

PART IV: INTERLOCUTORY APPLICATIONS

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PART IV

INTERLOCUTORY APPLICATIONS

36. Distribution of applications

- (1) All applications in Chambers (including summonses and summonses for directions) shall be filed without specifying whether the application is to be heard before a Judge in person or the Registrar.
- (2) The deletion of either “Judge” or “Registrar” (appearing in the first paragraph of such applications in Chambers) shall only be done by a Registry officer and *not by the applicant or his solicitors*.
- (3) All such deletions shall be in accordance with Order 32, Rule 9 of the Rules of Court and the directions given by the Honourable the Chief Justice. Order 32, Rule 9 provides:

Jurisdiction of Registrar (O. 32, r. 9)

9. —(1) The Registrar of the Supreme Court shall have power to transact all such business and exercise all such authority and jurisdiction under the Supreme Court of Judicature Act (Chapter 322) or these Rules as may be transacted and exercised by a Judge in Chambers except such business, authority and jurisdiction as the Chief Justice may from time to time direct to be transacted or exercised by a Judge in person or as may by any of these Rules be expressly directed to be transacted or exercised by a Judge in person.

(2) Rule 1 shall apply in relation to the jurisdiction of the Registrar of the Subordinate Courts but with the following modifications:

- (a) the reference to the Registrar of the Supreme Court shall be construed as a reference to the Registrar of the Subordinate Courts;
- (b) the reference to the Supreme Court of Judicature Act shall be construed as a reference to the Subordinate Courts Act (Chapter 321); and
- (c) the reference to directions which the Chief Justice may make shall be construed as a reference to directions which the Senior District Judge may, with the concurrence of the Chief Justice, make.

37. Filing of summonses

All interlocutory applications to be made by summons

- (1) The former Form 10 of Appendix A of the Rules of Court (Notice of Motion) has been deleted with effect from 1 January 2006. All interlocutory applications are to be made by way of summons.

“Ex parte”, “by consent” and “non-contentious” summonses

- (2) Ordinary summonses shall be endorsed “ex parte”, “by consent” or “non-contentious”, and when so endorsed must bear a certificate to that effect signed by all the solicitors concerned. Any summons that is not so endorsed will be regarded as a contentious matter liable to exceed a hearing duration of 10 minutes.
- (3) “Non-contentious” shall mean a matter which has been certified by all the solicitors concerned as one which will not exceed a hearing duration of 10 minutes.
- (4) After the filing of any “ex parte” or “by consent” summons, the application will be examined by the Judge or Registrar as the case may be. If he is satisfied that the application is in order and all other requirements have been complied with, he may make the order(s) applied for on the day fixed for the hearing of the application without the attendance of the applicant or his solicitor.
- (5) Summonses that are filed by electronic transmission will be routed to the In-Tray of the law firm’s computer system. Where the summons is filed via the service bureau, it may be collected at the service bureau. Enquiries by telephone will not be entertained.

38. Summonses to be heard in open Court

- (1) Order 32, Rule 11 of the Rules of Court provides that all summonses shall be heard in Chambers, subject to any provisions in the Rules of Court, written law, directions by the Court and practice directions issued by the Registrar.

- (2) The following applications are examples of summonses are to be heard in open Court pursuant to written law:
 - (a) applications under section 343 of the Companies Act (Cap. 50, 2006 Rev Ed);
 - (b) applications under paragraph 97 of the Fifth Schedule to the Limited Liability Partnerships Act (Cap. 163A, 2006 Rev Ed);
 - (c) applications for the committal of any person to prison for contempt in relation to winding up of a company or a limited liability partnership; and
 - (d) applications to rectify the Register in relation to winding up of a company or a limited liability partnership (See Rule 5 of Companies (Winding Up) Rules (Cap. 50, Rule 1, 2006 Rev Ed) and Rule 5 of Limited Liability Partnerships (Winding Up) Rules 2005).

- (3) In addition to any provisions in the Rules of Court or other written law, and subject to further directions made by the Court, the Registrar hereby directs that the following applications by summons shall be heard in open Court with effect from 1 January 2006:
 - (a) applications for mandatory orders,^ψ quashing orders^ξ or prohibiting orders^ω under Order 53, Rule 2;

^ψ Formerly known as “mandamus”.

