

# MODEL

## EXPERT OPINION<sup>1</sup>

Explanation of symbols:

\* = not mandatory

Φ = opt for one of the alternatives

|                           |   |
|---------------------------|---|
| To                        | The district court/court of appeal/subdistrict court<br>civil law/family law division<br>in<br>attn of<br>PO Box<br>(postal code + town/city) |
| Case no                   |   |
| Case-<br>list/petition no |   |
| Name parties              | ../..   |

### 1 Details of the expert<sup>2</sup>

Initials and last name

Profession

Correspondence address

Telephone no

Fax no\*

Email address\*

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<sup>1</sup> The footnotes contain information from the court for the expert and may be removed by the expert.

<sup>2</sup> All information in this expert opinion, thus also the personal details, form part of the case file and may become known to the parties and their counsel or agents.

## 2 Details of the parties<sup>3</sup> and their representatives<sup>4</sup>

### **Party:**

Name

Of claimant/petitioner/appellant

### **Representative:**

(counsel or agent of the claimant/petitioner/appellant)

Name

Correspondence address

Telephone no

Fax no\*

Email address\*

### **Party:**

Name

Of the defendant/respondent

### **Representative:**

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<sup>3</sup> The model is based on a case involving two parties. If there are more parties according to the court ruling appointing you as an expert, you need to supplement the model with the details of the other parties.

<sup>4</sup> The *Practice Direction for experts in Dutch civil law cases* includes information on how to communicate with parties and their representatives.

(Counsel or agent of the defendant/respondent)

Name

Correspondence address

Telephone no

Fax no\*

Email address\*

### 3 Documents<sup>5</sup>

Date of the court ruling  
appointing the expert

Court documents of which the -  
expert has taken note in view of -  
the expert opinion <sup>6</sup> -

Other documents<sup>7</sup>

Documents referred to in the  
opinion<sup>8</sup>

Documents disregarded by the  
expert<sup>9</sup>

Reason

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<sup>5</sup> This lists the documents that you have gathered in the course of the expert examination.

<sup>6</sup> In the event that the court has determined that you must conduct the examination without taking note of court documents, please suffice by stating 'not applicable'. In all other cases, you must briefly state the substance of the case file sent to you. You may suffice by referring to the title of the documents, e.g. summons, statement of defence, etc. Court rulings may be helpful in this respect. They list the documents that should be included in the case file.

<sup>7</sup> Please state, where appropriate, the documents not forming part of the case file which you received with a view to the expert opinion. A brief reference suffices (e.g. letter of x (=date) from y (=sender) to z (=addressee)). They may be documents which you yourself requested, e.g. from a party, documents sent to you by a party or counsel of their own accord, etc. You may only take note of documents which you know are available to both parties. This may however be different in a medical examination. Please find more information on this in the *Practice direction for experts in Dutch civil law cases* under the principle of equality of arms.

<sup>8</sup> Please state, where appropriate, any documents (e.g. literature) to which you refer in the opinion and where to find them.

<sup>9</sup> The expert, as a rule, includes all documents made available to him/her in the examination. If no exception is made to this principle, please state 'not applicable'. Examples of exceptions: the court may rule that you should disregard certain sections of documents made available to you; you may be unable to ascertain whether a party has sent a copy of the document to the other party as well. In that case you should list the documents you disregard while stating the reason for doing so.

## **4 Questions asked by the court<sup>10</sup>**

## **5 Set-up of the examination\*<sup>11</sup>**

## **6 Answering the questions<sup>12</sup>**

### **6.1 Background\*<sup>13</sup>**

### **6.2 The expert's considerations\*<sup>14</sup>**

### **6.3 Answers to the questions<sup>15</sup>**

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<sup>10</sup> Please state the questions submitted to you in the court ruling.

<sup>11</sup> If you have given the parties the opportunity, prior to the examination, to make their own wishes relating to the examination known to you (see Practice direction for experts in Dutch civil law cases, nr. 27), please state this in the report.

<sup>12</sup> Naturally, you may amend the headings of 6.1 and 6.2 to how you wish to report on your examination and answer to the questions. You should however give an explicit answer to the questions (6.3).

<sup>13</sup> Please state, if desired, the facts on which you base your examination. You may base the examination on the facts established between the parties according to the court ruling. You may not regard facts disputed by the parties as established facts.

