

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 3 of 2013

Eastern Caribbean Supreme Court Civil Procedure (Amendment) Rules.

In exercise of the powers conferred pursuant to section 17 of the Supreme Court Order 1967, set out as the Fifth Schedule to the West Indies Act, Cap 1.01, the Chief Justice and two other Judges of the Supreme Court make these Rules:

[Published 24th January 2013, Official Gazette No. 8 of 2013]

1. Citation.

These Rules may be cited as the Eastern Caribbean Supreme Court Civil Procedure (Amendment) Rules 2013.

2. Commencement.

These Rules shall come into effect on the 1st day of February 2013.

3. Interpretation.

In these Rules “the principal Rules” means The Eastern Caribbean Supreme Court Civil Procedure Rules 2000, set out as Schedule 8 to the Fifth Schedule to the West Indies Act, Cap 1.01.

4. Amendment of Rule 10.2.

Rule 10.2 of the principal Rules is amended by repealing paragraphs (4) and (5) and substituting the following paragraph -

“ (4) If a defendant fails to file a defence within the period for filing a defence, judgment for failure to defend may be entered if Part 12 allows it.”

5. Amendment of Rule 12.13.

Rule 12.13 of the principal Rules is repealed and substituted by the following Rule -

Defendant’s rights following default judgment

“12.13 Unless the defendant applies for and obtains an order for the judgment to be set aside, the only matters on which a defendant against whom a default judgment has been entered may be heard are-

- (a) the assessment of damages, provided that he or she has indicated that he or she wishes to be heard by filing a Notice in Form 31 within seven [7] days after service of the claimant’s submissions and witness statements on the defendant pursuant to Rule 16.2(2);

- (b) an application under Rule 12.10(4);
 - (c) costs;
 - (d) enforcement of the judgment; and
 - (e) the time of payment of the judgment debt.
- Part 13 deals with setting aside or varying default judgments”

6. Amendment of Rule 16.2

Rule 16.2 of the principal Rules is amended by-

- (a) repealing paragraph (2) and substituting the following paragraph-
“ (2) Unless the application states that the claimant is not in a position to prove the amount of damages -
 - (a) the court office must fix a date for the assessment of damages and give the claimant and the defendant at least 42 days’ notice of the date, time and place fixed for the hearing;
 - (b) the claimant shall file and serve on the Defendant all witness statements and written submissions on which he or she intends to rely within 14 days of service of the notice of assessment;
 - (c) the defendant shall be at liberty to file and serve witness statements and written submissions on which he or she intends to rely within 14 days of service of the claimant’s witness statements and submissions on him or her.
- Rules 29.8 - 29.12 deal with Witness Statements.”
 - (b) inserting after paragraph (4) the following paragraph-
“(5) (a) The claimant shall be entitled to rely on the evidence of all witnesses called by him or her pursuant to the witness statements filed and served by him or her and to make submissions to the court.
(b) The defendant is entitled to cross-examine any witness called on behalf of the claimant, call evidence as disclosed in his or her Notice filed pursuant to Form 31 and in respect of witness statements which have been filed and served pursuant to Rule 16.2(2)(c) and to make submissions to the court.”

7. Amendment of Rule 16.3.

Rule 16.3 of the principal Rules is amended by-

- (a) repealing paragraph (3) and substituting the following paragraph-
“(3) Unless the application states that the claimant is not in a position to prove the amount of damages-
 - (a) the court office must fix a date for the assessment of damages and give the claimant and the defendant at least 42 days’ notice of the date, time and place fixed for the hearing;

- (b) the claimant shall file and serve on the defendant all witness statements and written submissions on which he or she intends to rely within 14 days of service of the notice of assessment;
 - (c) the defendant shall file a Notice in Form 31 within seven [7] days after service of the claimant's submissions and witness statements on the defendant;
 - (d) the defendant shall be at liberty to file and serve witness statements and written submissions on which he or she intends to rely within 14 days of service of the claimant's witness statements and submissions on himor her."
- Rules 29.8 - 29.12 deal with Witness Statements."
 - (b) repealing paragraph (6) and substituting the following paragraph-
 - "(6) (a) The claimant shall be entitled to rely on the evidence of all witnesses called by him or her pursuant to the witness statements filed and served by himor her and to make submissions to the court.
 - (b) The defendant is entitled to cross-examine any witness called on behalf of the claimant, call evidence as disclosed in his Notice filed pursuant to Form 31 and in respect of witness statements which have been filed and served pursuant to Rule 16.3(3)(d) and to make submissions to the court."

8. Amendment of Appendix to insert Forms.

The Appendix to the principal Rules is amended by inserting after Form 30 the following Form –

“FORM 31 HEARING ON ASSESSMENT OF DAMAGES

[Rule 12.13(a) and Rule 16.3(3)(c)]

(Heading as in Form 1)

NOTICE OF INTENTION TO BE HEARD ON ASSESSMENT

I/We the defendant/defendant's Attorneys-at-law wish to be heard on the issue of quantum at the assessment of damages and to be allowed to–

- (a) cross-examine the following witness(es) to be called on behalf of the claimant(s):

.....

- (b) make submissions to the court:

Yes No

- (c) call evidence, to be set out in the witness statements of: [list the names of the witnesses whose witness statements you propose to file and serve]

.....

Dated

Signed:
Defendant/Attorney-at-law

The court office is at [xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx] telephone number xxx xxxx, Fax xxx xxxxx. The court office is open between [... a.m.] and [... p.m.] ... to ...except public holidays and court holidays.”

Made this 10th day of December 2012.

JANICE M. PEREIRA
Chief Justice

DAVIDSON K. BAPTISTE
Justice of Appeal

FRANCIS BELLE
High Court Judge