GUIDELINES FOR THE CONDUCT OF MATTERS BEFORE THE CONSUMER PROTECTION TRIBUNAL

updated as at 21/03/2019

Guidelines for the Conduct of Matters before the Consumer Protection Tribunal
Made pursuant to Section 44A of the Consumer Protection Act (CPA) and Paragraph 10 of the Third Schedule of the CPA.

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PART A: INTRODUCTION

1. General

1.1 Where, in any proceeding, a question of procedure arises to which these Guidelines do not provide an answer, or the answer they do provide is incomplete, the question shall, subject to any relevant provision, be determined in such manner as the Tribunal directs.

1.2 The Tribunal may, in the course of conducting its own proceedings, vary or supplement any of these Guidelines if it is fair and equitable to do so or to provide for a more expeditious process, as the circumstances and considerations of fairness permit.

1.3 No proceeding is invalid by reason only of a defect in form or a technical irregularity.

1.4 Subject to any relevant provision, if it is fair and equitable to do so, the Tribunal may extend or abridge any of the time limits fixed by these Guidelines or otherwise fixed by the Tribunal, either before or after their expiry.

2. Definitions

"Applicant" means the person initiating an application in the proceedings before the Tribunal;

"CAC" means Consumer Affairs Commission;

"CPA" means Consumer Protection Act

"CPT" means Consumer Protection Tribunal;

"CPTS" means Consumer Protection Tribunal Secretariat;

"hearing" means the opportunity to present one's case before the Tribunal;

"party" to any matter includes an Applicant, Respondent, intervener, or any party joined in or substituted for another;

"public holiday" means a public holiday as described in Section 8(2) of the Interpretation Act;

"Respondent" means the person against whom an application is filed in the proceedings before the Tribunal;

"Secretariat" means the administrative office of the CPT;

"Tribunal" means the members of the CPT as established under Section 44A of the CPA.

3. Preamble and Scope of the Power of the CPT

The CPT was established by amendment to the Consumer Protection Act 2005. The amendment enabled the creation of an independent quasi-judicial Consumer Protection Tribunal under CPA Section 44 and the Third Schedule to the amendment provides as follows:

(a) CPA Section 44A and the Third Schedule establishes the CPT and the constitution of its members;
(b) CPA Section 44B defines the powers of the Tribunal; and
(c) CPA Section 44C – G relates to enforcement for failure to comply with a Tribunal Order and other penal matters.

4. Establishment of the Office of the Secretariat of the CPT

The Office of the Secretariat has been duly formed by the Tribunal pursuant to the power of the Tribunal, under the Third Schedule, Paragraph 10. The Secretariat shall retain the Consumer Protection Stamp and Seal at its offices, for use by the Tribunal, under instruction from the Chairman of the Tribunal.

5. Secretariat Office Hours and Address of the CPT

The office of the Consumer Protection Tribunal Secretariat is open to the public from Monday to Friday, excluding public holidays, from 9:00 a.m. to 4:00 p.m.

The address and contact information of the Consumer Protection Tribunal and Secretariat are:

34 Trafalgar Road
Kingston 10
Telephone: (876) 906-5425
Fax: (876) 906-7525
E-mail: cptribunal@cac.gov.jm

6. Schedule of Times for the Meetings of the CPT

The Tribunal shall convene a panel to expeditiously hear cases that are filed with the Secretariat. The Tribunal Chairman shall select a panel dependent on the subject matter of the cases, and the quorum for a sitting of the Tribunal is three (3), however one member may sit alone if the parties to the hearing agree.

7. Access to the CPT

Cases presented to the Tribunal must first be processed as a complaint by the Consumer Affairs Commission and have gone through mediation. The CAC shall complete a mediation report after a mediation is held. Once mediation has failed, any party may, within fourteen (14) days thereof, refer the matter to the CPT.

PART B: FORMS, SERVICE AND TIME

1. Application Fees

No fee is payable in respect of commencing a claim before the CPT;

2. Filing of Documents

2.1 A document is deemed to be filed on the date that it is received by the Secretariat. The Secretariat shall stamp the document with that date.

