



JUDICIARY OF
ENGLAND AND WALES

Interim Applications in the Chancery Division: A Guide for Litigants in Person



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Section A: Introduction

This introduction gives you a quick overview of interim applications and answers some common questions about them. More detail on the process is given later in the guide.

What are interim applications?

1. An “interim” application involves asking the court to do something, by applying for an order or a direction. It is called ‘interim’ because it is something that you need to ask for before the full trial of the claim. Sometimes interim applications concern aspects of the management of a case, such as fixing a trial date. More often they are applications for interim injunctions, where a party (one side in a case) asks the court to deal with actual or prevent a threatened injustice where it may be too late to have it dealt with at trial. An example of this would be an application to prevent a party from selling the property in dispute in the proceedings before the trial can take place. In that case, the injunction (the order preventing the sale) would last, at most, until a full trial can take place.
2. More examples of the kind of issues commonly dealt with by the Applications judge are freezing assets until trial to prevent them being dissipated, enforcing garden leave or covenants in a contracts of employment until trial, delivery up of documents and restraining advertisement of winding up petitions.

How do interim applications work?

3. Every day when the courts are open a Chancery judge sits in court 10 in the Rolls Building to hear interim applications. (S)he is called the Applications judge. They are normally a different person from the judge who will make the final decision at the trial of the actual case.
4. The Applications judge is likely to have many applications to deal with in a single day. An interim application should take no longer than **two hours**



The Rolls Building, Fetter Lane, London

in total. This includes time for the judge to read the papers, hear all parties and give a decision. Usually applications are dealt with in a much shorter period than this. This is to ensure that the judge is always available to hear urgent applications within a short time of being asked to do so. If the application cannot be dealt with within two hours, the judge will usually order it to be dealt with on another day.

5. So that the judge can deal with an application within two hours, (s)he will need to read the papers in the case beforehand to be able to understand what the case is about. Often the judge has to do this on the previous day. There is usually not enough time on the day.

6. This means that it is very important that you get your papers to court in good order and in plenty of time for the judge to read them before the application. The general rule is that you should get your papers to the court **by 10.30am on the day before the hearing.**

7. If for some good reason you can't manage this then you should get your papers to court as soon as you can. If your application is really urgent you should bring the papers to court with you.

What evidence is necessary?

8. Applications are always dealt with on written evidence, usually in the form of witness statements. Copies of relevant documents referred to in the witness statements should be attached to them. They are called exhibits. At the hearing of the application, witnesses do not give evidence orally and are not cross-examined.

What happens on the day?

9. You need not worry about the formalities. Lawyers will address the judge as 'My Lord' or 'My Lady' and you should try to do so. However, as long as you show courtesy and respect, the judge will not mind. We say more about how to conduct yourself at the hearing in **section E**.

10. The proceedings are recorded so that a transcript of the judgment can be obtained if necessary. However, transcripts are costly and it is unusual for a judge to order a transcript at the public expense, unless it is really necessary and you prove that you cannot afford to pay for one.

11. The proceedings are normally held in public so that other members of the public and the media may be present. This is so that justice is done, and seen to be done, in the open. If you have some special reason for asking the court to sit in private, you will need to explain that to the judge before the hearing of your application begins.

• **So that the judge can deal with an application within two hours, it is very important that you get your papers to the court by 10.30am on the day before the hearing.**

Section B: Giving notice (telling the opposing party about your application)

12. It is a basic principle of fairness and justice that, except in special circumstances (see paragraph 14 below) a party or parties against whom an application is made must be given a proper opportunity to put their case to the court, and for that purpose to prepare evidence and legal argument beforehand.

13. The court's rules lay down a period of time, in advance of the date for the hearing of your application, before which you must notify the other parties of the application which you wish to make. 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. In the same way, any party seeking an order against you must give you notice.

14. The general rule is that the application notice (which is the formal document setting out what you want the court to order and why - an example of which is in the Appendix) must be served on the party or parties against whom the order is sought at least three days before the court is to deal with the application. This means three clear days, i.e. there must be three full working days between the date of service of the application notice and the date of the hearing. 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 Monday of that week; if the day fixed for a hearing is a Monday, the last day for service is Tuesday of the previous week. Copies of any written evidence which you wish to use in court must be served on the other parties at the same time.

15. The judge does have power to shorten this period, but will only do so if no unfairness will be caused to the other parties, or if they agree.

