

N535

Notice in relation to derivative claim

For claims involving a company

To ('the company')

Name of company

in relation to a claim by

Name of claimant

Attached to this notice are:

- a copy of the claim form to which this notice relates;
- an application under rule 19.15 of the Civil Procedure Rules 1998 for permission to continue the claim; and
- copies of the evidence to be relied on by the claimant in obtaining permission to continue the claim.

The claim is a derivative claim. The claimant must obtain the permission of the court under section 261 of the Companies Act 2006 to continue the claim. A brief summary of the procedure follows.

The court will make its initial decision on the basis of the evidence filed by the claimant (copies are attached to this notice) and at present the company does not need to acknowledge service, file a defence or become involved in any other way. Initially the court may make its decision on the documents only, without a hearing; if it dismisses the application, the claimant may request reconsideration of that decision at a hearing but even at that hearing no additional evidence will be taken into account. If the court considers that the evidence filed by the claimant does not disclose a prima facie case, it must dismiss the application. It may then make consequential orders. If it does not dismiss the application at that stage, the court will adjourn the application to allow the company to obtain and file evidence and be heard on the application, and will make any necessary orders.

The court will notify the company of the outcome of each stage of the process.

The factors that the court must take into account are set out in section 263 of the Act. A copy of sections 263(1) to (4) of the Act is attached.