2.2 A representative of the CAC may assist with the completion of the Claim Form; however it must be signed by the Applicant.

2.3 The Applicant must endeavour to provide the Secretariat with any additional documents that they may require.

3. Service of Application(s) on Respondent(s)

3.1 The Secretariat shall, on behalf of the Applicant(s), serve filed documents on the Respondent(s).

3.2 Where a Claim Form has been served, an Affidavit of Service shall be completed by the Secretariat.

4. Time for Filing of Reply and/or Counterclaim Form by Respondent(s)

Once the Respondent(s) has/have been served with the Claim Form, they shall have fourteen (14) calendar days, not including the date of service, within which to file with the Secretariat their Reply and/or Counter Claim Form, which shall have been sent to them with the Claim Form.

5. Witness Summons

The Tribunal may, at its discretion, issue a witness summons to effectuate the power of the Tribunal to call and examine witnesses as provided by Section 44(B) of the CPA.

6. Affidavit of Service/Proof of Service of Documents

Service of documents by the Secretariat shall be by personal service or by registered mail. If done by personal service, then an Affidavit of Service shall be done. If done by registered post, then the registered mail receipt shall act as proof of service.

7. Amendment of Claim

An amendment to the original claim document may be done prior to the document being served on the Respondent(s). An Applicant seeking an amendment to the claim document after it has been served, must first seek the approval of the Tribunal.

8. Time

8.1 In computing time for the purposes of these Guidelines, the following shall apply:

(a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the date in which the event happened or the act or thing done;

(b) if the last day of the period is a public holiday (which days are referred to as excluded days) the period shall include the next following day, not being an excluded day;

(c) when any act is directed or allowed to be done on a certain day, then if that day is an excluded day, the act shall be considered as done if it is done on the next following day, not being an excluded day.

8.2 Where a document is filed or served after 3:00 p.m. or on an excluded day, the document shall be deemed filed or served on the next following day that is not an excluded day.

Part C: TRIBUNAL HEARINGS GUIDELINES

1. Notice of Hearing

A notice of a hearing of an application or matter before the Tribunal shall be served on all interested parties as stated in the instructions contained in these guidelines or CPT Forms. The notice shall state the name of the parties involved in the matter, the time, date and place of the hearing before the Tribunal.

2. Interim Action by the Tribunal

2.1 The Tribunal may, of its own volition or on the application of a party, issue directions as to the proceedings.

2.2 Where a party files an application with the Tribunal for the issue of directions, the Secretariat shall, within five (5) days of filing the application, serve a copy of the application on the other party, which party shall, if it wishes to contest that application file a written response with the Secretariat within seven (7) days of receiving the copy of the application. The Secretariat shall serve a copy of that response on the Applicant within five (5) days.

2.3 Upon an application being filed with the CPT, the Secretariat will issue a Notice of Hearing Form, within a reasonable time, stating the date, place and time of the hearing of the application and thereafter serve the Notice of hearing on the parties not more than seven (7) days after the application has been filed.

3. Hearings Open to the Public

A hearing shall be held in public unless the Tribunal determines, on its own initiative or on the application of the Applicant, that the hearing shall be held in private.

4. Withdrawal of Matter(s)/Application(s)

4.1 A party, before an application or matter has been decided, may withdraw all or part of the application/matter by indicating the withdrawal of the application/matter in writing to the Secretariat.

4.2 The Secretariat shall then issue a notice of discontinuance to all parties on record for that matter and the Chairman.

4.3 A notice of withdrawal may include an order of payment to a party pursuant to section 44B(2)(d)(ix) of the CPA.

5. Settlement of Case Prior to Hearing

If the parties to a filed matter have arrived at a private settlement and they wish to discontinue the matter, then the parties must, in writing, notify the Tribunal Secretariat as soon as possible so that the Chairman of the Tribunal can be notified and the records updated to reflect this fact.

6. Affidavit of Witnesses

Where it is expeditious to do so, the Tribunal may take the evidence of a witness in the form of an affidavit duly signed by the witness.