16. There are detailed rules about how to serve documents on other parties. The main methods are by post and by hand. Where it is not possible to give the notice required by

- **Generally, the application notice must be served at least 3 days before the court is to deal with the application.**
- **This means three full working days**
- **Weekends, Bank Holidays, Christmas Day and Good Friday are not included.**

the rules, the judge will have expected informal notice (for example, by telephone, fax or e-mail) to be given except in the very exceptional circumstances referred to in the next two paragraphs.

17. The judge will not deal with an application made without notice unless either there is exceptional urgency or there is a real need for secrecy. A need for the order to be made in less than three clear days from the making of the application is no excuse for not giving the other party as much informal notice as possible. It is very rare for the judge to accept that the urgency is so great that, for example, a telephone call cannot be made or an email sent, in sufficient time for the other parties or their lawyers to attend court. The judge will be unlikely to accept that the application is too urgent for notice to be given if you have left it until the last moment before making your application.

18. If there is a real need for secrecy it must be demonstrated and explained in your written evidence. If this is not done, or if (as often happens) the judge does not regard your reasons for secrecy as sufficient, the order will not be made without notice. If you still want the order, the application will have to be made again after notice has been given to the other parties, as required by the rules or as directed by the judge.

19. Whenever you make an application without notifying the other parties in time for them to attend, you are required to inform the court about anything you think might count against you being granted the order you want. A good way to think about this very important requirement is to ask yourself what the opposing parties might want to tell the court in order to prevent the order being made, if they were present. This is called the full disclosure duty. If you obtain such an order without having made such full disclosure, you could face an application from the other parties to set aside the order, and for an order that you pay the other parties' costs. The court may do this even if, had you made full disclosure, the order you asked for would still have been made. By this means the judge spells out the importance of the full disclosure duty.

- **If you make an application without notice, you must inform the court about anything you think might count against you.**
- **This is called the full disclosure duty.**
- **If you obtain such an order without full disclosure, you could face having the order set aside, or paying the costs of the other party.**

Section C: The way to present your documents

20. You will not be turned away or not listened to if you are forced to present some or all of your documentation in handwritten form. However, you must understand that the judge will have many pages of documentation to read each day, so that clearly typed and properly spaced material is always preferred. If you can present your documents in this way, or in clearly readable handwriting, the judge will have a much better chance of understanding your case in advance, so that your task of explaining it orally in court will be that much easier. If you have not been able to type your documents the Personal Support Unit ('PSU') at the Royal Courts of Justice (Room M104 in the main Law Courts in the Strand) may be able to help with a modest amount of office work in an emergency depending on their resources. (For more information about the PSU see **section H.**)

21. A font-size of not less than 12 should be used, and easy-to-read fonts such as Times New Roman or Arial should be adopted. The document should be double or 1.5 spaced. It is best to write or type on one side only, because it is much easier to copy. Try to keep your written material as short and simple as you can. The judge will not welcome a large number of pages with a great deal of irrelevant material.

22. The court's rules require professional legal representatives to prepare what are called Skeleton Arguments, and to make them available in time for the judge's pre-reading. A Skeleton Argument is meant to be a short written introduction to the judge, enabling him/her to pre-read effectively, to get an early understanding of what the case is about, and the reasons why the party for whom the document is prepared should be successful. It will usually be very helpful if you do the same. You

Presenting documents - a quick checklist

- **Typed if at all possible**
- **Font size of not less than 12**
- **Easy-to-read fonts, e.g. Arial or Times New Roman**
- **Double- or 1.5-spaced text**
- **Keep everything as short and simple as possible**
- **If you can, prepare a short 'Skeleton Argument'**

do not need to use legal jargon. Think of the document as your short position statement about the case. **There is an example of a Skeleton Argument in the Appendix.**

23. If you are preparing a Skeleton Argument (or position statement), start by telling the judge what the application is about and what you want the judge to do. Then concentrate on putting your strongest arguments as you see them in a short series of numbered paragraphs towards the beginning of the document. Then, if you wish, develop them in a little more detail later. However, do try to keep what you have to say short and simple. Remember that the judge may have to pre-read up to 30 skeleton arguments before the day's hearing starts. Explain in your Skeleton Argument what additional documents the judge really needs to pre-read, and how long you think it will take to do so. The judge will, if necessary, ask you questions at the hearing to understand your argument more clearly.

