IN THE (Court) COUNTY COURT URN. Case No.

BETWEEN:

 (Claimant)

Claimant

 - and -

 (Defendant)

Defendant

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Application/Reply to Strike Out

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 *Drafted by Stuart Stevens of Counsel (Erimus Chambers)*

**Introduction**

1. This is the Clamant’s/Defendant’s application to strike out the claim under CPR 3.9.
2. The basis of the application is X. For the purposes of this skeleton argument, the basis of this application shall be referred to as ‘the default’.

**The Law**

1. CPR 3.9 provides that:

‘(1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or court order, the court will consider all the circumstances of the case, so as to enable it to deal justly with the application, including the need : -

(a) for litigation to be conducted efficiently and at proportionate cost; and
(b) to enforce compliance with rules, practice directions and orders.
(2) An application for relief must be supported by evidence.’
2. The case of *Denton v TH White Limited [2014] EWCA Civ 90* sets out the following criteria to be considered when assessing an application to strike out:
	1. The Court must consider whether the application has been made promptly.
	2. The Court must consider the seriousness or significance of the breach.
	3. The Court must consider why the failure has occurred.
	4. The Court must consider all of the circumstances of the case so as to enable it to deal justly with the application.

**Submissions**

1. Regarding promptness, it is submitted/conceded that this application has/has not been made promptly. Regarding this:
	1. The default became apparent to the Claimant/Defendant on date when they found X.
	2. The application was lodged with the Court on date. The application was/was not served upon the respondent party on date.
	3. The period between the default becoming apparent to the applicant and the application being made is X. It is submitted/conceded that the applicant has/has not demonstrated adequate promptness in making their application.
2. Regarding the seriousness and significance of the default, it is submitted/conceded that the default giving rise to this application is/is not serious or significant. The default has had the following impact upon the applicant:
	1. The default has resulted in X.
3. Regarding why the default has occurred, it is submitted that the Claimant/Defendant is wholly/substantially at fault for the default for the following reasons:
	1. The Claimant/Defendant is wholly/substantially at fault for X.
4. Regarding all of the circumstances of the case, the applicant/respondent respectfully draws the following points to the Court’s attention in this case:
	1. The trial date listed on X will/will not be affected by the default as Y reasons.
	2. This application is proportionate/disproportionate as Y reasons.

**Conclusion**

1. For the reasons outlined above the Court is respectfully asked to grant/dismiss the application.
2. The Court is respectfully asked to consider the cost position upon Counsel’s oral submissions.