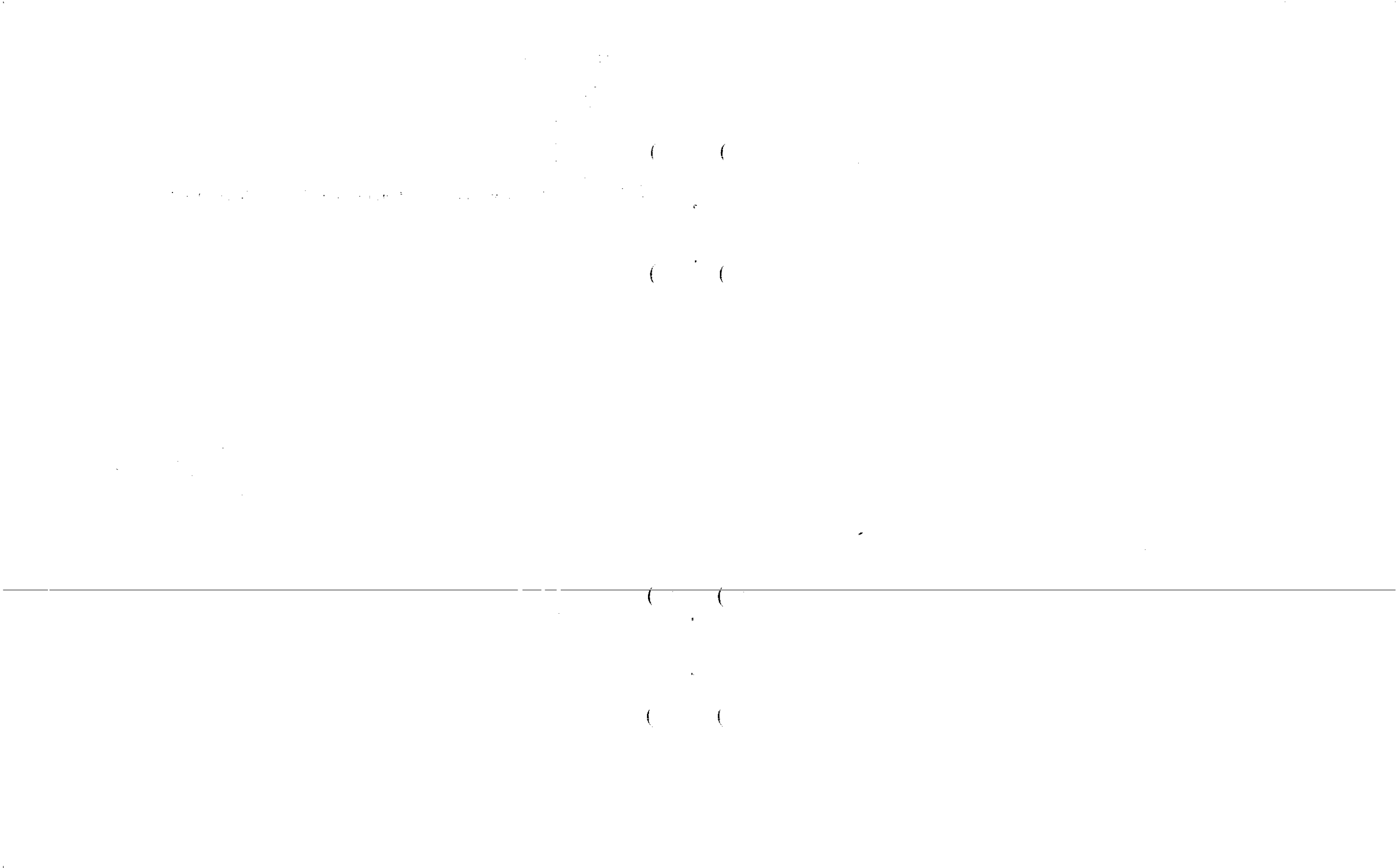


CAYMAN ISLANDS



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**THE GRAND COURT (CIVIL PROCEDURE)
(AMENDMENT) RULES, 1982**



THE GRAND COURT LAW
(Law 8 of 1975)

THE GRAND COURT (CIVIL PROCEDURE) (AMENDMENT)
RULES, 1982

In exercise of the powers conferred upon the Rules Committee by section 21A of the Grand Court Law, the following Rules of Court are hereby made -

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| Citation. | 1. These Rules may be cited as the Grand Court (Civil Procedure) (Amendment) Rules, 1982. |
| Amendment of Rules. | 2. The Grand Court (Civil Procedure) Rules are amended by inserting the following new Part immediately after Part VII - |

“PART VIIA - Interim Payments

Application for interim payment.	49A. (1) In an action for personal injuries the plaintiff may, at any time after the writ has been served on a defendant and the time limited for him to appear has expired, apply to the Court for an order requiring that defendant to make an interim payment.
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(2) In this rule, “action for personal injuries” means an action in which there is a claim for damages in respect of personal injuries (which expression includes any disease and any impairment of a person’s physical or mental condition) to the plaintiff or any other person or in respect of a person’s death.