<sup>14</sup> Please state, if desired, your own considerations preceding the answers to the questions asked by the court. Please state, wherever possible, the grounds for your considerations, e.g. a court document, an interview with a person, photographs, personal observation, inspection on the spot.

<sup>15</sup> Where possible, reasons must be stated for the answers. If reasons cannot be given, please state so.

## 7 The right of inspection and obstruction

1. the right of inspection and obstruction is applicable to this examination<sup>16</sup>

Φ no (please go to 8)

Φ yes (please go to 7.2)

2. application of the right of inspection and obstruction

a. by letter of ... I gave the subject of the examination the opportunity to inspect my opinion and requested him/her to inform me whether he/she wishes to obstruct access to this opinion

b. By letter of ... I sent a copy of this letter to the other party's counsel

c. I was informed by letter of ... from ....  
that the right of obstruction will **not** be exercised (please go to 8)

d. I was informed by letter of ... from ...  
that the right of obstruction *will be* exercised. This ends my activities as an expert in this matter (please go to 10, final invoice).

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<sup>16</sup> Please consult, if necessary, the *Practice direction for experts in Dutch civil law cases* in relation to the right of inspection and obstruction.

## 8 The principle of equality of arms<sup>17</sup>

1. inspection on location                   Φ no, not applicable (please go to 8.2)
- Φ yes:
- a. On ...           I visited ...           with a view to ...
  - b. by letter of ...           I gave the parties the opportunity to attend the inspection on location;
  - c. the inspection on location was attended by ...
2. meeting(s) with parties                   no, not applicable (please go to 8.3)
- yes:
- a. by letter of ...           I invited the parties to a meeting with a view to ...
  - b. the meeting took place on ... and was attended by ...
  - c. this was the only meeting  
Φ follow-up meetings with a view to ... were conducted on ...           and attended by ...
3. medical examination of one party                   Φ no, not applicable (please go to 8.4)
- Φ yes:
- a. On ...           I examined the subject of the examination
  - b. By letter of ...           I informed the other party of the date of the examination

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<sup>17</sup> Please consult the *Practice direction for experts in Dutch civil law cases* for more information on this subject. It is essential that an expert opinion be concluded with due observance of the principle of equality of arms.

4. comments and requests<sup>18</sup>

- a. by letter of .... I sent my opinion to the parties and in the letter provided them with the opportunity to make comments and requests before a date set by me.
- b. I received the comments/requests from ...  
by letter of ...
- c. I received the comments/requests from ...  
by letter of . ...
- d. I have appended a copy of the comments and requests as an annex to this expert opinion
- e. my reply to the comments and requests<sup>19</sup>:

Φ is stated under 9

Φ I incorporated in my opinion under 5

## **9 \*Reply of expert to comments and requests**

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<sup>18</sup> You are by law obliged to provide the parties with the opportunity to make comments and requests. Please consult, if necessary, the *Practice direction for experts in Dutch civil law cases*.

<sup>19</sup> In many cases it is clear to the court and the parties if you leave your original opinion unchanged and separately respond to the comments and requests made by the parties. There is room to do so under 9. However, if you decide to incorporate your response in your opinion under 5, you may suffice by a reference to part 5 under 9.



## 10 Final invoice

1. has the financial invoice been enclosed?  
 yes  
 no, because
  
2. has the specification of the final invoice been enclosed?<sup>20</sup>  
 yes  
 no, because
  
3. do you wish to receive Dutch VAT?  
 no  
 yes:  
  - the applicable VAT rate is ... per cent :  
    - over the entire amount of the final invoice
    - over €....
  - the amount of the final invoice is  
    - inclusive of VAT
    - exclusive of VAT

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<sup>20</sup> For more information on how to specify the final invoice, please refer to the *Practice direction for experts in Dutch civil law cases*.

## 11 Annexes

Φ This expert opinion includes no annexes.

Φ The following annexes are appended to this expert opinion:<sup>21</sup>

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## 12 Signing the expert opinion

I send this opinion in triplicate to the court.<sup>22</sup>

Prepared on ... in ...

(signature)

(name)

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<sup>21</sup> Please state briefly which annexes you have appended.

<sup>22</sup> The court forwards the copies to the parties.