



**By Gavin Goffe**

## **DEFENDING A SUIT IN THE SUPREME COURT**

One of the aims of the introduction of new Civil Procedure Rules in 2003 was to make the civil justice system in the Supreme Court more accessible to all. The rules and the forms were drafted in a way that they could be understood and utilized by lay persons. The aim of this article is to set out just a few of the questions that a person who has been sued in the Supreme Court ought to ask and consider.

### **1. What documents were you served with?**

The rules of Court require the person bringing the claim (i.e. the Claimant) to serve each defendant with 5 or 6 documents:

- (i) a **Claim Form** (or a **Fixed Date Claim Form**)- (Form 1 or Form 2)
- (ii) the **Prescribed Notes for Defendants** – (Form 1A or Form 2A)
- (iii) **Particulars of Claim** (or an affidavit setting out what the claim is for)
- (iv) an **Acknowledgement of Service Form** (Form 3 or Form 4)
- (v) a **Defence Form** (Form 5); and
- (vi) an **Application to Pay by Instalments Form** (Form 6) – if the claim is for money and the defendant is an individual.

For persons who are unfamiliar with the court process, you ought to seek legal advice as soon as you receive court documents, even if you later decide that you don't wish to hire an attorney. You should also pay special attention to the Prescribed Notes for Defendants (Form 1A or Form 2A), which sets out in plain language the options that you have.

If you were served with some, but not all of the above documents, it may mean that the suit was not properly started against you.

Copies of these documents are available on the Supreme Court's website as well as the Jamaican Bar Association's website.

**2. Were you properly served?**

Individuals ought to be served in person with the Claim Form and Particulars of Claim, unless the Court gives permission otherwise. That means that it must be handed to you or left with you. Even if you refuse to accept court documents, they will be treated as being served on you if they were left within your control, say, at your feet. Companies may be served in a number of ways, including by registered mail.

**3. Where were you served?**

Unless the Court orders otherwise, a Claim Form or Particulars of Claim may only be served within Jamaica.

**4. Is the Claim Form valid?**

A Claim Form is only valid if it bears the stamp and seal of the Supreme Court of Jamaica. The stamp is an oval ink stamp that bears the date that the document was filed at the Registry of the Supreme Court. The seal is embossed on the Claim Form. A Claim Form may only be validly served on you within 12 months of the date shown on the stamp, unless the Court grants an extension of time, in which case the court order giving the extension must also be served on you.

**5. What happens if I simply do nothing?**

Court documents are important documents and ought to be treated as such. If a Claimant has complied with the rules of Court as it relates to commencing proceedings, he or she may be entitled to obtain an order against you if you fail to respond or defend yourself in the manner permitted by the rules. For instance, a default judgment could be obtained against you as quickly as 14 days after you have been served with court documents. It is therefore important that you consult an attorney as soon as you receive court documents.

**6. What should I do if I have missed the deadlines given in the court documents?**

It is possible that a default judgment could already have been applied for, or obtained against you. Consult an attorney who would be able to advise on the process of setting aside a default judgment.

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