JUDICIARY OF
ENGLAND AND WALES

The Interim Applications Court of the Queen's Bench Division of the High Court

A guide for self-represented litigants

January 2013

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Foreword

by Sir John Thomas, President of the Queen's Bench Division

All courts throughout the country recognise the right of parties to represent themselves in a case that involves them. The difficulties that this may present to a person unfamiliar with court procedures are also recognised.

This Guide deals solely with the procedures of the Interim Applications Court in the Queen's Bench Division of the High Court based in the Royal Courts of Justice in London. Past experience shows that self-represented litigants appear in this court quite frequently. The purpose of the Guide is simply to set out a few important practical points for a self-represented litigant to bear in mind when presenting his or her case. It does not set out to cover every aspect of the procedure, nor does it deal with any features of the substantive law.

However, our hope is that it will help smooth the way for cases involving self-represented litigants in the Interim Applications Court to be heard fairly and effectively by the judge in the allotted time.

Although designed for self-represented litigants, we hope that lawyers appearing in this court will consider the contents of the Guide carefully.

I am particularly grateful to the Citizens Advice Bureau and the Personal Support Unit in the Royal Courts of Justice for their support for this initiative, to Richard Lieper and Amy Rogers for preparing the precedents that appear in Appendix 3 and to Mr Justice Foskett for leading the project.

We propose to keep the contents of the Guide under review and modify it where necessary in the light of experience.

John Thomas
January 11, 2013

1. Introduction

1. The interim applications court is not a trial court: it will not give a final decision in the case in which you are involved unless, for example, the case needs to be struck out because it is obviously hopeless or is assessed to be an abuse of the court's processes. Witnesses are not heard.

2. The Judge who deals with the case will be a High Court Judge or a judge authorised to sit as a High Court Judge.

3. You need not worry about the formalities. Lawyers will address the judge as 'My Lord' or 'My Lady' and if you can do so, all well and good. If you prefer 'Sir' or 'Madam', that will be entirely acceptable. Provided you show courtesy and respect, the judge will not be troubled about the mode of address. We say more about how to conduct yourself at the hearing in section 5 below.

4. The court deals with **short** applications of an interim nature within existing or (sometimes) proposed proceedings in the Queen's Bench Division of the High Court[1]. An "interim" application involves applying for some kind of order or direction before the full trial takes place. Examples of the kind of issues commonly dealt with in the interim applications court are given in Appendix 1 - as well as some examples of issues that are **not** dealt with.

5. A "short" application is one that should take no longer than 60 minutes for the judge to hear all parties and to give a decision. Usually, applications are dealt with within a much shorter period than this. Where it is obvious either to all parties or to the judge that the hearing will take longer than 60 minutes, the application will usually be adjourned to another day or sent for hearing before another judge who happens to be available to hear it that day. If the application is adjourned to another day, the judge may attach certain terms or conditions to the adjournment.

6. The reason why applications in this court are dealt with quickly is to ensure that the judge is always available to hear an urgent application within a short period of being asked to do so. If an application takes too long, another litigant with an urgent application may not be able to get before the judge quickly.

7. So that the judge can deal with the application in the above time-scale, he or she will have read beforehand the papers in the case or so much of them as is necessary to understand what it is about. From your point of view, **getting your papers in good and presentable order and in time for the judge to read them is very important** (see sections 3 and 4 below).

8. The proceedings are recorded so that a transcript could be prepared if necessary. However, transcripts are costly and it is unusual for them to be prepared. (Merely because you may be 'fee exempt' does not mean that you are entitled to a transcript of the hearing and/or that the judge will order a transcript at the public expense. Such an order will be made only if it is absolutely necessary. It rarely is.)

9. The proceedings are normally held in public so that other members of the public and the media may be present.

1. It does not deal with family/matrimonial cases.

2. Notice

10. It is a fundamental principle that, except in exceptional circumstances (see paragraph 14 below) a party against whom an application is made must be given the period of notice required by the rules. It follows that, unless exceptional circumstances apply, if you make an application to the interim applications court **you must give notice to the party** against whom you seek an order and, conversely, any party seeking an order against you must give you notice.

11. Whilst there are some exceptions[2], the general rule is that the application notice (which is the document setting out the relief sought[3]) must be served on the party against whom the order is sought "at least 3 days before the court is to deal with the application"[4] This means three clear days and consequently weekends, Bank Holidays, Christmas Day and Good Friday are not included. By way of general example, if the day fixed for a hearing is a Friday, the last day for service is the previous Monday; if the day fixed for a hearing is a Monday, the last day for service is the previous Tuesday.