7. Affidavit or Appearance of an Expert Witness

7.1 Where it is expeditious to do so, the Tribunal may take the evidence of an expert witness in the form of an affidavit duly signed by that expert witness.

7.2 Where the Tribunal seeks the appearance of a named expert witness, the relevant parties shall be notified of the time and date.

8. Non-appearance of Either Party

If either party to a suit fails to appear before the Tribunal and, upon proof of due notice of the time and date of the hearing, the Tribunal has the right to proceed in the absence of that party and may determine the matter and issue a final order.

9. Oath or Affirmation

The Tribunal shall instruct that each party that appears and gives evidence, shall be under oath or affirmation.

10. Types of Orders that the Tribunal can Issue

The types of orders that the Tribunal may issue are as follows:

a) declaring certain transactions to be in breach of the provisions of the CPA;
b) prohibiting the withholding of supplies or the threat thereof;
c) suspending or modifying any terms or conditions in an agreement which are manifestly unfair to the consumer or are in contravention of the CPA;
d) prohibiting the attachment of any extraneous conditions to any transaction;
e) requiring the publication of a price list;
f) requiring the payment of refund and interest where appropriate;
g) requiring the delivery of goods and services;
h) at the request of a party, to protect the confidentiality of that party's trade secrets or other confidential information; and
i) in relation to any other matter or measures as it deems appropriate or necessary in order to further the objects of the CPA.

11. Signature on Tribunal Order

Any order issued by the Tribunal shall be signed by the Chairman and members of the panel and shall be filed with the Secretariat. The Secretariat shall then serve a copy of the original on all interested parties.

12. Timeframe for Compliance with Order of the Tribunal

The Tribunal shall set the timeframe for compliance of any order issued, subject to a stay being issued by a court and the filing of an appeal.

13. Reasons for Order in Writing

Any order issued by the Tribunal shall also set out the reasons for the order, if the Tribunal decides it is necessary or expedient to do so.

14. Request for Information

The Chairman shall indicate to the Secretariat that there is a request for further information on any interested party and the Tribunal shall set a timeframe for delivery of the requested information. The Secretariat shall then communicate this request for information in writing to that party.

15. Obstruction of a Tribunal Inquiry

An obstruction of a Tribunal inquiry may amount to contempt of Tribunal as provided by Section 44F of the CPA.

16. Record of Hearing

Each Tribunal hearing shall be recorded and a transcript record of the hearing kept by the Secretariat.

17. Right to a Copy of the Record of Hearing

17.1 A transcript record of a Tribunal hearing kept by the Office of the Secretariat shall be made available to any member of the public, in any matter, for a fee to be determined by the Tribunal.

17.2 The fee for a copy of the transcript of the hearing must be paid to the Secretariat and a numbered receipt issued before the transcript will be made available.

18. Review of Decision or Order of the Tribunal

Any aggrieved party to a decision or order of the Tribunal may apply for judicial review thereof.

19. Representation of Parties

19.1 Parties to matters before the Tribunal:

a) have a right to independent legal representation; or
b) can represent themselves; or
c) have a right to be represented by a personal representative of his or her choice.

19.2 The CAC may provide legal representation for consumers before the Tribunal.

20. Joinder or Substitution of Parties

20.1 The Tribunal may combine any number of persons, either jointly, jointly and severally, separately, or in the alternative, as parties in the same proceedings, if their rights to relief depend on the determination of substantially the same questions of law or fact.

20.2 A party to proceedings, on giving notice to the other parties, may apply to the Tribunal for an order to substitute a person for a current party.

20.3 A joinder or substitution in terms of these guidelines will not affect the validity of any prior proceedings in the matter.

PART D: ENFORCEMENT OF TRIBUNAL ORDERS

1. Penalty for Non-compliance with Tribunal Order

A failure to comply with an order of the Tribunal is an offence as provided by Section 44G of the CPA.

