

Dear Ms Settanni

We refer to your correspondence with respect to our complaint against Morris Finance. You miss the point of my complaint. We note that you make reference to the matter being in court, yet you are blasé towards me because I had the audacity to raise it. The point of my complaint is that Morris Finance commenced an action in a court to obtain security for their loan to me. They used clause 18 of the Commercial Lease Agreement to execute this. They then failed to prosecute their case against me because they had been able to put a caveat over the property of myself and my partner Ms Tammy Kinna. The failure by Morris Finance to serve me their Claim, effectively tied my hands and feet. It caused my business to collapse. I cannot accept your claim that the District Court Registry told the Credit Reporting Agency. That is just nonsense as it undermines the independence of the court.

There are many issues to be canvassed in court, I have not raised those issues with you because they can be properly canvassed in a court. What I tried to make you aware of was the unconscionable conduct of Morris Finance and you failed to understand my complaint. I would have been better off talking to an iron bark tree.

I note your views, and strongly disagree with you. I will touch on an important point here. How does AFCA and Morris Finance involve my partner Ms Kinna in a dispute that she plays no part in. No court has heard my case because I have not been served. Your comment "The Court accepted the financial firm Statement of Claim and I can only assume the claim satisfied the Court's requirement." All Morris Finance did was file their Statement of Claim. They have not served me, nor have they prosecuted their case. Your comments tell me you do not understand how our court system works. Morris Finance cannot produce a judgment signed by a judge of the District court. Your assumption is wrong and biased towards me.

The Queensland Courts put out sensible information about statements of claim and I would respectfully suggest you go to the below URL:

<https://www.courts.qld.gov.au/going-to-court/money-disputes/claim-and-statement-of-claim>

To assist you if you do not want to look at the Queensland Court website, I have cut and pasted the following of how the courts view a Claim and statement of claim.

Claim and statement of claim

A claim form is a brief description of what a plaintiff is claiming from a defendant, while the statement of claim outlines the claim in detail.

A claim and statement of claim can be used to start proceedings for varying amounts, whether for an agreed or fixed amount of money, or unknown amounts such as damages or breach of contracts.

Examples of a claim may include:

- money owing on a debt
- damages to a motor vehicle
- breach of contract
- defamation.

Where your matter is heard

Which court will consider your claim depends on the value of the monetary dispute. Claims for amounts:

- [up to \\$150,000](#) can be commenced in the Magistrates Court
- [between \\$150,000 and \\$750,000](#) can be commenced in the District Court
- [for any amount over \\$750,000](#) can be commenced in the Supreme Court.

Note: For disputes of a value less than \$25,000, visit the [Queensland Civil and Administrative Tribunal](#).

Starting court action

To start court action, file the original and two copies for each defendant of the following forms at the court registry:

- [Form 2 - Claim \(UCPR\) \(DOC, 46.0 KB\)](#)
- [Form 16 - Statement of claim \(UCPR\) \(DOC, 38.5 KB\)](#) .

The forms can also be prepared online:

[Prepare a civil claim online](#)

A sealed copy will be returned for you to photocopy and serve on the defendants. A [filing fee](#) must be paid..

Serving the other party

Any adult can serve the other party by handing a copy of the claim and statement of claim to them personally.

You can serve a company by posting the claim to their registered office address or serving a director of the company personally. You will also need to provide proof of the address of the registered office, usually by [ASIC search](#).

Serving the defendant

A claim and statement of claim can be served by the plaintiff or other adult, a private process server or a court bailiff.

If you wish to use a bailiff, court staff will tell you the relevant fees (or use [our online search tool](#)) and how to make contact with the bailiff.

The [Uniform Civil Procedure Rules 1999](#) outlines other ways to serve documents depending on the claim type, agreement by legal representatives to accept documents and other special arrangements. Thoroughly investigate the correct way before you serve the documents.

Providing the defendant/s with a copy, or service of the claim, is very important as it establishes the jurisdiction of the court. If you have any questions or concerns, seek independent legal advice.

Proving the claim was served

The person who served the claim and statement of claim must complete a [Form 46 - Affidavit \(UCPR\) \(DOC, 41.0 KB\)](#) for each defendant. The document must then be filed with the court.

What happens next

If the defendant disputes the claim, they must file a [Form 6 - Notice of intention to defend \(UCPR\) \(DOC, 39.5 KB\)](#) and a [Form 17 - Defence \(DOC, 41.0 KB\)](#) within 28 days. They must send you a copy of the forms after filing them.

Your matter is *not* automatically listed for a hearing after the defendant files a defence. You, the plaintiff, need to continue the claim. Within 14 days of receiving the defendant's notice of intention to defend, file a reply in response to their defence.

When preparing your reply, you may:

- ask the other party for more information if you think they haven't been specific enough
- find a third party who has documents or information relevant to your action, in which case you may need to file and serve [Form 021 - Notice of non-party disclosure \(UCPR\) \(DOC, 53.0 KB\)](#)
- ask the other party to provide a list of documents in their possession relevant to your claim.

The contract was between Morris Finance and Kruse Transport Services. My understanding is that the commercial lease agreement between me and Morris Finance is a contract. I understand that under contract law there is privity of contract between Morris Finance and Kruse Transport Services. The contract involves nobody else except Morris Finance and Kruse Transport Services. Ms Kinna is not a signatory to the contract, she is not a party to the contract, she is not an office holder for Kruse Transport Services, nor is she involved in the running of the company.

Ms Kinna owns property with me, our house where we live raising our family. Your office refers to the clause 18 as the power for the 'financial firm is entitled to lodge a caveat over. Where does AFCA

and Morris Finance have the power to take away Ms Kinna's rights. She is not a party. How does Morris Finance enforce this clause? Ms Kinna does not surrender her rights and they cannot force her to voluntarily sell her house. They may want to bankrupt me, to do that they have to get a judgment and follow the above procedure laid down in the Queensland Court rules. I then have a forum in which to put my case.

The general rule at common law states that a contract creates rights and obligations only between the parties to such contract. As a corollary, a third party neither acquires a right nor any liabilities under such contract. This is what the proclaimed doctrine of "privity of contract" enunciates and establishes as the overarching rule underlying any contractual relation.

Your statement 'I am satisfied the financial firm was entitled to lodge its statement of claim' is a self-serving statement. The law provides that any person can commence an action in the courts if they properly file and serve the brief description of what a plaintiff is claiming from a defendant, while the statement of claim outlines the claim in detail. The statement "The complainant's concerns relating to service of the statement of claim and the financial firm's caveatable interest over the property are now a matter for the Court" is wrong and misleading. Morris Finance must serve me the Claim and Statement of claim as outlined above. They have not served the documents and until they do that the case remains dangling. I then must file my defence and to properly begin the court process.

I spoke to Morris Finance asking why they had taken out a Caveat over our house, I pointed out it was not necessary as payments were up to date. They said they had done it as company procedure to protect their money. I told them that their actions had destroyed my credit file and any chance I had to obtain Finance. I was seeking finance to create cash flow for a return to work after Covid-19 had ceased exports to China.

The personal damages that Ms Kinna and I have suffered because of Morris Finances misdeeds are growing each day.

I firmly reject outright your determination with respect to my complaint against Morris Finance.

Brent Kruse