

PRACTICE DIRECTION – CIVIL RESTRAINT ORDERS

THIS PRACTICE DIRECTION SUPPLEMENTS CPR RULE 3.11

INTRODUCTION

- 1 This practice direction applies where the court is considering whether to make –
 - (a) a limited civil restraint order;
 - (b) an extended civil restraint order; or
 - (c) a general civil restraint order,

against a party who has issued claims or made applications which are totally without merit.

Rules 3.3(7), 3.4(6) and 23.12 provide that where a statement of case or application is struck out or dismissed and is totally without merit, the court order must specify that fact and the court must consider whether to make a civil restraint order. Rule 52.10(6) makes similar provision where the appeal court refuses an application for permission to appeal, strikes out an appellant's notice or dismisses an appeal.

LIMITED CIVIL RESTRAINT ORDERS

- 2.1 A limited civil restraint order may be made by a judge of any court where a party has made 2 or more applications which are totally without merit.
- 2.2 Where the court makes a limited civil restraint order, the party against whom the order is made –
 - (1) will be restrained from making any further applications in the proceedings in which the order is made without first obtaining the permission of a judge identified in the order;
 - (2) may apply for amendment or discharge of the order provided he has first obtained the permission of a judge identified in the order; and
 - (3) may apply for permission to appeal the order and if permission is granted, may appeal the order.
- 2.3 Where a party who is subject to a limited civil restraint order –
 - (1) makes a further application in the proceedings in which the order is made without first obtaining the permission of a judge identified in the order, such application will automatically be dismissed –
 - (a) without the judge having to make any further order; and
 - (b) without the need for the other party to respond to it;

- (2) repeatedly makes applications for permission pursuant to that order which are totally without merit, the court may direct that if the party makes any further application for permission which is totally without merit, the decision to dismiss the application will be final and there will be no right of appeal, unless the judge who refused permission grants permission to appeal.
- 2.4 A party who is subject to a limited civil restraint order may not make an application for permission under paragraphs 2.2(1) or 2.2(2) without first serving notice of the application on the other party in accordance with paragraph 2.5.
- 2.5 A notice under paragraph 2.4 must –
 - (1) set out the nature and grounds of the application; and
 - (2) provide the other party with at least 7 days within which to respond.
- 2.6 An application for permission under paragraphs 2.2(1) or 2.2(2) –
 - (1) must be made in writing;
 - (2) must include the other party's written response, if any, to the notice served under paragraph 2.4; and
 - (3) will be determined without a hearing.
- 2.7 An order under paragraph 2.3(2) may only be made by –
 - (1) a Court of Appeal judge;
 - (2) a High Court judge or master; or
 - (3) a designated civil judge or his appointed deputy.
- 2.8 Where a party makes an application for permission under paragraphs 2.2(1) or 2.2(2) and permission is refused, any application for permission to appeal –
 - (1) must be made in writing; and
 - (2) will be determined without a hearing.
- 2.9 A limited civil restraint order –
 - (1) is limited to the particular proceedings in which it is made;
 - (2) will remain in effect for the duration of the proceedings in which it is made, unless the court otherwise orders; and
 - (3) must identify the judge or judges to whom an application for permission under paragraphs 2.2(1), 2.2(2) or 2.8 should be made.

EXTENDED CIVIL RESTRAINT ORDERS

- 3.1 An extended civil restraint order may be made by –
 - (1) a judge of the Court of Appeal;
 - (2) a judge of the High Court; or

(3) a designated civil judge or his appointed deputy in the county court,

where a party has persistently issued claims or made applications which are totally without merit.

3.2 Unless the court otherwise orders, where the court makes an extended civil restraint order, the party against whom the order is made –

(1) will be restrained from issuing claims or making applications in –

(a) any court if the order has been made by a judge of the Court of Appeal;

(b) the High Court or any county court if the order has been made by a judge of the High Court; or

(c) any county court identified in the order if the order has been made by a designated civil judge or his appointed deputy,

concerning any matter involving or relating to or touching upon or leading to the proceedings in which the order is made without first obtaining the permission of a judge identified in the order;

(2) may apply for amendment or discharge of the order provided he has first obtained the permission of a judge identified in the order; and

(3) may apply for permission to appeal the order and if permission is granted, may appeal the order.