12. The judge does have power to shorten these periods, but will only do so if no injustice will be caused.

13. Where it is not possible to give the notice required by the rules the judge will have expected informal notice (for example, by telephone, fax or e-mail) to be given except in the exceptional circumstances referred to below.

14. As indicated above, the general rule is that an application must be made on notice to the person or party against whom the order is sought unless there is "exceptional urgency"[5] or there is a need for secrecy in relation to the grant of an interim injunction[6]. Whenever an interim remedy (usually, an injunction) is sought the court will only grant it when notice has not been given if "there are good reasons for not giving notice"[7] and it will have been necessary for the evidence in support of the application to "state the reasons why notice has not been given"[8]. If this is not done, or the judge does not regard the reasons as sufficient, the order will not be made and, if it is still wanted, it will have to be made on notice or as directed by the judge.

15. If you attend the interim applications court and ask to make an application without giving the other party notice, you will be required to complete the form set out in Appendix 2 before you see the judge. It can be obtained from the usher. The judge may feel it necessary for the person who has not been served to be contacted by the court to alert that person to the application being made and to seek their views on the application. Where an application does proceed on a 'without notice' basis, you will be expected to make full disclosure of all things that might affect the making of the order. If you obtain such an order without having made such disclosure, you could face an application from the other party to discharge the order and an order to pay the costs of that party.

2. For example, where an application for summary judgment is made when 14 days notice of the date fixed for the hearing is required: CPR r. 24.4(3). 'CPR' stands for the Civil Procedure Rules which are the rules that govern the procedure in all the civil courts including the Queen's Bench Division.
3. In other words, what you are asking the court to do if you are the applicant.
4. CPR r. 23.7(1)(b).
5. CPR Practice Direction 23A, paragraph 3(1).
6. CPR Practice Direction 25A, paragraph 4.3(3).
7. CPR r. 25.3(1).
8. CPR r. 25.3(3).

3. The way to present your documents

16. You will not be turned away or not listened to you if you are forced to present some or all of your documentation in handwritten form unless what you provide is illegible and/or unintelligible. However, you must understand that the judge will have many pages of documentation to read each day and **clearly typed and properly spaced material** is always preferred. If you can present your documents in this way you have a much better chance that the judge will have understood the point(s) that you wish to make before the application is heard. If you have not been able to do this the Personal Support Unit ('PSU') at the RCJ (Room M104) may be able to help with a modest amount of office work in an emergency depending on resources. (For more information about the PSU see section 8 below.)

17. A font-size of not less than 12 should be used, please – and easy-to-read styles such as Times New Roman or Arial should be adopted. The document should be double-spaced.

18. Try to keep your written material as short and concise as you can. The judge will not welcome a large number of pages with a great deal of irrelevant material. If you are preparing a Skeleton Argument concentrate on putting your strongest arguments as you see them in a short series of numbered or sub-paragraphed propositions towards the beginning of the document and then, if you wish, develop them in a little more detail later[9]. However, do try to keep what you have to say **brief and to the point.** The judge will, if necessary, ask questions to understand your argument more clearly.

19. If you are the applicant, you will have to prepare a paginated bundle[10] for the court, for the respondent – and, of course, for yourself. This is to ensure that everyone in court has the same material available. This is dealt with in section 4 below.

20. Although this guidance is addressed to you, the obligations are the same for represented parties and you can be assured that the judge will expect the same approach from them.

9. Examples of a witness statement and a Skeleton Argument are given in Appendix 3.
10. In other words, a bundle of documents with page numbers clearly marked at the bottom: see paragraph 25 below.

4. The documents you need to prepare

21. This will depend on whether you are making the application (and are thus 'the applicant') or whether you are on the receiving end of an application (and thus are 'the respondent').

22. Some very helpful guidance is given by the RCJ Citizens Advice Bureau ('CAB') in the form of two leaflets that can be downloaded from their website - **http://www.rcjadvice.org.uk/civil-law/**. They are as follows:

- **http://www.rcjadvice.org.uk/RCJAdviceBureauGoingttoCourt4.pdf**
- **http://www.rcjadvice.org.uk/RCJAdviceBureauGoingttoCourt5.pdf**

23. If you have not obtained any legal advice previously, it is recommended that you consider these leaflets with care before embarking on any proceedings and, if possible, take the advice of the CAB. So far as **interim applications** are concerned, there is a helpful summary of what is involved at page 31 of Leaflet 4.

If you are the applicant

24. If you have an application to make in existing proceedings (whether you are the claimant or defendant), you will need to prepare the appropriate documentation and lodge it with the court in advance of the hearing. You must lodge the documentation with the court in Room WG08 (the Queen's Bench Listing Office).