24. If you are the applicant, you will have to prepare a page-numbered set of documents ("the hearing bundle") for the court, for the other parties and, of course, for yourself. This is to ensure that everyone in court has the same material available. This is dealt with in **section D**.

25. 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. If other parties are represented, they may agree to prepare the hearing bundle, and include in it the documents you want to use in court. You will need to ask them if they will do so well in advance.

Section D: The documents you need to prepare

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

27. 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 - **www.rcjadvise.org.uk/civil-law**.

They are as follows:

- Thinking of going to court, leaflet 4: **<http://www.rcjadvise.org.uk/wp-content/uploads/2012/12/leaflet4-51112.pdf>**
- Thinking of going to court, leaflet 5: **<http://www.rcjadvise.org.uk/wp-content/uploads/2012/12/leaflet5-51112.pdf>**

28. 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 or some other organisation providing free legal advice. You will also find a useful description of the applications process in chapter 5 of the Chancery Guide. You can access it online at **www.justice.gov.uk/courts/rcj-rolls-building/chancery-division**.

29. You can obtain a copy of a blank Application Notice on which to set out the details of your application by going to **www.justice.gov.uk/forms/hmcts**, and inserting N244 in the "Find a court form" box. Press "search court forms" at the bottom of the box and then choose to download form N244.

If you are the applicant:

30. 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 at Counter 9 on the ground floor of the Rolls Building. Or you can post the documents to Chancery Judges' Listing Office, Rolls Building, 7 Rolls Buildings, London EC4 1NL, providing that you make sure that it will arrive in time.

31. You must lodge a set of documents with numbered pages, (called 'the hearing

bundle') **by 10.30am on the day before the date of the hearing.** The page numbering 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.)

32. If you want to rely on reported legal cases or passages from legal text books in support of your case you should provide photocopies or print outs from the internet for the judge. If the case is very long and you only want to rely on a short passage you should provide the first few pages of the case and then the pages with the parts you want to rely on. Similarly if you want to rely on a passage from a text book, you should provide a copy of the title page of the book and then a copy of the relevant passages. You should notify the other party of the names and dates of the cases and text books you will be referring to as far in advance as possible.

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

Section 1

- Skeleton Argument or position statement (if you wish)
- Application Notice
- A draft of the order you seek. That is what you want the court to do (if you can).
- Chronology of main events in the case (e.g., central facts of the case and Application, Particulars of Claim, Defence, orders made and so on in date order)

Section 2

- Any Witness Statement(s) relied upon, including documents referred to in them (called exhibits)
- Any Witness Statements in response, including exhibits (if supplied to you by other parties)

Section 3

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

If you are the respondent:

34. If you are responding to an application and you have produced a witness statement or statements then send copies of them (with any exhibits) to the applicant in sufficient time to be included in the bundle they should be preparing. Your statement(s) should be put in that bundle. It is important that you provide a copy of your evidence to the applicant in time for it to be read and studied, before the hearing. Otherwise the applicant may ask for an adjournment for time to consider your evidence. If the judge does adjourn the case, and thinks that you could reasonably have provided your evidence to the applicant earlier, then you may be ordered to pay the costs wasted by the adjournment.

35. If you have not prepared your documents in time in order to get into the applicant's bundle, bring them to the court beforehand if you can, and hand them in at Counter 9. If you cannot do that, bring them to court with you and give them to the usher.

36. If you have prepared a Skeleton Argument, get it to Counter 9 if you can by 10.30am on the day before the date of the hearing. Or you can email it to the court at **chancery.applications.skeletons@hmcts.gsi.gov.uk** by the same time. Make sure that your email clearly identifies your case. You should also send a copy of your Skeleton Argument to the applicant or if all else fails bring it to the hearing with you and give it to the usher with copies for the applicant if one has not been sent to them previously. If you want to refer to any reported legal cases or text books, give the names of the cases to the applicant in good time. Bring copies yourself. You should follow the guidance about cases and text books at paragraph 30 above.

Preparing a hearing bundle - quick checklist

Lodge this by 10.30am on the day before the hearing. Number the pages.