^ξ Formerly known as “certiorari”.

^ω Formerly known as “prohibition”.

- (b) issuance of summonses for order for review of detention^Ω under Order 54, Rule 2;
- (c) applications to the Court of Appeal in appeals under Order 57, Rule 16;
- (d) applications for remedies where property protected by a caveat is arrested under Order 70, Rule 6;
- (e) applications for orders for damages caused by caveats against the release of property under arrest under Order 70, Rule 13;
- (f) applications for judgment for failure to file a preliminary act under Order 70, Rule 18;
- (g) applications for judgment by default under Order 70, Rule 20;
- (h) applications for orders of priority of claims against the proceeds of sale of a ship under Order 70, Rule 21;
- (i) applications in a pending action for apportionment of salvage under Order 70, Rule 32;
- (j) applications for objections to a decision on a reference under Order 70, Rule 42;
- (k) applications under the Patents Act (Cap. 221, 2005 Rev Ed) under Order 87A, Rule 11(6);
- (l) applications for legal officers or non-practising solicitors to be struck off the roll under section 82A(10) of the Legal Profession Act (Cap. 161, 2001 Rev Ed); and
- (m) applications to make absolute orders to show cause under section 98(5) of the Legal Profession Act.

^Ω Formerly known as “habeas corpus ad subjiciendum”.

39. Summonses for directions

- (1) The principal intention of the summons for directions is to ensure that there is a thorough stocktaking of the issues in an action and the manner in which the evidence should be presented at a trial, with a view to shortening the length of the trial and saving costs generally.
- (2) Parties should have completed their discovery of documents by the time of the first hearing of the summons for directions. There should be full discovery on either side.
- (3) Parties should also make all interlocutory applications at the hearing of the summons for directions.

40. Transfer of proceedings to the Subordinate Courts

- (1) Where a claim in the High Court which may have initially exceeded \$250,000 is subsequently reduced below this amount, solicitors should bring this to the attention of the Registrar and apply by summons or at the hearing of the summons for directions for an order that the action be transferred to the District Court for trial under section 54C of the Subordinate Courts Act (Cap 321, 1999 Rev Ed), which provides:

General power to transfer from High Court to subordinate Courts

54C. —(1) A party to any civil proceedings pending in the High Court may for any sufficient reason at any time apply to the High Court for an order that the proceedings be transferred to a subordinate Court.

(2) Subject to subsection (3), the High Court may, if it thinks fit, and on such terms as it sees fit, and either on its own motion or on application, order that the proceedings be transferred accordingly notwithstanding any other provision of this Act.

(3) An order under subsection (2) may only be made in respect of such proceedings as could have been commenced in the subordinate Court to which the application relates, if the value of the claim had been within the District Court limit or the Magistrate's Court limit, as the case may be.

Explanation.—The fact that the proceedings fall within the civil jurisdiction of the subordinate Courts would not, by itself, ordinarily constitute sufficient reason for transferring the proceedings to the subordinate Courts, if enforcement overseas is intended of any judgment obtained in the High Court under any enforcement arrangements currently in force.

- (2) In cases where directions have been given, solicitors should proceed under Order 25, Rule 7(3) of the Rules of Court.

41. *Ex parte* applications for injunctions

- (1) Order 29, Rule 1 of the Rules of Court provides that an application for the grant of an injunction may be made *ex parte* in cases of urgency. However, the cases of *Castle Fitness Consultancy Pte Ltd v Manz* [1989] SLR 896 and *The 'Nagasaki Spirit' (No 1)* [1994] 1 SLR 434 take the position that an opponent to an *ex parte* application, especially where the application seeks injunctive relief, should be invited to attend at the hearing of the application.
- (2) In view of this, any party applying *ex parte* for an injunction (including a *Mareva* injunction) must give notice of the application to the other concerned parties prior to the hearing. The notice may be given by way of facsimile transmission or telex, or, in cases of extreme urgency, orally by telephone. The notice should inform the other parties of the date, time and place fixed for the hearing of the application and the nature of the relief sought. If possible, a copy of the *ex parte* summons should be given to each of the other parties. At the hearing of the *ex parte* application, in the event that some or all of the other parties are not present or represented, the applicant's solicitors should inform the Court of the attempts that were made to notify the other parties or their solicitors of the making of the application.
- (3) The directions set out in sub-paragraph (2) need not be followed if the giving of the notice to the other parties, or some of them, would or might defeat the purpose of the *ex parte* application. However, in such cases, the reasons for not following the directions should be clearly set out in the affidavit prepared in support of the *ex parte* application.