3.3 Where a party who is subject to an extended civil restraint order –

(1) issues a claim or makes an application in a court identified in the order concerning any matter involving or relating to or touching upon or leading to the proceedings in which the order is made without first obtaining the permission of a judge identified in the order, the claim or application will automatically be struck out or dismissed –

(a) without the judge having to make any further order; and

(b) without the need for the other party to respond to it;

(2) repeatedly makes applications for permission pursuant to that order which are totally without merit, the court may direct that if the party makes any further application for permission which is totally without merit, the decision to dismiss the application will be final and there will be no right of appeal, unless the judge who refused permission grants permission to appeal.

3.4 A party who is subject to an extended civil restraint order may not make an application for permission under paragraphs 3.2(1) or 3.2(2) without first serving notice of the application on the other party in accordance with paragraph 3.5.

3.5 A notice under paragraph 3.4 must –

(1) set out the nature and grounds of the application; and

(2) provide the other party with at least 7 days within which to respond.

3.6 An application for permission under paragraphs 3.2(1) or 3.2(2) –

(1) must be made in writing;

- (2) must include the other party's written response, if any, to the notice served under paragraph 3.4; and
 - (3) will be determined without a hearing.
- 3.7 An order under paragraph 3.3(2) may only be made by –
 - (1) a Court of Appeal judge;
 - (2) a High Court judge; or
 - (3) a designated civil judge or his appointed deputy.
- 3.8 Where a party makes an application for permission under paragraphs 3.2(1) or 3.2(2) and permission is refused, any application for permission to appeal –
 - (1) must be made in writing; and
 - (2) will be determined without a hearing.
- 3.9 An extended civil restraint order –
 - (1) will be made for a specified period not exceeding 2 years;
 - (2) must identify the courts in which the party against whom the order is made is restrained from issuing claims or making applications; and
 - (3) must identify the judge or judges to whom an application for permission under paragraphs 3.2(1), 3.2(2) or 3.8 should be made.
- 3.10 The court may extend the duration of an extended civil restraint order, if it considers it appropriate to do so, but it must not be extended for a period greater than 2 years on any given occasion.
- 3.11 If he considers that it would be appropriate to make an extended civil restraint order –
 - (1) a master or a district judge in a district registry of the High Court must transfer the proceedings to a High Court judge; and
 - (2) a circuit judge or a district judge in a county court must transfer the proceedings to the designated civil judge.

GENERAL CIVIL RESTRAINT ORDERS

- 4.1 A general civil restraint order may be made by –
 - (1) a judge of the Court of Appeal;
 - (2) a judge of the High Court; or
 - (3) a designated civil judge or his appointed deputy in a county court,

where, despite the existence of an extended civil restraint order, the party against whom the order is made persists in issuing claims or making applications which are totally without merit.
- 4.2 Unless the court otherwise orders, where the court makes a general civil restraint order, the party against whom the order is made –

- (1) will be restrained from issuing any claim or making any application in –
 - (a) any court if the order has been made by a judge of the Court of Appeal;
 - (b) the High Court or any county court if the order has been made by a judge of the High Court; or
 - (c) any county court identified in the order if the order has been made by a designated civil judge or his appointed deputy,
 without first obtaining the permission of a judge identified in the order;
- (2) may apply for amendment or discharge of the order provided he has first obtained the permission of a judge identified in the order; and
- (3) may apply for permission to appeal the order and if permission is granted, may appeal the order.

4.3 Where a party who is subject to a general civil restraint order –

- (1) issues a claim or makes an application in a court identified in the order without first obtaining the permission of a judge identified in the order, the claim or application will automatically be struck out or dismissed –
 - (a) without the judge having to make any further order; and
 - (b) without the need for the other party to respond to it;
- (2) repeatedly makes applications for permission pursuant to that order which are totally without merit, the court may direct that if the party makes any further application for permission which is totally without merit, the decision to dismiss that application will be final and there will be no right of appeal, unless the judge who refused permission grants permission to appeal.