Section 1

- **Skeleton Argument or position statement (if you wish)**
- **Application Notice**
- **A draft of the order you seek (if you can).**
- **Chronology of main events in the case**

Section 2

- **Any Witness Statement(s) relied upon, and exhibits**
- **Any Witness Statements in response, including exhibits**

Section 3

- **Copies of reported legal cases you want to rely on (or in a separate bundle if there are a number)**

Useful leaflets/further information:

- **Thinking of going to court, leaflet 4: <http://www.rcjadvise.org.uk/wp-content/uploads/2012/12/leaflet4-51112.pdf>**
- **Thinking of going to court, leaflet 5: <http://www.rcjadvise.org.uk/wp-content/uploads/2012/12/leaflet5-51112.pdf>**
- **The Chancery Guide: www.justice.gov.uk/courts/rcj-rolls-building/chancery-division**

Section E: The hearing

37. Try to arrive at the Rolls Building 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 10, on the second floor. Ask the way to it if you do not know where to go. Arriving early gives you a chance to relax and get your papers in order.

38. When you get to Court introduce yourself to the usher who will be in and out of the courtroom from time to time. If you have a 'McKenzie friend' with you (see **section G**), introduce that person also to the usher. If a representative of the PSU (see **section H**) is with you, ensure that the usher knows that that person is with you or ask that person to tell the usher.

- **It is possible that you will be handed some new document (e.g. a witness statement) that you have not seen before**
- **Read it if there is time before the hearing**
- **Do not worry - the barrister/solicitor must tell the judge that you have only been given it shortly before the hearing**
- **The judge will ensure you are not disadvantaged by this.**

39. Except when the court is sitting in private, you should go into Court 10 before 10.30am.

40. You may find that if there is a barrister or solicitor appearing for the other party in your case he or she will come up to you and introduce themselves. That is perfectly normal. They will do so as a matter of courtesy and 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 or explain it.

41. 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 of your case 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. If he/she does not do so, tell the judge yourself when you are asked to speak. The judge will ensure that you are not disadvantaged by this.

42. When you go into court for the hearing, sit where the usher directs you. This will usually be in the front row. The judge will usually first go through the list of cases for the day to find out how long each one is likely to take. When your case is called out, if your opponent is a lawyer he/she will usually tell the court how long the case will take after discussion with you. If your opponent is also a litigant in person, then whichever of you is the applicant should stand and tell the court your time estimate. Usually parties stand to address the judge, but if that is difficult for you the judge will not require you to do so. If you do remain seated, it is important that you speak clearly so that the judge can hear what you have to say. The acoustics are very good in the Rolls Building, so this should not be a problem.

43. If your case is not listed or called out, do not worry. The judge will ask at the end of the run through the list if there are any unlisted matters. That is your opportunity to tell the judge about yours, and how long you think it will take.

44. The judge will then announce the order in which (s)he will deal with the day's cases, usually dealing with the shortest cases first. You may have quite a wait before yours is called on. Sometimes the judge will release the parties in cases lower down the list, so they can leave court for a while and return at an appointed time. It is your responsibility to be in court when your case is reached. If you leave court in the meantime, keep in touch



with the usher to find out how the list is progressing. Sometimes it goes faster than expected.

45. When your case is reached it will be announced, usually by the associate (the court official sitting in front of the judge). If you are the respondent to the application, and there is a barrister/solicitor representing the applicant they will explain to the judge what the application is about. Since the judge will usually have read the papers, 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. This does not mean that the judge has made up his/her mind, or is anything other than impartial.

The hearing 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. This does not mean that the judge has made up his/her mind, or is anything other than impartial.

46. 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.

47. 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 the judge will invite you to confirm that (s)he 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.

48. 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. Watch the judge's pen.

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

50. If you are the applicant, the roles set out above are, at least in theory, reversed. The judge will probably tell you that (s)he has read the papers and will ask for confirmation that (s)he 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.

51. When you have presented your case for the order 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.

52. Sometimes, in particular if you have not sent in a Skeleton Argument, or if the judge has not had the opportunity to pre-read, the judge may ask the other party's lawyer to provide a short neutral explanation of what the case is about, before asking you to speak, even if you are the applicant. This does not mean that you will not get a full opportunity to explain your case, just that the judge may think that it is a quicker way to get to the heart of the matter.

53. The judge will probably give a decision there and then – or possibly leave the courtroom for a short while when a few notes are made before giving a decision on the application.

54. If you are the applicant and successful, the judge will usually ask the 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, usually after showing it to you for your comments.