42. *Mareva* injunctions and search orders⁺

- (1) Applicants for *Mareva* injunctions and search orders are required to prepare their orders in accordance with the following forms in Appendix A of these Practice Directions:
 - (a) Form 8: Search order;
 - (b) Form 9: worldwide *Mareva* injunction; and
 - (c) Form 10: *Mareva* injunction limited to assets within the jurisdiction.
- (2) The language and layout of the forms are intended to make it easier for persons served with these orders to understand what they mean. These forms of orders should be used save to the extent that the Judge hearing a particular application considers there is a good reason for adopting a different form. Any departure from the terms of the prescribed forms should be justified by the applicant in his supporting affidavit(s).
- (3) The applicant should undertake not to inform any third party of the proceedings until after the return date.
- (4) Wherever practicable, applications should be made sufficiently early so as to ensure that the Judge has sufficient time to read and consider the application in advance.
- (5) On an *ex parte* application for either a *Mareva* injunction or a search order, an applicant may be required, in an appropriate case, to support his cross-undertaking in damages by a payment into Court, the provision of a bond by an insurance company, a banker's guarantee or a payment to the

⁺ Formerly known as “*Anton Piller* order”.

applicant's solicitor to be held by the solicitor as an officer of the Court pending further order.

Applications for search orders

- (6) It was suggested in *Universal Thermosensors Ltd v Hibben* [1992] 3 All ER 257 at 276 that the order be served by a supervising solicitor and carried out in his presence and under his supervision.
- (a) The supervising solicitor should be an experienced solicitor who is not a member or employee of the firm acting for the applicant and who has some familiarity with the operation of search orders. The evidence in support of the application should include the identity and experience of the proposed supervising solicitor. These guidelines are equally applicable in the local context and the Judge in his discretion may, in appropriate cases, require a supervising solicitor.
- (b) Where the premises are likely to be occupied by an unaccompanied woman, at least one of the persons attending on the service of the order should be a woman.
- (c) Where the nature of the items removed under the order makes this appropriate, the applicant will be required to insure them.

43. Applications for discovery or interrogatories against network service providers

- (1) This paragraph applies to applications made under Order 24, Rule 6(1) or Order 26A, Rule 1(1) of the Rules of Court:
 - (a) by or on behalf of an owner or exclusive licensee of copyright material against a network service provider for information relating to the identity of a user of the network service provider's primary network who is alleged to have infringed the copyright in the material in relation to an electronic copy of the material on, or accessible through, the network service provider's primary network; or
 - (b) by or on behalf of the performer of a performance against a network service provider for information relating to the identity of a user of the network service provider's primary network who is alleged to have made an unauthorised use of the performance in relation to an electronic recording of the material on, or accessible through, the network service provider's primary network.

- (2) An application referred to in sub-paragraph (1) shall:
 - (a) be made in Form 4 (originating summons) of Appendix A of the Rules of Court; and
 - (b) when made in accordance with sub-paragraph (2)(a), be fixed for hearing within 5 days from the date of filing of the application.

- (3) The onus shall lie on the applicant to highlight the nature of the application to the Legal Registry of the Supreme Court and to request that the application be fixed for hearing within 5 days.

- (4) In sub-paragraph (1)(a), the words "electronic copy", "material", "network service provider" and "primary network" have the same meanings as in section 193A(1) of the Copyright Act (Cap. 63, 2006 Rev Ed).

- (5) In sub-paragraph (1)(b), the words “electronic recording”, “network service provider”, “performance” and “primary network” have the same meanings as in section 246(1) of the Copyright Act.