PART E: FORMS

1. Claim Form: CPT 1
2. Respondent Reply/Counter Claim Form: CPT 2
3. Notice of Hearing Form: CPT 3
4. Tribunal Summons Form: CPT 4
5. Notice of Discontinuance: CPT 5

Claim Form

Form CPT 1

The Consumer Protection Tribunal

34 Trafalgar Road
Kingston 10
Telephone: (876) 906-5425, 619-4222
Fax: (876) 906-7525
Website – www.cac.gov.jm ; e-mail: cptribunal@cac.gov.jm

SECRETARIAT FILE NUMBER:
CATERGORY: CAC Ref No:

NOTICE OF CLAIM

IN THE CONSUMER PROTECTION TRIBUNAL

FROM

Fill in the name, postal address, telephone number and email address of the person(s) making the claim.

TO

Fill in the name, address, telephone number and email address (if known) of the person(s) the claim is against.

IMPORTANT NOTICE TO THE PARTY AGAINST WHOM THE CLAIM IS MADE

If you are served with this Notice of Claim and you are the person named above you **MUST** within 14 days from the date of service file a Reply and/or Counter-claim with the Consumer Protection Tribunal Secretariat (CPTS), at 34 Trafalgar Road, Kingston 10. If you fail to do so, the Tribunal may then proceed to determine the dispute in your absence.

Tribunal staff will fill in this part

FOR OFFICE USE ONLY	
AMOUNT CLAIMED	
INTEREST	
TOTAL	

PARTICULARS OF THE CLAIM

Provide the reference number used by the CAC relating to your claim and state the date when you referred your claim to the CAC.

WHERE?
State where transaction took place.

Location:
Address:

WHEN?
State when transactions took place.

PARTICULARS OF THE CLAIM

LIST YOUR WITNESS(ES) IN THIS PART: (Name(s) and address(es) of persons you intend to call as witness) Name(s): Address(es):	
WHAT HAPPENED? (State briefly the facts that led to this dispute and what is being claimed.)	
Signature of Applicant:	Date:
Signature of CPT Secretariat:	Date:

NOTES REGARDING THE CLAIM FORM

FROM

You must be sure that the email and postal address that you give is correct because this is where the Consumer Protection Tribunal Secretariat (CPTS) will send you any further notices or information. If your email or postal address changes at any time please notify the CPTS immediately in writing or by email at: cptribunal@cac.gov.jm

TO

Be sure that you have the correct postal address of the Respondent. If there is more than one Respondent put the name of each Respondent in the space provided. In such a case, however, make sure that the claim is a result of the same transaction.

WHAT HAPPENED?

You do not need to tell everything about your case here. You must tell just enough to let the Respondent know what the case is all about. Keep your description brief. Your documents would have already been supplied to the CAC which will form a part of your claim. You will have a full opportunity to present all the facts during the hearing.

WHERE?

A Notice of Claim must be filed with the CPTS as long as the transaction took place in Jamaica.

DENOMINATION:

The money limitation is denominated in Jamaican dollars. If your transaction was concluded in another currency, you must claim the Jamaican dollar equivalent.

STEPS IN THE TRIBUNAL PROCESS:

STEP 1

Complete the Notice of Claim provided to you by the CPTS typed or written clearly. Make sure that all the copies are legible. Please provide four (4) copies to the CPTS.

STEP 2

File the Notice of Claim by hand-delivery or registered mail, or e-mail to the CPTS, located at 34 Trafalgar Road, Kingston 10. The Secretariat staff will check the form and when it is accepted for filing, the Secretariat shall assign a file number, sign and apply the Secretariat stamp. The Secretariat will register the claim and then proceed to serve the Respondent(s) with a copy of the Notice of Claim. A tribunal panel will be selected and a date scheduled for the hearing and both you and the Respondent(s) will be notified with a **Notice of Hearing** which will be sent to all parties. The hearing will normally be scheduled on a day within 30 calendar days from the filing of the claim after taking into consideration the time periods allowed by these guidelines for parties to Reply to the claim or file a Counterclaim. Any Reply and/or Counterclaim filed shall be sent to the

Applicant.