Section F: Costs and permission to appeal

55. The judge will usually want to deal with the costs of the hearing. If you are the losing party, you will usually be ordered to pay the costs of the successful party. We cannot deal with that issue in detail in this Guide.

56. If you are the successful party, you may be entitled to ask for 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 written summary of the costs and out of pocket expenses that you have incurred (eg. train fares and photocopying charges) plus three copies in case they are needed. You will need to consider CPR Part 48.6 and the Costs Practice Direction, paragraph 52.

57. If you are the losing party and you believe you have grounds for appeal, at the end of the hearing you should ask the judge for permission to appeal to the Court of Appeal. The judge will only grant permission to appeal if (s)he considers that the appeal has a real prospect of success, or if there is some other good reason for doing so. If permission is refused by the judge, you have the right to ask the Court of Appeal for permission to appeal. You should ask the usher or the associate for the form on which the judge will have set out brief reasons for giving or refusing permission to appeal.



Section G: 'McKenzie Friend'

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

59. You can find out what a 'McKenzie 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>**

Generally, the McKenzie Friend has no right to speak for you, but if there is good reason, the judge may exceptionally allow it, if you ask, and explain why.



Section H: The Personal Support Unit at the RCJ

60. If you do not have a 'McKenzie Friend', but want some emotional and practical support from someone, the Personal Support Unit in the Royal Courts of Justice may be able to assist you. Their volunteers cannot give you legal advice and generally do not address the court on your behalf, but they can help by talking through your case with you, helping you get your thoughts and documents in order, showing you the way to where you ought to be and providing support during a hearing.

61. The website of the PSU is: http://thepsu.org/our_network/royal-courts-of-justice/ and their email address is: rcj@thepsu.org.uk. They operate a walk-in service, but you can also make appointments by ringing 0207 947 7701 or 7703, between 09.30 am and 4.30 pm, Mondays to Fridays.

62. The office of the PSU at the Royal Courts of Justice can be found in room M104. Ask the way at the Information Desk in the Main Hall just after the security check area. The PSU does not at the moment have a permanent presence in the Rolls Building. If you want their assistance for a hearing in the Rolls Building it is best to contact them at the Royal Courts of Justice at least a day before your hearing, by phone or by going there in person.



Section I: Representing companies

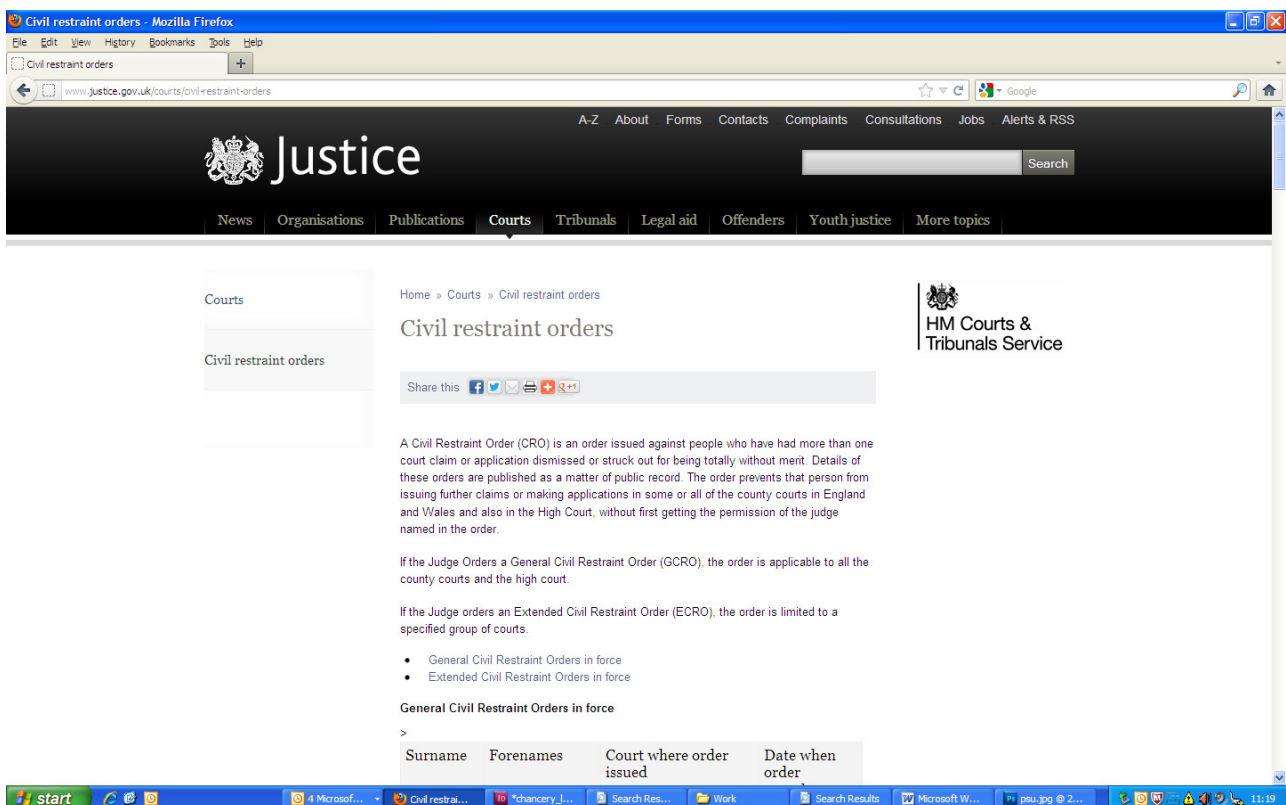
63. If you want to represent a company (or a limited liability partnership or other entity) in court, then you must obtain the judge's permission to do so. Companies and similar entities do not have the automatic right to be represented by persons who are not lawyers. In cases where it is difficult for the company to obtain professional representation the judge may allow an authorised director or employee to do so.

