

Madrid,
Spain 2023

INTERNAUKA
internauka.org

XXVIII International Multidisciplinary Conference
**PROSPECTS AND KEY TENDENCIES
OF SCIENCE IN CONTEMPORARY WORLD**





PROSPECTS AND KEY TENDENCIES OF SCIENCE IN CONTEMPORARY WORLD

Proceedings of XXVIII International Multidisciplinary Conference

February, 2023

Madrid, Spain
2023

XXVIII International Multidisciplinary Conference “Prospects and Key Tendencies of Science in Contemporary World”. Proceedings of the Conference (February, 2023). Bubok Publishing S.L., Madrid, Spain. 2023. 74 p.

Editor-in-Chief:

Anatoly A. Enikeev – Candidate of Philosophical Sciences, Associate Professor, Department of Philosophy, Kuban State Agrarian University, Krasnodar

Editorial Board:

Urfan Tagiev – Candidate of Technical Sciences

Oleg Kharchuk – Candidate of Biological Sciences

Alla Zlivko – Candidate of Juridical Sciences

Khotamjon Kobulov – Candidate of Economic Sciences

Nurgul Smagulova – Candidate of Philological Sciences

Shamil Azizov – Candidate of Geographical Sciences

Lamjav Olzvoibaatar – Doctor of Technical Sciences

Included to the open access repositories:

eLIBRARY.RU

ISBN 978-84-685-5375-7

© Bubok Publishing S.L., 2023

© Internauka, LLC, 2023

Table of Content

Section 1. History	5
THE HISTORY OF THE DEVELOPMENT OF THE HERALDIC TRADITION AND THE LEGAL FOUNDATIONS OF MODERN FAMILY HERALDRY Marcus Murray	5
Section 2. Education and pedagogy	9
БИЛИМ БЕРУ ЖҮЙЕСІН ЭКОЛОГИЯЛАНДЫРУ МАҢЫЗДЫЛЫҒЫ Рахиш Карлыгаш Рахишкызы	9
PROBLEMS OF THE EDUCATIONAL PROCESS ORGANIZATION WITHIN JOINT EDUCATIONAL PROGRAMS IN UNIVERSITIES OF THE REPUBLIC OF UZBEKISTAN Sevara Tasheva	13
«АЙНАЛУ ДЕНЕЛЕРІ» ТАҚЫРЫБЫН «GEOGEBRA» БАҒДАРЛАМАСЫ АРҚЫЛЫ ОҚЫТУ Сартабанов Жайшылык Алмаганбетович Шалабаев Азамат Коптлеуович	18
Section 3. Psychological science	24
CHANGES IN CIRCADIAN BEHAVIOURAL RHYTHMS IN CONDITIONS OF POLAR DAY AND POLAR NIGHT Veronika Vekshina	24
Section 4. Engineering	28
ТЕХНОЛОГИЯ УПРАВЛЕНИЯ ПРОЕКТАМИ В ОРГАНИЗАЦИИ Сират Джавед	28
Section 5. Philology	39
ҚАЗАҚ ФЭНТЕЗИ КЕЙІПКЕРЛЕРІНІҢ СИНХРОНДЫҚ КЛАССИФИКАЦИЯСЫ Курманаева Алтыншаш Жанарбековна	39

Section 6. Economics	46
ПЕРСПЕКТИВЫ РАЗВИТИЯ СФЕРЫ ОБРАЗОВАТЕЛЬНЫХ УСЛУГ В ДЕЯТЕЛЬНОСТИ ОБРАЗОВАТЕЛЬНЫХ ОРГАНИЗАЦИЙ СРЕДНЕГО ПРОФЕССИОНАЛЬНОГО ОБРАЗОВАНИЯ Волкова Любовь Николаевна	46
ИНТЕНСИФИКАЦИЯ КОНКУРЕНТНОГО ПРОЦЕССА В УСЛОВИЯХ РАЗВИТИЯ ЦИФРОВОЙ КОНКУРЕНТНОЙ СРЕДЫ Кулешов Денис Константинович	59
Section 7. Law	64
THE LEGAL STATUS OF THE STATE LANGUAGE IN NATIONAL AND MULTINATIONAL STATES Zhalgas Mirzadinov Karlygash Baizhomartova	64
PRE-ACTION PROTOCOL IN CIVIL PROCEEDINGS IN ENGLAND Aizhan Satayeva	69

Kazakh language, which indicates the growing importance of the state language in the Republic of Kazakhstan.