4.4 A party who is subject to a general civil restraint order may not make an application for permission under paragraphs 4.2(1) or 4.2(2) without first serving notice of the application on the other party in accordance with paragraph 4.5.

4.5 A notice under paragraph 4.4 must –

- (1) set out the nature and grounds of the application; and
- (2) provide the other party with at least 7 days within which to respond.

4.6 An application for permission under paragraphs 4.2(1) or 4.2(2) –

- (1) must be made in writing;
- (2) must include the other party's written response, if any, to the notice served under paragraph 4.4; and
- (3) will be determined without a hearing.

4.7 An order under paragraph 4.3(2) may only be made by –

- (1) a Court of Appeal judge;
- (2) a High Court judge; or
- (3) a designated civil judge or his appointed deputy.

- 4.8 Where a party makes an application for permission under paragraphs 4.2(1) or 4.2(2) and permission is refused, any application for permission to appeal –
- (1) must be made in writing; and
 - (2) will be determined without a hearing.
- 4.9 A general civil restraint order –
- (1) will be made for a specified period not exceeding 2 years;
 - (2) must identify the courts in which the party against whom the order is made is restrained from issuing claims or making applications; and
 - (3) must identify the judge or judges to whom an application for permission under paragraphs 4.2(1), 4.2(2) or 4.8 should be made.
- 4.10 The court may extend the duration of a general civil restraint order, if it considers it appropriate to do so, but it must not be extended for a period greater than 2 years on any given occasion.
- 4.11 If he considers that it would be appropriate to make a general civil restraint order –
- (1) a master or a district judge in a district registry of the High Court must transfer the proceedings to a High Court judge; and
 - (2) a circuit judge or a district judge in a county court must transfer the proceedings to the designated civil judge.

GENERAL

- 5.1 The other party or parties to the proceedings may apply for any civil restraint order.
- 5.2 An application under paragraph 5.1 must be made using the Part 23 procedure unless the court otherwise directs and the application must specify which type of civil restraint order is sought.
- 5.3 Examples of a limited civil restraint order, an extended civil restraint order and a general civil restraint order are annexed to this practice direction. These examples may be modified as appropriate in any particular case.

Limited civil restraint order

Name of court	
Claim No.	
Name of Claimant	
Name of Defendant	
Date of issue	

Enter name and address of person against whom the order is made



You must obey the directions contained in this order. If you do not you will be guilty of contempt of court and you may be sent to prison.

SECTION 1

Date of order

Name of Judge

Name of person against whom order is made

The judge has considered an application by the ☐ Claimant ☐ Defendant

OR

The court has considered, of its own initiative ☐

AND

Upon hearing

Upon reading

And has found that the above named person has made two or more applications in these proceedings which are totally without merit.

SECTION 2

The Order

It is ordered that you be restrained from making any further application in these proceedings without first obtaining the permission of

Name of Judge

OR

If unavailable

It is further ordered

☐ **This order will remain in effect for the duration of these proceedings**

OR

☐ until

1. If you wish to apply for permission-

(a) to make **an application** in these proceedings; **OR**

(b) to make an application to **amend or discharge** this order,

you must first serve notice of your application on the other party. The notice must set out the nature and grounds of the application and provide the other party with at least 7 days within which to respond. You must then apply for permission of the judge identified in the order. The application for permission must be made in writing and must include the other party's written response, if any, to the notice served. The application will be determined without a hearing.

2. If you repeatedly make applications for permission under 1 above which are totally without merit, the court may direct that if you make any further application for permission which is totally without merit, the decision to dismiss the application will be final and there will be no right of appeal, unless the judge who refused permission grants permission to appeal.

3. Any application for permission to appeal a refusal of an application under 1 above must be made in writing and will be determined without a hearing.