64. You should come prepared to demonstrate that you have the company's authority to appear on its behalf. It is best to obtain the authority of the board of directors or managing director, properly recorded in writing. If you are the only director you will usually need to provide documentary proof of that. Being a shareholder or even a controlling shareholder will not generally be enough.

Companies and similar entities do not have the automatic right to be represented by persons who are not lawyers, but in cases where it is difficult for the company to obtain professional representation the judge may allow an authorised director or employee to do so.

Section J: Civil restraint orders

65. You will need to understand that if you are the applicant and the judge considers your application to be “totally without merit” (i.e. hopeless) you may run the risk of being made the subject of a civil restraint order. A litigant who brings repeated hopeless applications, or who tries to litigate again 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 first getting the written permission of a judge.



The Ministry of Justice maintains an online Civil Restraint Orders database

Section K: List of Terms

Applicant(s) – person or persons seeking the order or direction of the court.

Application Notice – the formal court document which the Applicant needs to complete and file at court setting out what (s)he wants the court to do and why.

Chronology - List of relevant events and documents in date order.

Ex parte - a term which is old fashioned but still used to mean an application which is made with only the applicant present, without notice to the respondent.

Exhibits – relevant documents referred to in and attached to a Witness Statement.

Hearing Bundle – paginated set of copies of relevant documents containing the materials referred to in paragraph 29 Section D.

Inter partes – a term which is old fashioned but is still used to mean a hearing where both the applicant and the respondent is present at the hearing and where the respondent has had notice of the hearing.

Interim Application – an application to the court asking it to order or direct something, before the full trial of the claim.

Respondent(s) – the person or persons against whom the order or directions are sought and who may want to persuade the court not to make the order.

Skeleton Argument – short position statement explaining your case and why the order or direction should be made on (if you are the Respondent) why it should not be made.

Witness Statement – the document in which a witness sets out the facts of which (s)he is aware which are relevant to the case and swears that they are true.

Appendix: Document bundle

On the following pages you will find a sample document bundle (based on a made-up case) to help you in putting your own documents together to bring to court.

It contains:

- **Application Notice**
- **Witness statement**
- **Skeleton argument**
- **Chronology**

Application notice

For help in completing this form please read the notes for guidance form N244Notes.

Name of court Rolls Building	
Claim no.	HC000000000
Warrant no. (if applicable)	
Claimant's name (including ref.)	Mary Ann Barker
Defendant's name (including ref.)	George Brooker
Date	(date)

1. What is your name or, if you are a solicitor, the name of your firm?

Mary Ann Barker

2. Are you a ☒ Claimant ☐ Defendant ☐ Legal Representative

☐ Other (please specify)

If you are a solicitor whom do you represent?