25. What you must lodge is a **paginated** bundle of documents. The pagination does not have to be typed, but it must be clear. Use a bold black pen and write the numbers of **each page** in sequence, preferably in the **bottom right-hand corner** of the page. (Sometimes other page numbers appear on documents: make sure that the number you enter is clear.)

26. The bundle should preferably contain three sections with the following documents in the following order:

Section 1

- Skeleton Argument (if you wish)
- Application Notice
- A draft of the order you seek
- Chronology of events in the action (e.g., date of Particulars of Claim, Defence, orders made and so on)

Section 2

- Any witness statement(s) relied upon, including exhibits
- Any witness statements in response, including exhibits (if supplied)

Section 3

- Photocopies of any previously reported legal cases you rely on (or in a separate bundle if there are a number)

If you are the respondent

27. If you have produced a witness statement or statements and sent it/them to the other side in sufficient time to be included in the bundle they should be preparing, your statement(s) should be put in that bundle.

28. If you have not prepared them in time in order to get into the applicant's bundle, don't worry. Get them to the court beforehand if you can (to Room WG08). If you cannot do that, bring them to court with you and give them to the usher. You must remember that if the late arrival of your witness statement(s) causes the judge to adjourn the application you may be ordered to pay the other side's costs.

29. If you have prepared a Skeleton Argument, get it to Room WG08 if you can before the hearing (and send it to the other side) or simply bring it to the hearing with you and give it to the usher with copies for the other side if one has not been sent to them previously.

5. The hearing

30. Try to arrive at the RCJ **at least an hour** before your hearing. There can be queues at certain times of the day to get through the security screening at the entrance and you must then find your way to Court 37. Ask the way to it at the Information Desk just after the security screening at the main entrance to the RCJ if you do not know where to go. Arriving early gives you a chance to relax and get your papers in order.

31. When you get to Court 37 introduce yourself to the usher who will be in and out of the courtroom from time to time. If you have a 'Mackenzie friend' with you (see section 7 below), introduce that person also to the usher. If a representative of the PSU (see section 8 below) is with you, ensure that the usher knows that that person is with you or ask that person to do so.

32. Except when the court is sitting in private, you can go into Court 37 and listen to other cases if you wish or you can remain outside until your case is called.

33. You may find that the barrister or solicitor appearing for the other side in your case will come up to you and introduce themselves. That is perfectly normal. They will do so as a matter of courtesy and indeed professional obligation. They may wish to explain some aspect of what they propose to do or say at the hearing. This is not a matter that should cause you concern: listen carefully and try to understand what is being said. If you do not fully understand, ask them to repeat it.

34. It is possible that you will be handed some new document (e.g. a witness statement) that you have not seen before. Accept it if it is offered to you and read it if there is time before the hearing commences. Do not worry that such a document has been given to you. The barrister/solicitor will be under an obligation to tell the judge that you have only been given the document shortly before the hearing. The judge will ensure that you are not disadvantaged by this.

35. When you go into court for the hearing, sit where the usher directs you which will usually be in the front row next to where the barrister/solicitor representing the other party will also sit. Usually parties stand to address the judge, but if you are more comfortable sitting the judge will not expect you to stand. If you do remain seated, it is important that you speak clearly so that the judge can hear what you have to say.

36. If you are the respondent to the application, the barrister/solicitor representing the applicant will explain to the judge what the application is about. Since the judge will have read the papers (see paragraph 7 above), it is likely that the judge will have questions for the barrister/solicitor. The proceedings will often be in the form of a dialogue or conversation between the judge and the parties rather than the judge playing no active part until all parties have had their say.

37. You should listen carefully to what is said. Have something to write with and a piece of paper or a notebook with you to note down any point of significance from your point of view.

38. When the barrister/solicitor representing the applicant has concluded, the judge will turn to you and ask what your position is in relation to the application. Again, given that the judge will have read the papers provided they have been lodged on time, it is likely that he/she will invite you to confirm that he/she has understood your arguments correctly. Listen carefully and, if necessary, ask the judge to repeat anything you do not understand. If the judge has understood your position clearly, then say so. If you think the judge has not understood fully, then also say so and explain (politely) why.

39. The judge may ask you to develop your argument a little further. If so, do try to do so briefly and, if the judge is making a note, at a speed that enables the note to be taken.

40. After you have made your representations, the judge may ask the applicant's representative for any further response.

41. The judge will probably give a decision there and then – or possibly ask all parties to leave the courtroom for a short while (or he/she will do so) when a few notes are made before giving his/her decision on the merits of the application.

