

## COMMENCING PROCEEDINGS IN THE SUPREME COURT - WHICH ORIGINATING PROCESS TO USE

### Proceedings in which there is no defendant is commenced by summons: 6.4

A proceeding is commenced either by statement of claim or by summons: 6.2. A proceeding must be commenced by a statement of claim where the plaintiff seeks a remedy in tort or where the claim is based on an allegation of fraud

The proceeding must be commenced by statement of claim because the claim is based on a tort 6.3/6.4. The claim is based on an allegation of fraud 6.3/6.4. The claim is for breach of duty and the damages claimed consist of or include damages arising out of death or personal injury or in respect of damage to any property 6.3/6.4. The (or trust 6.3/6.4). **ONLY INCLUDE THE APPROPRIATE CLAIM IN EXAM.** The statement of claim must specify the relief claimed by the plaintiff (6.12), whether exemplary or aggravated damages are being claimed (6.12) *and if the claim includes a claim for the determination or direction of the court on any question, it should state that question (6.12).* It must also subscribe the name and address of the plaintiff and their solicitor and an address for service (4.2). Finally it must notify the D's that they risks having orders entered unless the prescribed notice of appearance is received. (6.13/6.14)

**3. Filing/Service** - A proceeding is commenced when the statement of claim is filed at the court registry (4.12). The statement of claim has to be served on the defendant personally (10.20). Personal service is effected by leaving a copy of the document with the defendant (10.5/10.8/10.21/10.22/10.23)