3. What order are you asking the court to make and why?

An order that the Defendant be prevented from selling the property known as 1 Peel Crescent, Alton, Hants before the outcome of this trial.
Alternatively, an order that half of the net proceeds of any sale are paid into a secure account until the outcome of the trial.
In these proceedings I am claiming that I have joint ownership of the above property. I am making this application because I believe the Defendant intends to sell the property without my consent before the outcome of the trial and move to Italy, where I will be unable to recover the funds if my claim is successful.

4. Have you attached a draft of the order you are applying for?

☒ Yes ☐ No

5. How do you want to have this application dealt with?

☒ at a hearing ☐ without a hearing
☐ at a telephone hearing

6. How long do you think the hearing will last?

1 Hours 0 Minutes

Is this time estimate agreed by all parties?

☐ Yes ☒ No

7. Give details of any fixed trial date or period

8. What level of Judge does your hearing need?

High Court

9. Who should be served with this application?

The Defendant

10. What information will you be relying on, in support of your application?

- ☒ the attached witness statement
- ☐ the statement of case
- ☐ the evidence set out in the box below

If necessary, please continue on a separate sheet.

Statement of Truth

(I believe) (The applicant believes) that the facts stated in this section (and any continuation sheets) are true.

Signed _____ Mary Ann Barker _____ Dated _____

Applicant(~~'s Legal Representative~~)(~~'s litigation friend~~)

Full name _____

Name of applicant's legal representative's firm _____

Position or office held _____
(if signing on behalf of firm or company)

11. Signature and address details

Signed _____ Dated _____
Applicant(~~'s Legal Representative~~)(~~'s litigation friend~~)

Position or office held _____
(if signing on behalf of firm or company)

Applicant's address to which documents about this application should be sent

Postcode									

If applicable	
Phone no.	
Fax no.	
DX no.	
Ref no.	

E-mail address	
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Witness Statement:

IN THE HIGH COURT OF JUSTICE

Claim No: HC000000000

CHANCERY DIVISION

B E T W E E N

MARY ANN BAKER

Claimant

and

GEORGE BROOKER

Defendant

WITNESS STATEMENT of MARY ANN BAKER

I, Mary Ann Baker of 1 Peel Crescent, Alton Hampshire will say as follows:

1. I am the Claimant in this case and the Applicant. I live a 1 Peel Crescent, Alton, Hampshire (the Property). I have lived there since 1991 when I moved there with the Defendant, George Brooker. He moved out when our relationship came to an end. The facts set out in this statement are from my own knowledge unless I state that they are not. Where I refer to information supplied by others, I believe

it to be true.

2. Although we moved in together, the title to the Property was registered in George's sole name. At the time George said it would be easier to just have him sign everything, and I agreed. He said it didn't matter anyway, because we both knew that we both owned the Property.
3. It was always our intention to live together and share ownership of the Property. We agreed to share the monthly payments on the mortgage, so each month I would send money to George, which he would then use to pay the mortgage. We shared all the other expenses of the household. For example, he paid for the boiler to be repaired a few years ago, and I paid for the outside to be repainted. We split all the regular bills equally.
4. This arrangement carried on until George moved out. We haven't talked since then, and I felt uncomfortable about continuing to send him money. Unfortunately we separated on very bad terms, and I no longer feel able to trust him. I have attached some documents to this witness statement which show the payments I made while we were living together.
5. I believe I have half ownership in the Property because that is what we agreed, and because of all the payment's I've made on the mortgage over the past twenty years. However George does not agree, and says the Property is entirely his. He thinks he can do what he wants with it.

6. I have heard from some friends that the Property is about to be put on the market for sale. I was really shocked by this. I don't think it's right that George can just sell the Property when I own it as well.
7. When I confronted him about it he said I must be mad to think I owned the Property, and everything was in his name so he could do what he wanted. He knew I had started these proceedings but when I pointed out that he should at least wait for the trial he became angry and defensive and said I couldn't tell him what to do.
8. As a compromise, I suggested that instead he could pay half the sale proceeds into a safe account with the bank, until the case has been decided. However he refused even to do that. I am worried that he will go ahead with trying to sell the Property now to spite me.
9. I know that George is planning to move to Italy soon, as he speaks fluent Italian and has told me he wants to live and work there. I believe he wants to use the money from the Property to pay some business debts in this country first, and to fund his emigration. I believe he intends to do this as soon as possible, and certainly before the trial.
10. I am very worried that if he sells the Property and goes to Italy then I will have no hope of getting my share of the sale proceeds back. I understand legal proceedings in Italy are very slow, and I don't know how I would go there to fight

my case.

