

GRAND COURT PRACTICE DIRECTION NO. 3/97

Confidentiality and Publication of Chamber's Proceedings

In the absence of local rules, the Cayman Islands practice for the reporting of proceedings heard in chambers is to be found in the English Administration of Justice Act 1960, s.12, with the addition of the provisions of this direction. Section 12 reads:

"(1) The publication of information relating to proceedings before any court sitting in private shall not itself be contempt of court except in the following cases, that is to say –

- (a) where the proceedings relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;
- (b) where the proceedings are brought under Part VIII of the Mental Health Act, 1959, or under any provision of that Act authorising an application or reference to be made to a Mental Health Review Tribunal or to a county court;
- (c) where the court sits in private for reasons of national security during that part of the proceedings about which the information in question is published;
- (d) where the information relates to a secret process, discovery or invention which is in issue in the proceedings;
- (e) where the court (having power to do so) expressly prohibits the publication of all information relating to the proceedings or of information of the description which is published.

(2) Without prejudice to the foregoing subsection, the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.

(3) In this section references to a court include references to a judge and to a tribunal and to any person exercising the functions of a court, a judge or a tribunal; and references to a court sitting in private include references to a court sitting in camera or in chambers.

(4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be so punishable apart from this section."

In view of the sensitivity of many proceedings now routinely being brought in the commercial or civil jurisdiction of the Grand Court, the parties involved in any matters taken in chambers

about which information might be published but for an express prohibition, are to be at liberty to apply for an order against or delimiting publication.

Once the publication is made, it will then be in the discretion of the judge in the particular case to determine the ambit of publication. The publication of information relating to proceedings taken in chambers will not then of itself be a contempt of court unless it is contrary to the guidelines set out herein or contrary to a direction made by the judge in the case.

The form below should be submitted by counsel prior to and certainly no later than the occasion of the delivery of the written ruling or judgment in any case in which the issue arises. It is preferable that the application be submitted in advance, particularly when a matter is pending decision, so that it may be reflected in the order, ruling or judgment.

The use of the form will avoid the need for any separate application by way of summons in the cause. Notice of the submission of the form is to be given to all sides. Unless it is necessary that counsel be heard in person (e.g. if any other party objects) the application may be submitted with written reasons, to be considered by the judge administratively and the decision notified in writing.

11th August 1997

The Hon. Anthony Smellie, QC
Chief Justice

**APPLICATION TO RESTRICT THE PUBLICATION OF A RULING, ORDER OR
JUDGMENT GIVEN *IN CAMERA***

1. Full title of cause or matter:
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2. Name of party on whose behalf the issue of confidentiality is to be raised:
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3. Name of counsel or attorney:

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4. Order, ruling or judgment to be considered (already given or to be given – describe by reference to the instant pleading):

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5. Suggested restrictions, changes or redactions:

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(Signature of counsel)

Dated:

File by:

NOTE: Brief written reasons for the proposed restrictions on publication are to be submitted with this form.