A total of six sets of skeleton arguments and lists of authorities for the use of the court must be filed in support of/opposition to every application or appeal, except where otherwise directed.
- 3.3 After skeleton arguments have been filed in accordance with the Rules, parties are required to send an electronic copy of the filed document to the Central Registry within 24 hours of filing. The document must be sent in either PDF or Microsoft Word format to offices@eccourts.org. The court will not accept electronic copies of documents that have not been filed.

4. Content

- 4.1 The appellant's skeleton argument should commence with a brief statement of the nature of the proceedings below, a similarly brief statement of the facts material to the resolution of the issues which are said to arise on the appeal and a concise statement of those issues. The skeleton argument must then outline the points which the appellant intends to take and a brief statement of the appellant's argument on each of those points.
- 4.2 The respondent's skeleton argument should commence with a brief statement of the nature of the proceedings below and a similarly brief statement of the facts material to the resolution of the issues which are said

to arise on the appeal, **if different** to the account given by the appellant. The skeleton argument must then respond to each of the points raised by the appellant in his/her skeleton argument and set out concisely any counter arguments.

4.3 A skeleton argument must contain: -

- (a) a numbered list of the points which the legal practitioner wishes to raise. These should both define and confine the areas of controversy. Each point should be stated as concisely as the nature of the case allows.
- (b) in respect of each authority cited –
 - (i) the proposition of law that the authority demonstrates; and
 - (ii) the parts of the authority (identified by page and/or paragraph references) that support the proposition.
- (c) if more than one authority is cited in support of a given proposition, a brief statement as to the reasons for taking that course. The statement should not materially add to the length of the skeleton argument but should be sufficient to demonstrate, in the context of the argument –
 - (i) the relevance of the authority or authorities to that argument; and
 - (ii) that the citation is necessary for a proper presentation of that argument.
- (d) Copies of the authorities cited, annexed to the list of authorities. Each authority should be tabbed (either numerically or alphabetically) and the index of the authorities must indicate the tab where the authority is reproduced.

- 4.4 In the case of points of law, the skeleton argument should state the point and cite the principal authority or authorities in support, with references to the particular paragraph(s) and page(s) where the principle concerned is enunciated.
- 4.5 In the case of questions of fact, the skeleton argument should state briefly the basis on which it is contended that the court can interfere with the finding of fact concerned, with cross-references to the passages in the transcript or notes of evidence which illustrates the point.
- 4.6 The skeleton argument must be accompanied, by a written chronology of relevant events cross-referenced to the case bundle or the appeal bundle. The chronology must be a separate document so that it may be easily used to locate other documents.
- 4.7 Where a legal practitioner intends to use skeleton arguments previously used in the same proceedings, notice of that fact must be given within the time specified in Rules 62.11(1), (2) and (3) of the Eastern Caribbean Supreme Court Civil Procedure Rules 2000.

5. Litigants in person

- 5.1 Litigants in person are not obliged to send to the court skeleton arguments in support of their applications and appeals, but are strongly encouraged to do so. If they do, they should try to comply with the directions given herein. Many litigants in person find that setting out the arguments which they wish to raise in court in advance can be of great assistance when, at a hearing, the court asks them to explain what their case is about.

6. Consequences of Non-Compliance

- 6.1 Where a legal practitioner fails to comply with this practice direction in any respect, he or she will be required to account to the court for this failure

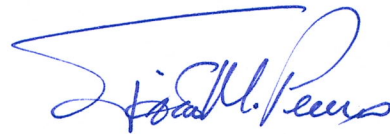
and, in the absence of a good and sufficient explanation, the party in default may be penalized in costs.

- 6.2 The court may disallow the cost of preparing a skeleton argument which does not comply with the requirements of this practice direction, particularly 3.1, or was not filed within the prescribed time.
- 6.3 At the hearing, the court may refuse to hear argument on a point not raised in a skeleton argument which has been filed within the prescribed time.

7. Effective Date

- 7.1 This practice direction will come into effect on the 1st day of January 2015 and will be applicable to all claims whenever issued.

Dated this 21st day of November 2014.



Dame Janice M. Pereira, DBE
Chief Justice