11. I find all of this very stressful. I don't think it's fair that George should just be able to sell the house, so I want him to be prevented from doing this, or at least made to put the proceeds of sale into a safe account. I have tried to sort this out amicably with George but unfortunately he won't cooperate, so I feel I have no choice but to come to court and ask for help.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

Signed.....

Dated.....

Claim No:

HC000000000

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

B E T W E E N

MARY ANN BAKER

Claimant

and

GEORGE BROOKER

Defendant

WITNESS STATEMENT OF MARY
ANN BAKER

Supporting Skeleton Argument:

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

BETWEEN

MARY ANN BAKER

Claimant

and

GEORGE BROOKER

Defendant

CLAIMANT'S SKELETON ARGUMENT

Introduction

1. I am the claimant in this case. The Defendant is my former partner. We separated 6 months ago. I am asking the court to declare that I have a half share in the ownership of the house in which we lived for 20 years, 1 Peel Crescent, Alton, Hants, which is registered in his sole name. I started this claim on (*date*).
2. The purpose of this application is to ask the court to prevent the defendant from selling the house before my claim can be dealt with at trial. I have asked the defendant not to do so, but he has refused. He says that the house belongs entirely to him, and that he can do what he wants with it.
3. I do not want to prevent a sale in which the share which I claim is protected. But the defendant has refused even to promise to put a half share of the sale proceeds in a safe account until the trial. I would be content if the court was to order him to do this, as a

condition for being able to sell the house now, as long as he gets a fair price for the house. I believe that the house is worth £500,000. There is a £200,000 mortgage on it.

Pre Reading

4. I have set out the history of the purchase of the house, and the payments I made in relation to it, in a witness statement which I would ask the judge to read. I have attached copies of the documents which I have been able to find showing my payments, but I do not think that the judge needs to read those before the hearing. I sent my witness statement to the defendant with my Application Notice on *(date)*.
5. I have today received a witness statement in answer from the defendant which the judge may also wish to read. I have signed a very short witness statement in reply. I have put copies of all the statements and documents in a file which I have taken to the court. It should take about 30 minutes to read all 3 statements.

Reasons for my Application

6. I am afraid that the defendant will not wait for the trial before trying to sell the house. He has told me that he intends to leave the country to go and work in Italy. He is a fluent Italian speaker and I believe his intention to emigrate to be a serious one, even though he denies it in his witness statement.
7. I know that the defendant has business debts in this country which he wishes to pay before he leaves. I do not think he has any assets apart from his share in the house.
8. Mutual friends have told me that they have heard that the house is about to be put on the market for sale.

9. I have been told that the trial cannot take place for 9 months. This would give the defendant plenty of time to sell the house in the meantime.
10. Despite the defendant's attempt to rubbish my case in his witness statement, I believe that I have a real case which deserves a trial. But I accept that the court cannot decide it today. It is very much my word against the defendant's about what we agreed when the house was bought.
11. If the trial takes place after the house has been sold, I very much fear that the defendant will by then have left the country with the sale proceeds. I understand that it is very difficult to make a claim in Italy without very long delays. I do not speak Italian, and would find it very difficult to travel there to pursue a claim.

Time estimate

12. If the judge has time to read the witness statements beforehand, I hope that my application would not take more than 1 hour. I do not think that the defendant has legal representation.

Mary Ann Baker

(date)

Chronology:

IN THE HIGH COURT OF JUSTICE

Claim No: HC000000000

CHANCERY DIVISION

B E T W E E N

MARY ANN BAKER

Claimant

and

GEORGE BROOKER

Defendant

CHRONOLOGY

19 September 1991	Claimant moves into the Property with the Defendant
17 January 2004	Defendant pays to repair broken boiler
6 March 2007	Claimant pays to repaint outside of the Property
10 January 2013	Defendant moves out of the Property
15 April 2013	Claimant commences proceedings
27 May 2013	Claimant hears that the Defendant is planning to sell the Property
14 June 2013	Claimant issues interim application notice
20 June 2013	Claimant sends witness statement to Defendant
30 June 2013	Defendant sends witness statement in reply
3 July 2013	Claimant sends short second witness statement

Claim No: HC000000000

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

B E T W E E N

MARY ANN BAKER

Claimant

and

GEORGE BROOKER

Defendant

CHRONOLOGY