STEP 3

WHAT HAPPENS AFTER

If the Respondent(s) files a Reply and/or a Counterclaim to your claim, you will be served with a copy of the Reply and/or Counterclaim. If no Reply is filed within fourteen (14) calendar days of the date of service of the Notice of Claim, you may apply for an order against the Respondent(s) who failed to file a Reply and/or Counterclaim to your claim.

Form CPT 2

The Consumer Protection Tribunal

34 Trafalgar Road
Kingston 10
Telephone: 906-5425/8568
Fax: 906-7525
Website- www.cac.gov.jm | Email: cptribunal@cac.gov.jm

SECRETARIAT FILE NUMBER:
CATERGORY: CAC Ref No:

REPLY/COUNTERCLAIM TO CLAIM

TO *Fill in the name, postal address, telephone number and email address of the person(s) making the claim,* *AND*	
TO *Fill in the name, address, telephone number and email address (if known) of the person(s) the claim is against.*	

NOTICE TO THE RESPONDENT(S)

Whoever is served with a **Notice of Claim** must within fourteen (14) calendar days from the date of service file a Reply/Counterclaim to the Claim. Failure to do so may result in the Tribunal proceeding to determine the dispute in your absence. A Reply/Counterclaim to the Claim Form must be filed at the Secretariat of the Consumer Protection Tribunal, 34 Trafalgar Road, Kingston 10 within the prescribed time period.

Tribunal staff will fill in this part.
*Amount claimed is only applicable if you as a Respondent are also making a Counterclaim together with this reply.

FOR OFFICE USE ONLY	
AMOUNT CLAIMED*	
INTEREST	
TOTAL	

STEPS IN THE TRIBUNAL PROCESS:	NOTES REGARDING THE REPLY AND/OR COUNTERCLAIM TO THE CLAIM FORM.
STEP 1 Complete the Reply/Counterclaim form provided to you by the CPTS typed or written clearly. Make sure that all copies are legible. Please provide four (4) copies to the CPTS. Please note that failure to file a Reply to a Claim/Counterclaim form within 14 calendar days of the date of service of the Notice of Claim, the Applicant may apply for an order against you as you failed to file a Reply/Counterclaim to the Applicant's claim. **STEP 2** You must file the Reply/Counterclaim to a Claim by taking it to the Consumer Protection Tribunal Secretariat, located at 34 Trafalgar Road, Kingston 10. This may also be done by e-mail. The Secretariat staff would already have assigned a file number on your forms and will check the form. Once the form has been accepted for filing, the Secretariat will apply the Secretariat stamp and will then proceed to serve on your behalf to the Applicant a copy of your Reply/Counterclaim to the Claim. **STEP 3** **WHAT HAPPENS AFTER** Once the Applicant has been served your Reply/Counterclaim to the Claim then a Tribunal panel will be selected and a date scheduled for the hearing and both you and the Applicant will be notified with a **Notice of Hearing**. The hearing will normally be scheduled on a day within 30 calendar days from the filing of the claim after taking into consideration the time periods allowed by these Guidelines for both parties to file the necessary forms.	**FROM** You must be sure that the email and address that you give is correct because this is where the Secretariat will send you any further notices or information. If your email or address changes at any time please notify the Secretariat immediately in writing or by email. **TO** Be sure that you have the correct address of the Applicant. If there is more than one Applicant, put the name of each Applicant in the space provided. **WHAT HAPPENED?** You do not need to tell everything about your case here. You must tell just enough to let the Applicant know what your Reply/Counterclaim is to their claim. Keep your description brief. If you wish to provide any other documents then you may do so with your Reply/Counterclaim. You will have a full opportunity to present all the facts during the hearing. **WHERE?** The Reply/Counterclaim to a Claim must be filed with the Secretariat, at 34 Trafalgar Road, Kingston 10, as long as the transaction took place in Jamaica.