References:

1. Matveeva L.A. Terminology / L.N.A. Matveeva. - Omsk: Publishing House of Omsk State University, 2013. - 163 p.
2. Guboglo M.N. The turning years: in 2 vols. - Vol. 1. 1. A mobilized linguist. - M. : Institute of Ethnology and Anthropology of the Russian Academy of Sciences, 1993. - 302 p.
3. Guboglo M.N. Modern ethno-linguistic processes in the USSR. The main factors and trends in the development of national-Russian bilingualism / ed. Yu.V. Bromley. - M. : Nauka, 1984. - 288 p.
4. Apova L.L. Linguistic situation: sociolinguistic aspect / L.L. Apova. - Ufa, 2000. - 156 p.
5. Baskakov A.N. Linguistic situation and functioning of languages in the region of Central Asia and Kazakhstan / A.N. Baskakov, O.D. Nasyrova, M. Davlatnazarov. - M. : Dominant, 1995. - 166 p.
6. Gerd A.S. Language policy / A.S. Gerd // The Revival of Russian culture: language and Ethnicity. - St. Petersburg., 1995. - pp. 6-19.
7. Isakova S.S. Kazakh terminology, cognitive-pragmatic aspect: philol. gl. doct. dis. abstract: 10.02.19 / Isakova Sabira Saginbekovna. - Almaty, 2008. - 46 p.

PRE-ACTION PROTOCOL IN CIVIL PROCEEDINGS IN ENGLAND

Aizhan Satayeva

*PhD candidate of the Higher School
of Law of the University of KAZGUU
named after M.S. Narikbaev; Master
of Laws, Legal Consultant,
Kazakhstan, Astana*

ABSTRACT

The present study aims to explore the problems of pre-action protocol as one of the aspects of evidence disclosure in civil proceedings in England. The article attempts to highlight theoretical ideas about the pre-action protocol and its correlation with the disclosure of documents in England. Using the method of comparative analysis, the author reveals the essence and

importance of the pre-action protocol in English civil proceedings, noting that the pre-action protocol is not used to formalize disclosed documents in English proceedings, but the term "list of documents" is used.

Keywords: civil procedure, disclosure of documents, common law, pre-action disclosure, evidence, list of documents.

The pre-action protocol in English proceedings is the building block of evidence disclosure, which is a full-fledged procedural institution in England, with an entire section in the Rules of Civil Procedure. As defined in the Dictionary of Legal Terms, "Disclosure is the communication by one party to the other of all relevant documents and information so that both parties have full knowledge of the other party's arguments [1]. Standard disclosure under s. 31.6 of the English Rules of Procedure implies a duty to disclose all documents relied upon by a party, including those that may adversely affect the party's own position as well as documents that affect the opposing party's position either negatively or positively [2].

Turning to the pre-action protocol in English civil proceedings, we should note that in adversarial court proceedings the preparation begins before filing the lawsuit and without the court involvement [3, p. 222]. Exactly this "pre-trial" stage is given a great attention because it may contribute to amicable settlement of the dispute without court's intervention [3, p.223]. This is the origin of the main and most significant classification of evidence disclosure, which is based on the moment of filing a lawsuit. Therefore, disclosure of evidence in England is divided into pre-suit disclosure (clause 31.16 of the Regulation) and pre-action disclosure (clause 31.10 of the Regulation).

Disclosure refers to the ability and right of a "would-be" plaintiff to require an alleged defendant to produce evidence that may be relevant to the initiation of an action. Such disclosure is made without instituting civil proceedings on a person's application to the court, but it must be supported by evidence (Article 31.16 of the Rules). On the basis of that application, the court shall make an order setting out the duty to disclose the evidence to the opposing party. It is this type of disclosure that has been called "pre-action disclosure of evidence". There is no such type of disclosure in Kazakhstan, but the need for this type of disclosure is observed in practice.

