

CAYMAN ISLANDS



Supplement No. 1 published with Extraordinary Gazette

No. 60 dated 12 August 2015.

PRACTICE DIRECTION NO 1 OF 2015* (as amended on 13 July 2015)
Applications for Sealing Orders and for inspection of Court Files in Civil Proceedings
Grand Court Rules Order 63 r 3



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The current provisions of Order 63 provide for a Register of Judgments and a Register of Writs and Other Originating Process which are open for inspection by the public (O. 63 rules 7 and 8). The balance of a Court file is open to inspection only by the parties: O. 63 r. 3(3); although a non-party may apply for inspection pursuant to O. 63 r. 3(5) (see below). A judge of the Court may order that all or part of a Court file may be sealed and therefore not open to inspection by anyone without leave of the Court: O. 63 r. 3(4). Such leave is granted upon application by any person who is not a party: O. 63 r. 3(5). Order 63 has no application to matrimonial, probate, winding up or bankruptcy proceedings, all of which are governed by their own rules.

In furtherance of the rules, the following practice shall apply:

An application under O. 63 r. 3(4) to seal all or part of a Court file may be made to the Court or by letter to the Clerk of the Court and may be determined by a Judge administratively. An application to the Clerk of Court will be referred to a Judge with or without recommendation by the Clerk of Court. The application should contain:

1. the identity of the applicant;
2. a concise statement of the reason for the request;
3. a description of the portion of the Court file to be sealed, which should be no broader than is necessary to protect the privacy interest in question; and
4. a statement of the duration for which the order is required, which should be no longer than is necessary to protect the privacy interest in question.

A sealing order under O. 63 r. 3(4) may be made by a judge of the Court on his own motion if he or she is satisfied that such an order is necessary in the interests of justice.

Where a file has been ordered to be closed, the Clerk of Court shall ensure that the file, both in its documented version and electronic version, is appropriately marked as sealed and access is restricted. The Judicial Enforcement Management System (JEMS) will be programmed to ensure that the sealed electronic files are not accessible except to certain

* To be read with Practice Direction on Publication of Chambers Proceedings; 1997 CILR Note I.



levels of staff without leave of the court; such access to be granted after the Clerk of Court has obtained leave from a Judge.

Where a sealing order has been made by a Judge, the successful applicant must provide:

1. A cover letter addressed to the Clerk of Court advising that such an order has been made;
2. Sufficient copies of the documents to be sealed; and
3. A fully endorsed cover sheet for an envelope of a type to be provided by the Registry, setting out the file number, names of the parties, the date and duration of the sealing order, and listing the contents of the envelope.

The Civil Registry will contact counsel to fix a date and time for the file (or documents) to be sealed in the presence of counsel or his or her representative. The envelope will be date stamped and endorsed with the names of the persons present.

Application for inspection of Court Files

An application under O. 63 r. 3(5) for leave to inspect a Court file may be made by letter to the Clerk of the Court and may be determined administratively by the Clerk of Court unless the Clerk is of the view that the matter should be referred to a Judge for determination. The application should contain:

- 1) The identity of the person seeking leave to inspect and, where that person is an attorney or agent, the identity of his principal. Where the person applying is an agent, written authority of the principal must be furnished.
- 2) A concise statement of the reason for the request; and
- 3) A description of the portion of the Court file that the applicant wishes to inspect.



Application for inspection of a sealed file**

1. An application under O. 63 r. 3(5) for leave to inspect a file which has been sealed by order of the court must be made in writing to the Clerk of Court and notified to the party or parties who obtained closure of the file.
2. Any objection to inspection and reasons therefor shall be submitted in writing to the Clerk of the Court by no later than 3:00 pm on the fifth day following receipt of notice of the application, for consideration by the judge who made the sealing order (or, in his absence, another judge).
3. The application and any objection shall immediately be submitted by the Clerk of Court for consideration by the judge.

All orders made under O. 63 rules 3(4) and (5) shall be endorsed on the cover of the file.

Hon. Anthony Smellie
Chief Justice

February 20 2015
(Amended on the 13th July 2015)

**This direction was added upon the advice of the Court of Appeal given in Civil Appeal No. 23 of 2014, Cause FSD 96 of 2014 (AJJ), *Sasken Communications Technologies Limited and Spreadrum Communications Inc.*, transcript of written judgment delivered 10th May 2015.