PARTICULARS OF THE REPLY/COUNTERCLAIM TO CLAIM:

LIST YOUR WITNESSES IN THIS PART: (Name and address of persons you intend to call as a witness)	
PARTICULARS OF YOUR REPLY/COUNTERCLAIM TO THE CLAIM MADE AGAINST YOU. *State briefly the facts that led up to this dispute and any other facts which form the basis of your Counterclaim against the Applicant. (Your Reply and/or Counterclaim to the Applicant's claim).* **ATTACH EXTRA SHEETS IF SPACE IS INSUFFICIENT**	
Signature of Respondent:	Date:

Form CPT 3

The Consumer Protection Tribunal

34 Trafalgar Road
Kingston 10
Telephone: 906-5425/8568
Fax: 906-7525
Website- www.cac.gov.jm | Email: cptribunal@cac.gov.jm

SECRETARIAT FILE NUMBER:
CATERGORY: CAC Ref No:

NOTICE OF HEARING
IN THE CONSUMER PROTECTION TRIBUNAL

TO *Fill in the name, postal address, telephone number and email address of the person(s) making the claim,* *AND*	
TO *Fill in the name, address, telephone number and email address (if known) of the person(s) the claim is against.*	

IMPORTANT NOTICE REGARDING DATE OF THE HEARING

A claim has been filed and duly served on the Respondents and a date has been set by the Consumer Protection Tribunal for the hearing of the above cited matter. If you are served with this **Notice of Hearing** and you are the person(s)/Company named above you are to attend the Consumer Protection Tribunal on the date, time and place as set out below. If you fail to do so, the Tribunal may then proceed to determine the dispute in your absence.

PARTICULARS OF THE HEARING:

WHERE?	**Location:** **Address:**	**WHEN?**	

Signature of Secretariat:	**Date:**

IMPORTANT NOTICE TO PARTIES

You must arrive at the hearing at least 30 minutes before the time stated and register with reception so that the Secretariat of the Tribunal may be informed of your arrival. If you receive the Notice of Hearing and are unable to attend the hearing at the stated date and time, please contact the Secretariat of the Consumer Protection Tribunal and indicate your reason(s) in writing of your unavailability to attend.

Form CPT 4

The Consumer Protection Tribunal

34 Trafalgar Road
Kingston 10
Telephone: 906-5425/8568
Fax: 906-7525
Website- www.cac.gov.jm | Email: cptribunal@cac.gov.jm

SECRETARIAT FILE NUMBER:
CATERGORY: CAC Ref No:

CONSUMER PROTECTION TRIBUNAL SUMMONS

TO *Fill in the name, postal address of person being summoned*	

You are hereby summoned to appear before the Consumer Protection Tribunal to give evidence respecting (indicate brief summary of the matter). (If the person summoned is to produce any documents or article, add).

And you are required to bring with you (specify the papers, books, records and documents required). **IF YOU FAIL TO APPEAR** in response to this Summons, a warrant for your arrest may be issued.

PARTICULARS OF THE HEARING:

WHERE?	**Location:** **Address:**	**WHEN?**	

Signature of Secretariat:	**Date:**

IMPORTANT NOTICE TO PERSON SUMMONED

You must arrive at the hearing at least 30 minutes before the time stated and register with reception so that the Secretariat of the Tribunal may be informed of your arrival.

Claim Form

Form CPT 5

The Consumer Protection Tribunal

34 Trafalgar Road
Kingston 10
Telephone: (876) 906-5425, 619-4222
Fax: (876) 906-7525
Website – www.cac.gov.jm ;e-mail: cptribunal@cac.gov.jm

SECRETARIAT FILE NUMBER:
CATERGORY: CAC Ref No:

NOTICE OF DISCONTINUANCE

IN THE CONSUMER PROTECTION TRIBUNAL

FROM *Fill in the name, postal address, telephone number and email address of the person(s) making the claim/counterclaim.*	
TO *Fill in the name, address, telephone number and email address (if known) of the person(s) the claim is against.*	

TAKE NOTICE that the Applicant/Respondent

1) **WHOLLY DISCONTINUES** the proceedings filed herein;

2) **DISCONTINUES** the following **PARTS OF THE CLAIM/COUNTERCLAIM**:

PER:_____
SACHA – GAYE RUSSELL
SECRETARIAT