SECTION 3

Costs

☐ There is no order for costs

☐ It is ordered that you pay costs. The sum you must pay is

You must pay on or before

and send payment to the

☐ Claimant

☐ Defendant

Note

If you attempt to make a further application in these proceedings without first obtaining permission of the judge named in the order above, your application will automatically be dismissed without the judge having to make any further order and without the need for the other party to respond to it.

If this order was made in your absence, you may make an application to set aside, vary or stay the order. An application must be made within the period specified in the order or, where no period is specified, not more than 7 days after service of this order on you. You do not require permission of the court to make such an application.

If you do not understand anything in this order you should go to a Solicitor, Legal Advice Centre or a Citizens' Advice Bureau.

Extended civil restraint order

Name of court	
Claim No.	
Name of Claimant	
Name of Defendant	
Date of issue	

Enter name and address of person against whom the order is made



You must obey the directions contained in this order. If you do not you will be guilty of contempt of court and you may be sent to prison.

SECTION 1

Date of order

Name of Judge

Name of person against whom order is made

The judge has considered an application by the ☐ Claimant ☐ Defendant

OR

The court has considered, of its own initiative ☐

AND

Upon hearing

Upon reading

And has found that the above named person has persistently issued claims or made applications which are totally without merit.

SECTION 2

The Order

It is ordered that you be restrained from issuing claims or making applications in any court specified below concerning any matter involving or relating to or touching upon or leading to the proceedings in which this order is made without first obtaining the permission of

Name of Judge

OR

If unavailable

- ☐ Court of Appeal
- ☐ The High Court
- ☐ County Court(s)
- ☐ Any county court
- ☐ Any court

It is further
ordered

This order will remain in effect until

1. If you wish to apply for permission-

(a) to make **an application** in these proceedings; **OR**

(b) to make an application to **amend or discharge** this order,

you must first serve notice of your application on the other party. The notice must set out the nature and grounds of the application and provide the other party with at least 7 days within which to respond. You must then apply for permission of the judge identified in the order. The application for permission must be made in writing and must include the other party's written response, if any, to the notice served. The application will be determined without a hearing.

2. If you repeatedly make applications for permission under 1 above which are totally without merit, the court may direct that if you make any further application for permission which is totally without merit, the decision to dismiss the application will be final and there will be no right of appeal, unless the judge who refused permission grants permission to appeal.

3. Any application for permission to appeal a refusal of an application under 1 above must be made in writing and will be determined without a hearing.

SECTION 3

Costs

☐ There is no order for costs

☐ It is ordered that you pay costs. The sum you must pay is

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General civil restraint order

Name of court	
Claim No.	
Name of Claimant	
Name of Defendant	
Date of issue	

Enter name and address of person against whom the order is made



You must obey the directions contained in this order. If you do not you will be guilty of contempt of court and you may be sent to prison.

SECTION 1

Date of order

Name of Judge

Name of person against whom order is made

The judge has considered an application by the ☐ Claimant ☐ Defendant

OR

The court has considered, of its own initiative ☐

AND

Upon hearing

Upon reading

And has found that, despite the existence of an extended civil restraint order, the above named person persists in issuing claims or making applications which are totally without merit.

SECTION 2

The Order

It is ordered that you be restrained from issuing any claim or making any application in any court specified below without first obtaining the permission of

Name of Judge

OR

If unavailable

- ☐ Court of Appeal
- ☐ The High Court
- ☐ County Court(s)
- ☐ Any county court
- ☐ Any court

It is further
ordered

This order will remain in effect until

1. If you wish to apply for permission-

(a) to make **an application** in these proceedings; **OR**

(b) to make an application to **amend or discharge** this order,

you must first serve notice of your application on the other party. The notice must set out the nature and grounds of the application and provide the other party with at least 7 days within which to respond. You must then apply for permission of the judge identified in the order. The application for permission must be made in writing and must include the other party's written response, if any, to the notice served. The application will be determined without a hearing.

2. If you repeatedly make applications for permission under 1 above which are totally without merit, the court may direct that if you make any further application for permission which is totally without merit, the decision to dismiss the application will be final and there will be no right of appeal, unless the judge who refused permission grants permission to appeal.

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