LITIGANT IN PERSON

Please Note* the following is applicable only to UK residents or those governed by UK legislation. If you find you need to take a case to court, there are some things you must know beforehand.

The most important thing is to DO IT RIGHT!

Many Litigants in Person (LIPs), (myself included in the early days) just jumped in headlong, filed a case in court and waited patiently for justice. Boy, was I wrong! Justice does not 'happen'.

Justice is something that you will have to FIGHT for, every step of the journey. The 'system' will NOT help you. The Judge will not help you. You are on your own. So, it makes sense to be armed with as much information about the process as possible BEFORE you start.

There are statutes of limitations on most things. You will find that you have a number of YEARS in most instances before you need to bring something before the courts. The Limitation Act 1980 Part I 'Ordinary Time Limits for Different Classes of Action', S1(1) states "This Part of this Act gives the ordinary time limits for bringing actions of the various classes mentioned in the following provisions of this Part." The following link will take you to the Act, so you can find the appropriate time limitation for your own situation http://www.legislation.gov.uk/ukpga/1980/58

It is only natural that once you have been 'wronged' there is a desire to get things put right as soon as possible, while it is fresh in your mind. This may not necessarily be the best option in the long run and I hope to help you see why COURT ACTION SHOULD BE A LAST RESORT.

You are advised, indeed EXPECTED to have done your damndest to sort the matter out with the other party BEFORE resorting to court action. This makes sense: why waste court time and your money on something when it could have and SHOULD have been sorted out between the parties? I have highlighted the word 'should' because the process has certain PROCEDURAL RULES, which you should follow (ignore them at your peril!). One rule is that BOTH parties SHOULD sort things out without resorting to court. This is one of the OVERRIDING OBJECTIVES of the courts.

If you can SHOW the court that you did everything you possibly could to comply with the overriding objectves of the court procedural rules, you will stand a chance of having your case heard in court. If you do NOT follow the 'rules', the other part can apply to have your case 'struck out' because you didn't follow the rules. Once the case is struck out you will not be able to bring it again. You have lost...

Also, with regard to COSTS: in most instances the losing party pays the other party's costs. That is only fair. So….. if you show EVIDENCE to the court that YOU did EVERYTHING YOU COULD to settle the matter out of court, then you can argue that the ONLY reason the matter is before the court is that the other party didn't follow the rules. Ergo, it was their fault that you had to come to court so you shouldn't be lumbered with any of the resulting costs!

In addition, although Judges are expected to give certain leeway to LIPs, they are not there to bend the rules or 'help' you run your case. It is YOUR case, not theirs! If you mess up, you may be penalized for NOT following the protocols/rules of the court.

So, this is where you can wise-up; learn the rules, FOLLOW THEM TO THE LETTER (and PROVE that you have followed them to the letter) and give yourself a fighting chance.

Everything you write, imagine you are writing it as EVIDENCE for a Judge to decide upon.

When you write to the other party, make it abundantly clear that you are doing so 'in accordance with' whatever protocol/rule is applicable. Don't just write what the rule requires, SAY that you are writing this particular bit 'in accordance with CPR x, y or z'. This will make is so much easier for you to argue to a Judge that YOU did the right thing, when you use that document as an 'exhibit' in your case. It makes it so much easier for a Judge to see that you did the right thing, too.

So that's one less thing for you to worry about on the day…

The FIRST thing to do is find the appropriate PROCEDURAL RULES.

The SECOND thing to do is find the appropriate PRE-ACTION PROTOCOLS. These are the things you are required to do 'pre-action' (or BEFORE you take legal action). Demonstrate that you have done these correctly and you may be able to settle out of court. If not, you can PROVE to the judge that you gave the other party every opportunity to settle out of court...

There are Procedural Rules for Civil cases, Criminal cases and Family cases. Civil, Criminal and Family procedure rules all have their related practice directions and each has sections according to the reason for bringing the case. READ THEM THOROUGHLY. They are there to HELP you.

As a LIP you need all the help you can get. Ignore PRE-ACTION RULES at your peril. You have been warned!

Exchanging Information before starting proceedings

Before starting proceedings –
(1) the claimant should set out the details of the matter in writing by sending a letter before claim to the defendant. This letter before claim is not the start of proceedings; and

(2) the defendant should give a full written response within a reasonable period, preceded, if appropriate, by a written acknowledgment of the letter before claim.

A 'reasonable period of time' will vary depending on the matter. As a general guide –
(1) the defendant should send a letter of acknowledgment within 14 days of receipt of the letter before claim (if a full response has not been sent within that period);

(2) where the matter is straightforward, for example an undisputed debt, then a full response should normally be provided within 14 days;

(3) where a matter requires the involvement of an insurer or other third party or where there are issues about evidence, then a full response should normally be provided within 30 days;

(4) where the matter is particularly complex, for example requiring specialist advice, then a period of longer than 30 days may be appropriate;

(5) a period of longer than 90 days in which to provide a full response will only be considered reasonable in exceptional circumstances.

There will be detailed guidance on a pre-action procedure that is likely to satisfy the court in most circumstances where no pre-action protocol applies and where the claimant does not follow any statutory or other formal pre-action procedure.

There will also be specific information that should be provided in a debt claim by a claimant who is a business against a defendant who is an individual.

<<< Choose the menu on the left for information regarding a Civil case.
*tip:
Bear in mind the VOID ORDER: If/when you use an application to nullify a void order, you need to be certain you have followed the Procedural Rules if you want to have an order nullified on the grounds that the OTHER PARTY/Judge didn't!