

LEGAL NOTICE No. 33

REPUBLIC OF TRINIDAD AND TOBAGO

THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

RULES OF COURT

MADE BY THE RULES COMMITTEE UNDER SECTION 78
OF THE SUPREME COURT OF JUDICATURE ACT

THE SUPREME COURT OF JUDICATURE (AMENDMENT)
RULES, 1993

1. These Rules may be cited as the Supreme Court of Judicature (Amendment) Rules, 1993, and shall be read as one with the Rules of the Supreme Court, 1975. Citation

2. Order 3 is amended:

Order 3
amended

(a) by inserting in the heading below the expression "ORDER 3" and above the word "TIME" the words "PART I";

(b) by revoking rule 6 and substituting the following:

"PART II

INACTIVE MATTERS BEFORE SETTING DOWN

6. (1) Where, before any cause or matter has been set down on the general list of cases for trial or for final determination:

(a) no step has been taken by the party instituting it, whether it be by way of claim or counter-claim, for a period of more than one year; or

(b) more than one year has elapsed since the determination of the last proceeding in such cause or matter,

whichever shall be later, the said cause or matter shall stand abated until such time as a Judge in Chambers grants leave to proceed with it.

(2) An application for leave shall be made by summons supported by affidavit setting out good and sufficient cause for the delay and a copy of the summons, the affidavit in support and of any exhibits referred to

therein shall be served on the other party not less than seven clear days before the return date.

(3) On the hearing of such application the Judge shall make such order for the further prosecution of the cause or matter or for its dismissal, and for costs, as he may deem fit.

6A. (1) Where, before any cause or matter has been set down on the general list of cases for trial or for final determination:

- (a) no step has been taken by the party instituting it, whether it be by way of claim or counter-claim, for a period of more than two years; or
- (b) a period of more than two years has elapsed since the determination of the last proceeding in such cause or matter,

whichever shall be later, the said cause or matter shall stand dismissed and the other party shall be entitled to his costs occasioned by the claim or counter-claim, as the case may be, incurred up to the date of the last step taken in the cause or matter or the date of determination of the last proceeding, whichever shall be the later.

(2) The dismissal of the cause or matter at paragraph (1) shall not prevent a party from filing new proceedings in respect of the same cause or matter within the relevant period of limitation.

(3) The Registrar, as a matter of record only, shall notify the parties to the cause or matter dismissed under paragraph (1) as and when the Registrar removes the said cause or matter from his list of pending actions.

6B. For the purposes of this Part of this Order, if a proceeding in a cause or matter is adjourned generally and six months have elapsed, the said proceeding shall be deemed to have been automatically determined.

6C. The Rules under this Part of this Order do not apply to third party proceedings initiated by a defendant in a cause or matter.

6D. (1) The Rules under this Part of this Order shall come into operation on the 1st day of March, 1993 (in this Rule referred to as 'the Operative Date').

(2) The Rules under this Part of this Order shall apply to all causes and matters which, on the Operative Date, are pending in the Court. However, where such cause or matter shall be deemed to stand dismissed under the rule 6A(1) either before the Operative Date or within the period of one year from the Operative Date, any party to such cause or matter shall be entitled, within one year from the Operative Date, to apply to a Judge in Chambers to reinstate such cause or matter.

(3) The application for reinstatement shall be made by summons supported by affidavit setting out good and sufficient cause for the delay and a copy of the summons, the affidavit in support and of any exhibits referred to therein shall be served on the other party not less than seven clear days before the return date.

(4) On the hearing of such application the Judge shall make such order for the reinstatement of the cause or matter or for the confirmation of its dismissal, and for costs, as he may deem fit.

PART III

INACTIVE MATTERS AFTER SETTING DOWN

7. Where, after any cause or matter has been set down on the general list of cases for trial or final determination and more than one year has elapsed since the date on which the cause or matter was set down, any party who desires to take any proceeding in such cause or matter shall give to every other party not less than one month's notice of his intention to so proceed."

3. Order 25 is amended in rule 1A(1) by deleting the words "(pursuant to Order 25 or Order 37)" and substituting the words "pursuant to Order 25 or within seven days after the receipt of the notice of the date fixed for assessment pursuant to Order 37". Order 25 amended

Order 32
amended

4. Order 32 is amended in rule 4 by revoking paragraph (2) and substituting the following:

“ (2) Subject to Order 3 rule 6B, if the hearing is adjourned generally, the party by whom the summons was taken out may restore it to the list on two clear days’ notice to all the other parties on whom the summons was served.”

Order 37
amended

5. Order 37 is amended by revoking rules 1 and 2 and substituting the following:

“ASSESSMENT OF DAMAGES

1. (1) Where judgment is entered or given for damages to be assessed but—

(a) no provision is made by the judgment as to how they are to be assessed; and

(b) the provisions of rule 3 do not apply,

the damages shall, subject to the provisions of this Order, be assessed by a Master after the party entitled to the benefit of the judgment—

(i) obtains the necessary date for the assessment of damages from the appropriate officer; and

(ii) serves, at least fourteen days before the date fixed for assessment, notice of the said date on the party against whom the judgment is given.

(2) For the purposes of obtaining a date for the assessment of damages the party applying for it shall file a written request directed to the appropriate officer requesting such a date. Upon being satisfied that the judgment has been entered and particulars of the claim to be assessed filed, the appropriate officer shall notify that party in writing of the date of assessment.

(3) Notwithstanding anything in Order 65, rule 9, a notice under this rule may be served on the party against whom the judgment is given, either, where no appearance has been entered, in the same manner by which he was served with the proceedings or by registered post or, if he has appeared through an Attorney-at-law, on his Attorney-at-law.

(4) If either party requires directions on particulars of any special damages claimed or discovery of documents or other orders in connection with the assessment of damages, an application therefor shall be made by summons before the Master.

(5) The provisions of Order 35 shall with the necessary adaptations apply in relation to proceedings before a Master under this Order as they apply in relation to proceedings at a trial.

(6) For the purpose of this rule the “appropriate officer” means—

- (a) in relation to a cause or matter proceeding in the Registry, the Registrar;
- (b) in relation to a cause or matter proceeding in the Sub-Registry, the Assistant Registrar of that Sub-Registry.

(7) The provisions of this rule shall apply *mutatis mutandis* where the assessment is proceeding before a Judge in Chambers.

ENTRY OF AMOUNT OF DAMAGES

2. Where in pursuance of this Order or otherwise damages are assessed by a Master or a Judge in Chambers, the appropriate officer shall enter in the judgment or order to which the assessment relates the amount of the damages.

Made by the Rules Committee this 9th day of February, 1993.

C. BERNARD
Chief Justice

R. HAMEL-SMITH
Justice of the Court of Appeal

C. BEST
Judge of the High Court

K. S. SOBION
Attorney General

E. A. PETERSEN
Acting Registrar, Supreme Court

R. MARTINEAU
Attorney-at-law

D. FITZWILLIAM
Attorney-at-law