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| Manner of application. | 49B (1) An application under rule 49A must be made by summons, stating the grounds on which the application is made, and be supported by an affidavit which must -
(a) verify the special damages, if any, claimed by the plaintiff up to the date of the application; and
(b) exhibit the hospital and medical reports, if any, relied upon by the plaintiff in support of the application.

(2) The summons and a copy of the affidavit in support and any exhibit referred to therein must be served on the defendant against whom the order is sought not less than ten clear days before the return day. |
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Order

(3) Notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown by reason of a change of circumstances.

49C. (1) If, on the hearing of an application under rule 49A, a Judge in chambers is satisfied -

- (a) that a defendant against whom the order is sought has admitted liability for the plaintiff's claim;
- (b) that the plaintiff has obtained judgement against a defendant for damages to be assessed; or
- (c) that, if the action proceed to trial, the plaintiff would succeed in the action on the question of liability without any substantial reduction of the damages for fault on his part or on the part of any person in respect of whose injuries or death the plaintiff's claim arises and would obtain judgment for damages against the defendant or, where there are two or more defendants, against any of them,

he may, if he thinks fit and subject to subrule (2), order the defendant to make an interim payment of such amount as he thinks just, not exceeding a reasonable proportion of the damages which in his opinion are likely to be recovered by the plaintiff.

(2) No order shall be made under subrule (1) unless it appears to a Judge in chambers that the defendant or, if there are two or more defendants, any of them, is -

- (a) a person who is insured in respect of the plaintiff's claim;
- (b) a public authority or a statutory corporation; or
- (c) a person whose means and resources are such as to enable him to make the interim payment.

(3) Subject to any practice or procedure relating to the control of money recovered by a person under disability applied by virtue of subsection (2) of section 20 of the Law, the amount of any interim payment ordered to be made shall be paid to the plaintiff unless the order provides for it to be paid into Court, and where the amount is paid into Court, a Judge in chambers may, on the ex parte application of the plaintiff, order the whole or any part of it to be paid out to him at such time or times as he thinks fit.

(4) An interim payment may be ordered to be made in one sum or by such instalments as a Judge in chambers thinks fit.

49D. (1) Where an application is made under rule 49A, a Judge in chambers may give directions as to the further conduct of the action.

(2) If, in a case to which paragraph (c) of subrule (1) of rule 49C applies, a Judge in chambers thinks fit to give directions under this rule before the summons for directions, rule 46 shall, with any other necessary modifications, apply as if the application were a summons for directions, and in particular he may order an early trial of the action.

Directions on application.

Non-disclosure of order.

Payment into Court.

Adjustment on final judgement or order.

Interim order on counter-claim.

Amendment of Grand Court (Civil Procedure) (Amendment) Rules, 1980.

49E. The fact that an order has been made under rule 49C shall not be pleaded and no communication of that fact shall be made to the Court at the trial or hearing of the action or of any question or issue as to liability or damages until all questions of liability and the amount of the damages have been decided.

49F. Where, after making an interim payment pursuant to an order made under rule 49C, a defendant pays a sum of money into Court under rule 43, the notice of payment must state that the defendant has taken into account the interim payment.

49G. Where a defendant has made an interim payment pursuant to an order made under rule 49C, the Court may, on giving or making a final judgment or order determine that defendant's liability to the plaintiff in the action, make any such order with respect to the interim payment as may be necessary for giving effect to the determination, and in particular -

- (a) an order for the repayment by the plaintiff of any sum by which the interim payment exceeds the amount which that defendant is liable to pay the plaintiff; or
- (b) an order for the payment by any other defendant of any part of the interim payment which the defendant who made it is entitled to recover from him by way of contribution or indemnity or in respect of any remedy or relief relating to or connected with the plaintiff's claim.

49H. A defendant who makes a counterclaim for damages in respect of personal injuries to himself or any other person or in respect of a person's death may apply for an order requiring the plaintiff to make an interim payment and this Part shall apply accordingly with the necessary modifications."

3. Rules 3 of the Grand Court (Civil Procedure) (Amendment) Rules, 1980 is amended by substituting "63" for "62" in -

- (a) the second line;
- (b) the marginal note.

Made by the Rules Committee this 29th day of January, 1982.

WILTON HERCULES
Acting Chief Justice
DAVID R. BARWICK
Attorney General
TRUMAN BODDEN
Legal Practitioner
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