

PART E.—WRITTEN STATEMENTS

1. **When written statements required:**- It is laid down in Order VIII, Rule of the Code of Civil Procedure, that a defendant may, and if so required by the Court shall, at or before the first hearing or within such time as the Court may permit, present a written statement of his defence. Ordinarily it is advisable to require such a written statement and the Court should at the time of issuing the summons call for a written statement from the defendant on the date fixed for his appearance. In most cases, there should be no difficulty in presenting such a written statement on the date fixed, and no adjournment should be given for the purpose except for good cause shown, and in proper cases, costs should be awarded to the opposite side. Laxity in granting adjournments for the purpose of filing written statements should be avoided and it should be noted that in extreme cases contumacious refusal to comply with the Court's order is liable to be dealt with under Order VIII, Rule 10, Civil Procedure Code.
2. **Documents to accompany written statement:**- The combined effect of Rules 1, 11 and 12 of Order VIII is that the defendant should produce with the written statement (i) all documents in his possession or power on which he bases his defence or claim to set off, if any (ii) a list of other documents not in his possession or power but on which he relies in support of his case (iii) a statement indicating his address for service and (iv) a duplicate of the written statement to be supplied to the plaintiff.

Sub-rule (2) of Rule 1 of Order VIII requires that if the list referred to in (ii) above is not annexed with the written statement or presented at the first hearing, it shall be presented within a period of ten days from the date of the first hearing.
3. **Replications:**- When the defendant has filed a written statement, the Court may call upon the plaintiff to file a written statement in reply. Under Order VIII Rule 9, the Court has power to call upon both parties to file written statements at any time and this power should be freely used for elucidating the pleas when necessary, especially in complicated cases. In simple cases, however, examination of the parties, after the defendant has filed his written statement is generally found to be sufficient.
4. **Separate written statements:**- In all cases where there are several defendants the Court should, as a rule, take a separate written statement from each defendant unless the defences of any defendants filing a joint written statement are identical in all respects. There may be different defences based upon a variety of circumstances and these should not be allowed to be mixed up together in a single statement merely because all the defendants deny the plaintiff's claim.
5. **Court-fees on set-off:**- Written Statements called from the parties may be on plain paper, but when the defendant claims in his written statements any sum by way of set-off ^[3][counter-claim] under Order VIII, Rule 6 ^[3][and 6A to 6G] Civil Procedure Code, the statement must be stamped in the same manner as a plaint in a suit for the recovery of that sum.
6. **Contents:**- A "written statement" is included in the definition of "pleading" (*vide* Order VI, Rule 1) and should conform to the general rules of pleading given in order VI as well as the special rules with regard to the written statements in Order VIII. All admissions and denials of facts should be specific and precise and not evasive or ambiguous. When allegations of fraud, etc., are set up, the particulars should be fully given. When any legal provision is relied on, not only the provision of law relied upon should be mentioned, but also the facts making it applicable should be stated. For instance when a plea of *res judicata* is raised, not only the provision of law (e.g., section 11 of the Civil Procedure Code) should be mentioned, but also the particulars of the previous suit which is alleged to bar the suit.