It is for cases of pre-action disclosure of evidence that there are so-called "pre-action protocols" the essence of which is a brief guide to the actions that "potential parties" to a civil action are required to take before they bring an action and are expected to do so by the court. They are an innovation in English civil litigation and were introduced in 1998 as a result of Lord

Woolf's reforms. In his view it was one of the most significant innovations designed to give a degree of formality to pre-litigation dispute resolution. Thus, in his report "Access to Justice," he noted that "pre-action protocols will lay down rules in specific sector disputes and parties will be required to follow them, they will make it easier for parties to obtain information by using standard forms and questionnaires"[4]. At the same time, N. Andrews defines them as a system of "pre-suit protocols", which set out the obligations which the future parties and their representatives have to fulfil before a formal trial can take place [5; p. 123]. In fact, these are instructions for certain types of disputes (e.g., pre-suit protocols for engineering and construction disputes, personal injury claims, etc.) and impose on the Parties the obligation to fulfill all requirements of the pre-suit protocol, including the disclosure requirement and the requirement to send a claim, response to the claim. The specific content of the protocol shall be established by the practice guidelines for the respective category of cases [3; p. 223]. Some protocols contain templates of documents, diagrams, charts for the convenience of the Parties, helping them to perform all the necessary actions at this stage. As an example, here is an excerpt from the text of one of the pre-action protocols in England: "This Protocol sets out the conduct that prospective parties should normally follow prior to the commencement of any proceedings. It establishes a reasonable process and timetable for the exchange of information relevant to the dispute, sets standards for the content and quality of letters of claim and establishes standards for pre-negotiation"[6].

At the end of 2010 there were 11 protocols, today the number has increased to 18. The protocols are aimed at ensuring efficient exchange of information between the potential plaintiff and the defendant, however, according to N. Andrews believes that enforcing the pre-action protocols leads to an increase of court costs [5; p.124].

A party who fails to comply with a pre-action protocol is liable to sanctions in the form of legal costs [4]. Failure to comply with the requirements of the pre-action protocol is not a ground for refusal to accept (or return) the claim [3; p. 223].

As can be seen from the above, in England there are pre-action disclosure and pre-action protocol that are inseparable and aim at settling a dispute peacefully before trial. The essence of the English pre-action protocol is a clear instruction, with step-by-step steps, by the execution of which the parties can reach an amicable settlement. If this does not happen, court proceedings are initiated. The pre-action protocol is a kind of guarantee that the parties have made every effort to resolve the dispute amicably, fulfilling all requirements, including the disclosure of evidence.

Referring to the procedure for disclosure of evidence, the list of disclosed evidence is not formalised in the pre-action protocol. As required by Article 31.10 of the Rules, standard disclosure is made by compiling and delivering to the other party a list of documents [7] in an appropriate form, and the list must be easy to identify and include a statement from the party about the disclosure of evidence. We believe that such a name and form is more appropriate for the disclosure of evidence because it reflects the nature of the document itself and the procedure that has been established for disclosure in the common legal system.

Thus, based on the research carried out, it can be concluded that the disclosure of the pre-trial protocol in England is a powerful procedural tool with clear legal regulation. It achieves its objectives and saves litigants time and money. The idea of introducing evidence disclosure into civil proceedings in Kazakhstan is in line with the needs of the times, but its implementation needs to be approached in a balanced and progressive manner.

References:

1. The legal dictionary. - [Electronic resource]. - Режим доступа: <https://www.claims.co.uk/dictionary#filter=.d>, circulation date 29.07.2022 г.
2. Civil Procedure (Amendment No.2) Rules 2022 & 149th PD Update. - [Electronic resource]. - Access mode: <https://www.justice.gov.uk/courts/procedure-rules/civil>, circulation date 29.07.2022 г.
3. Reshetnikova I.V. Dokazatel'stvennoe pravo Anglii i SShA.3-e izd., pererab. i dop. – M.: Izdatel'skij dom "Gorodec", 2021. – 320 p.
4. Lord Woolf. Access to justice: final report to the Lord Chancellor on the civil justice system in England and Wales. London, 1996. – [Electronic resource]. – Access mode: <https://webarchive.nationalarchives.gov.uk/ukgwa/20060214041328/http://www.dca.gov.uk/civil/final/sec3a.htm#c9>, circulation date 29.07.2022 г.
5. Andrews N. Sistema grazhdanskogo processa Anglii: sudeb. razbiratel'stvo, mediacija i arbitrazh/Nil Jendrjus; per. s angl.; pod red.R.M. Hodykina. – M.: Infotropik Media, 2012. – 544 p.
6. Pre-Action Protocol for the Resolution of Clinical Disputes. - [Electronic resource]. - Access mode: https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_red, circulation date 29.07.2022 г.
7. Form N265: Make a standard disclosure of documents to the court.- [Electronic resource]. - Access mode: <https://www.gov.uk/government/publications/form-n265-list-of-documents-standard-disclosure>, circulation date 29.07.2022 г.

