



How can I make my court case cost less – Part I – Notice to Admit

Unfortunately, litigation is expensive. Often, a lot of allegations or claims need to be fully tested, both by review of extensive underlying documentation prior to any trial or by cross examination at the trial itself.

Remarkably, often a lot of that work can be trimmed. Sometimes, a portion of the allegations, claims or documents are not even disputed. For instance, the parties might agree that a certain document exists and what it says, but dispute only the background circumstances which led to that document being created.

The Uniform Civil Rules 2020 (SA) have multiple options to reduce or cut down the formal evidential steps which would normally attach to a full trial. The aim is to lessen the amount of time that a dispute needs to be heard by the Court, and to remove from the litigation all issues which are not actually in dispute at all but come with it as “part and parcel”. Obviously, the less time spent in trial, the lower the costs of that trial and indeed the entire litigation process.

One such option is the use of a Notice to Admit under Rule 117.1 of the Uniform Civil Rules 2020 (SA). The purpose of a Notice to Admit is to compel your opponent to admit the truth of a specified fact, or the authenticity, relevance or admissibility of a specified document. Your opponent, on receiving such a Notice to Admit, must within 14 days respond and:

1. either admit the fact or document

2. deny them, and explain why
3. assert that they are unable to answer them, and explain why
4. or claim a proper, legal basis for refusing to respond (such as legal professional privilege).

A failure to respond properly to a Notice to Admit can attract cost penalties imposed by the Court.

Importantly, if a respondent to a Notice to Admit does not do so within the 14 days allowed, they are taken to have admitted the fact or the document contained in the Notice to Admit, and cannot withdraw that admission without permission of the Court. The Notice to Admit and the response (or lack thereof) can be tendered into Court as evidence at trial

Clearly, that process, if used well, can be incredibly powerful in narrowing the claims, facts and documents in dispute (or not, as the case may be) well prior to trial. A party may issue two Notices to Admit over the course of litigation before needing permission of the Court (provided that it is within a set timeframe) to issue a further one.

The early use of Notices to Admit is clearly a valuable tool for litigants to save on costs of litigation, and it is something which we are likely to discuss with you in any Court process for which you engage our services.