



QUEENSLAND
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Introduction to Pleadings

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&
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Barristers

Going further: responses + direct explanation

1. The **options** for a responsive pleading:

- ▶ FCR: Must expressly admit or deny each allegation of fact (r.16.07)
- ▶ UCPR: May plead an admission, non-admission, denial or “*another matter*” (r.165(1))

2. If **uncertain** as to truth and cannot admit:

- ▶ FCR: state the uncertainty ▶ the allegation is deemed denied (r.16.07(3)&(4));
- ▶ UCPR: plead a non-admission + provide a direct explanation (r.166(3) + consequences (r.165(2))).



- ▶ FCR (see r.16.07(3)):

The defendant does not know and therefore cannot admit the allegation in paragraph 5 of the statement of claim.

- ▶ UCPR (see r.166(3)):

The defendant does not admit the allegation in paragraph 5 of the statement of claim because despite reasonable enquiries it remains uncertain whether the allegation is true.

3. Denying an allegation of fact:

- ▶ FCR: Must expressly admit or deny each allegation of fact (r.16.07(1) and (2))
- ▶ UCPR: Plead the denial and provide a direct explanation (r.166(4) + consequences of a failure to do so (r.166(5))

- ▶ The **why** and the **how** (and the bonus points for **strategy**):

Cape York Airlines Pty Ltd v QBE Insurance (Australia) Ltd [2008] QSC 302

▶ The three usual reasons for a denial (per *Daubney J* in *Cape York Airlines*):



▶ **Straightforward**

*The defendant denies the allegations in paragraph 6 of the statement of claim and believes them to be untrue **because no such conversation took place.***

▶ **A different factual matrix**

... because the statements made by the defendant to the plaintiff at the open house were not as alleged, but rather were to the effect that ...

▶ **The allegation is inconsistent with other matters**

... because the plaintiff played touch football every Tuesday night over the period ... to ... without any apparent physical restriction of the sort now alleged.



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