42. If you are the applicant, the roles set out in paragraphs 36-38 above are reversed. The judge will probably tell you that he/she has read the papers and will ask for confirmation that he/she has understood the nature of your application. Whilst the judge will usually give you the opportunity to develop your arguments, you can anticipate that there will be a dialogue between you and the judge. Most judges find this the best way to get to the bottom of the issues in an application.

43. When you have presented your case for the relief or remedy you seek, the judge will invite the respondent to respond and you will be given the final word before the judge decides what order to make.

44. If you are the applicant and successful, the judge will usually ask the Court Associate to prepare an order giving effect to the decision. If you are the respondent and the other (represented) side is successful, the judge may ask the barrister/solicitor for that party to prepare a draft order giving effect to the decision to be submitted to the judge for consideration.

6. Costs and permission to appeal

45. The judge has power to deal with the costs of the hearing.

46. If you are the losing party to the application, you may be ordered to pay the costs. We cannot deal with that issue in detail in this Guide.

47. If you are the successful party, you may be entitled to seek an order for costs in your favour. Again, we cannot deal with that in detail in this Guide, but if you are proposing to ask for an award of costs in your favour you should bring with you a summary of the costs and out of pocket expenses that you have incurred plus about three copies in case they are needed. You will need to consider CPR Part 48.6 and the Costs Practice Direction, Section 52.

48. If you are the losing party and you believe you have grounds for appeal, at the end of the hearing you should apply to the judge for permission to appeal to the Court of Appeal. The judge will only grant permission to appeal if he/she considers that the appeal has a real prospect of success.

7. 'Mackenzie Friend'

49. This is an expression used to describe someone who comes along to the hearing to assist you.

50. You can find out what a 'Mackenzie Friend' may and may not do in a Practice Guidance Note that you can find at:
http://www.judiciary.gov.uk/Resources/JCO/Documents/Guidance/mckenzie-friends-practice-guidance-july-2010.pdf

8. The Personal Support Unit at the RCJ

51. If you do not have a 'Mackenzie Friend', but want some moral and practical support from someone, the Personal Support Unit in the RCJ may be able to assist you. Their volunteers cannot give you legal advice but they can help with the marshalling of documents, showing you the way to where you ought to be and providing support during a hearing.

52. The website of the PSU is: **http://thepsu.org/**.

53. The office of the PSU at the RCJ can be found in room M104. Ask the way at the Information Desk in the Main Hall just after the security check area.

9. Civil restraint orders

54. You will need to understand that if you are the applicant and the judge considers your application to be "totally without merit" you may run the risk of being made the subject of a civil restraint order[11]. A litigant who brings repeated unmeritorious applications, or who tries to litigate issues that have previously been dealt with by the court, will almost invariably be considered as a candidate for such an order. If such an order is made, you will not be able to make certain applications to the court without the permission of a judge.

11. See CPR r. 3.11 and Practice Direction 3C.

Appendix 1: Applications commonly heard in the Interim Applications Court

- Application for an injunction preventing a former employee from abusing confidential information/setting up in competition/working for a rival employer
- An application to prevent travellers from setting up a site in contravention of the planning laws
- Application for an injunction preventing the disposal of money (a 'freezing order') or preventing the sale of a property
- An application to continue a freezing order
- An application for the disclosure of the whereabouts of goods/money made the subject of a freezing order
- An application for the delivery up of goods
- An application to discharge or vary one of the foregoing orders
- An application for permission to amend the pleadings in an action in the QBD
- An application to extend the time to comply with an order made by a judge in the QBD interim applications court or to set aside or vary such an order including an order made on the papers by a QBD judge
- An application for further time and/or directions in the context of a pending appeal from a Master of the QBD or from an order of a Circuit judge in a County Court[12]
- An application for permission to apply to rely upon an expert's report at trial
- An application for disclosure of specific documents
- An oral renewed application for permission to appeal against the order of a Master of the QBD or of a Circuit judge in a County Court following dismissal of the application on the papers by a judge

12. It should be noted that a High Court Judge does not have any power to make orders concerning an appeal from an order made by a District Judge of a County Court to a judge of the County Court - for example, concerning a possession order made by a District Judge. In such a case any application must be made to the County Court judge in the local county court.

Appendix 2: Form for applications without notice

See overleaf

Appendix 3: Examples of a witness statement and supporting Skeleton Argument

Examples of a witness statement and supporting Skeleton Argument in a case where the Claimants (Contrary Ltd), the former employers of the Defendant, Andrea Blank, obtained an interim injunction without notice preventing her from starting employment with another employer (Obliging Ltd).

The Judge had granted the order for seven days until a "return date" at which the court would consider whether to continue the order. Andrea Blank has prepared a witness statement and a Skeleton Argument in support of her argument that the order should not be extended and indeed should be set aside.