

屬實申述

What are Statements of Truth

- This leaflet is designed to provide you with a brief outline of the practice and procedure of the High Court and the District Court on statements of truth.
- You should read Order 41A of Rules of the High Court (or Rules of the District Court, as the case may be) and Practice Direction 19.3 for full details.
- The Civil Justice Reform has come into effect on 2nd April 2009. You should also note those transitional arrangements that may be applicable to your case. For further information on transitional arrangements, please refer to the Leaflet 12 “Civil Justice Reform: Transitional Arrangements” of this series.
- This publication is for general reference only and should not be treated as a complete or authoritative statement of law or court practice. Whilst every effort has been made to ensure that the information provided in this leaflet is accurate, it does not constitute legal or other professional advice. The Judiciary cannot be held responsible for the content of this publication.
- You may approach the Resource Centre for Unrepresented Litigants at LG1 High Court, 38 Queensway, Hong Kong for further information. However, you should note that the assistance provided at the centre is confined to procedural matters only and the staff there will not give legal advice or make any comments on the merits of your case.

What are statements of truth

1. As from the commencement of the Civil Justice Reform, the following documents must be verified by a statement of truth in accordance with Order 41A of Rules of the High Court or Rules of the District Court, as the case may be:
 - (a) a pleading, which includes particulars of a pleading and the amendments to them ;
 - (b) a witness statement;
 - (c) an expert report; and
 - (d) any other document that requires verification by a statement of truth under any other provisions of the Rules of the High Court or the Rules of the District Court or by a practice direction;

Who should sign the statement of truth

2. Witness statement: by the maker of the witness statement;
3. Expert report: by the maker of the expert report;
4. In any other case: by the party putting forward the verified document or by his next friend or *guardian ad litem*, or the legal representative of the party or next friend or *guardian ad litem*.
5. Under the following situations, the appropriate person to sign is:
 - (a) Where a party is a limited company or association: by a person holding a senior position such as a director, manager, corporate secretary or other similar office.
 - (b) Where a party is a partnership: by a partner or a person having the control or management of the business.

The effects of statement of truth

6. It is a statement that the party putting forward the document believes that the facts stated in the document are true. In the case of a witness statement, it means that the maker of the witness statement believes that the facts stated in it are true. In the case of an expert report, it means that the maker of the expert report believes that the facts stated in the document are true and the opinion expressed in it is honestly held.

7. If a party is conducting proceedings by a next friend or *guardian ad litem*, the statement of truth relating to a pleading is a statement that the next friend or *guardian ad litem* believes that the facts stated in the document being verified are true.

Form of statement of truth

8. The statement of truth should preferably be contained in the document it verifies. A sample of this is at Appendix A. If the statement of truth is not contained in the document it verifies, then a separate statement of truth has to be prepared. Please refer to Appendix B and Appendix C for the relevant samples.

Consequences of failure to verify by a statement of truth

9. If it is a pleading, the Court may order it to be struck out. If it is a witness statement or an expert report, it is not admissible as evidence unless the Court allows it to be admissible without a statement of truth.

The Court's discretion

10. The Court has the power to order that a document needs not be verified by a statement of truth. You may assume that the Court will not exercise this discretion unless there is good reason to do so upon an application being made.

11. The Court may order a person who has failed to verify a document in accordance with the requirements of Order 41A to verify the document.

Contempt of court

12. If a person has made a statement of truth falsely, proceedings for contempt of court may be brought against him by the Secretary for Justice or by a person aggrieved by the false statement with permission of the Court. The Court will consider whether the punishment for contempt of court is proportionate and appropriate under the circumstances.

Appendix A

Form of Statement of Truth that is contained in the document that it verifies

- (1) The form of a Statement of Truth verifying a witness statement or an expert report is as follows:

I believe that the facts stated in this _____
[fill in the name of the document being verified] **are true and**
(if applicable) **the opinion expressed in it is honestly held.**

- (2) The form of a Statement of Truth verifying a document other than a witness statement or expert report is as follows:

I believe / The _____ *(state the party verifying*
e.g. plaintiff, defendant etc.) **believes* that the facts stated in this**
_____ *[fill in the name of the document*
being verified] **are true.**

* Delete if inappropriate

Appendix B

**Form of Statement of Truth not contained in the document that it verifies
for use in the High Court**

HCA/HCMP* _____ /20__

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE**

ACTION NO./ MISCELLANEOUS PROCEEDINGS NO.* _____ OF 20__

BETWEEN

ABC Plaintiff

and

XYZ Defendant

**I believe that the facts stated in the following document(s) are true and
(if applicable) the opinion expressed in it is honestly held:**

- Pleading: _____ (state the name of the pleading)
issued on _____ (date)
- Particulars of _____ (state the name of the pleading)
issued on _____ (date)
- Amendment of _____ (state the name of the pleading amended)
made on _____ (date)

- Witness statement of _____ (*name of the witness*)
served / filed* on _____ (*date*)

- Expert report made by _____ (*name of expert*)
disclosed to the _____ (*name of the party to
which the report is disclosed*) on _____ (*date*)

- Others : _____

Name: _____

Signed: _____

Date: _____

Please put a ✓ against the appropriate document

** Please delete if inappropriate*

Appendix C

**Form of Statement of Truth not contained in the document that it verifies
for use in the District Court**

DC _____ /20__

**IN THE DISTRICT COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
CIVIL JURISDICTION**

ACTION NO./ MISCELLANEOUS PROCEEDINGS NO.* _____ OF 20__

BETWEEN

ABC Plaintiff

and

XYZ Defendant

**I believe that the facts stated in the following document(s) are true and
(if applicable) the opinion expressed in it is honestly held:**

- Pleading: _____ (state the name of the pleading)
issued on _____ (date)
- Particulars of _____ (state the name of the pleading)
issued on _____ (date)
- Amendment of _____ (state the name of the pleading amended)
made on _____ (date)

- Witness statement of _____ (*name of the witness*)
served / filed* on _____ (*date*)

- Expert report made by _____ (*name of expert*)
disclosed to the _____ (*name of the party to
which the report is disclosed*) on _____ (*date*)

- Others : _____

Name: _____

Signed: _____

Date: _____

Please put a ✓ against the appropriate document

** Please delete if inappropriate*