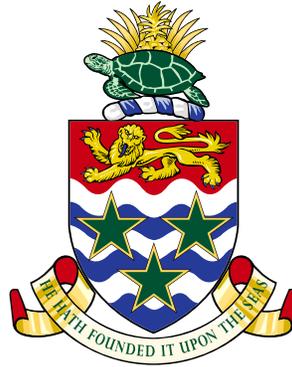


**CAYMAN ISLANDS**



# **GRAND COURT (AMENDMENT) (NO.1) RULES, 2022**

**(SL 27 of 2022)**

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## **GRAND COURT ACT (2015 REVISION)**

### **THE GRAND COURT (AMENDMENT No 1) RULES 2022**

These Rules are made by the Rules Committee pursuant to Section 19(3) of the Grand Court Act (2015 Revision).

#### **1. Citation, Commencement and Interpretation.**

- (1) These Rules shall be referred to as the Grand Court (Amendment No 1) Rules 2022.
- (2) These Rules shall come into operation on the 10th day of July 2022 referred to in these Rules as the "Commencement Date".
- (3) These Rules shall apply to every proceeding which is pending or commenced in the Court on or after the Commencement Date.
- (5) Words and expressions in these Rules which are also used in the Grand Court Rules 1995 (2022 Consolidation) (as revised and amended) shall have the same meaning in these Rules as they have in the Grand Court Rules 1995 (2022 Consolidation) (as revised and amended).

#### **2. Revocation and replacement of Orders 5, 63, 65 and 67**

- (1) GCR Orders 5, 63, 65 and 67 are hereby revoked and replaced by the Orders 5, 63, 65 and 67 annexed hereto.

Made by the Rules Committee on the 21st day of June 2022.

The Honourable Sir Anthony Smellie KCMG QC, Chief Justice

The Honourable Samuel Bulgin QC, Attorney General

Colin McKie QC, Legal Practitioner

Colette Wilkins QC, Legal Practitioner

## ORDER 5

### MODE OF BEGINNING PROCEEDINGS

#### Mode of beginning proceedings (O. 5, r. 1)

1. (1) Subject to the provision of any Act and of these Rules, civil proceedings in the Court may be begun by writ, originating summons, originating motion, petition, arbitration application, or written application, which are referred to collectively in these Rules (save where the context otherwise requires) as “originating process”.
  - (2) A “written application” means -
    - (a) a stop notice under Order 50, rule 11;
    - (b) an application under Order 85, rule 8;
    - (c) an application under Order 102, rule 17; and
    - (d) any other application which is required by these Rules to be made and determined in writing without any oral hearing.
  - (2A) An “arbitration application” means an application under Order 73 and has the same meaning as provided for in Order 73, rule 2.
  - (2B) Subject to the provision of any Act and of these Rules, civil proceedings may be begun by electronic filing of any originating process and these Rules will be read and construed accordingly.
  - (3) The Clerk of the Court shall not affix the seal of the Court to any originating process without:
    - (a) having first determined the amount of the prescribed fee payable in accordance with the First Schedule of the Court Fees Rules; and
    - (b) being satisfied that the prescribed fee has been paid.

At the same time as affixing the seal of the Court to any originating process the Clerk of the Court shall affix a seal indicating the date upon which the seal of the Court was affixed thereto.

- (4) Any person seeking the sealing of an originating process shall provide it to the Clerk of the Court either electronically or on paper. The originating process shall be signed by the plaintiff, applicant, petitioner, or appellant (the “claimant”), or by the attorney stated in the originating process as acting for the claimant, as the case may be. If the originating process is provided electronically then it shall be provided to the Clerk of the Court pursuant to the Court’s instructions for electronic filing as published, from time to time, on [www.judicial.ky](http://www.judicial.ky).

- (5) If, pursuant to paragraph 1(4), an originating process is provided on paper to the Clerk of the Court, the Clerk of the Court shall:
  - (a) scan and upload the document electronically into the appropriate court electronic database record;
  - (b) affix electronically the seal of the Grand Court to the originating process together with a seal indicating the date upon which the seal of the Court was affixed thereto;
  - (c) forthwith provide to the claimant, or the claimant's attorney, the originating process with the aforesaid court seals duly affixed:
    - (i) if the process was originally provided by the claimant's attorney to the Clerk of the Court, by delivery of a paper copy of the electronically sealed duplicate to the claimant's attorney's collection box maintained by the court's registry; or
    - (ii) if the originating process was originally provided by the claimant in person to the Clerk of the Court, by returning a paper copy of the electronically sealed duplicate to the claimant.
- (6) If, pursuant to paragraph 1(4), an originating process is provided electronically to the Clerk of the Court, the Clerk of the Court shall:
  - (a) upload the document electronically into the appropriate court electronic database record;
  - (b) affix electronically the seal of the Grand Court to the originating process together with a seal indicating the date upon which the seal of the Court was affixed thereto;
  - (c) forthwith provide electronically to the claimant, or the claimant's attorney, the originating process with the aforesaid court seals duly affixed.
- (7) In every case where an originating process is provided (electronically or on paper) to the Clerk of the Court pursuant to paragraph 1(4), the following steps will be taken. Upon the affixing of the aforesaid seals of the Grand Court to the originating process the Clerk of the Court shall immediately thereafter:
  - (a) assign the proceedings to the appropriate Division of the Court;
  - (b) assign to it a cause number, using chronological sequences for each Division, commencing on the 1st January of each year;
  - (c) establish a court file in respect of the proceedings in accordance with Order 63, rule 2 by generating a paper duplicate from the electronic record and placing it on the file.
- (8) Pursuant to Order 63, the Clerk of the Court shall upload electronically a copy of the sealed originating process to either the Register of Writs and other Originating

Processes or a Restricted Register of Writs and other Originating Processes, as maintained in accordance with Order 63.

- (9) In the event that the Clerk of the Court, pursuant to Order 72, assigns an originating process to the Financial Services Division, the Registrar of that Division, acting in consultation with the Chief Justice, shall assign the proceeding to a particular Commercial Judge. Upon the Registrar assigning the proceedings to a particular Commercial Judge, the Registrar shall inform the Clerk of the Court of that assignment and the Clerk of the Court shall thereupon immediately inform the claimant, or the claimant's attorney, of that assignment and shall include the initials of the relevant Commercial Judge in the title of the proceedings and make any necessary changes to the Court file.

### **Proceedings which must be begun by writ (O. 5, r. 2)**

2. Subject to any provisions of a Law, or of these Rules, by virtue of which any proceedings are expressly required to be begun otherwise than by writ, the following proceedings must, notwithstanding anything in rule 4, be begun by writ, that is to say, proceedings -
  - (a) in which a claim is made by the plaintiff for any relief or remedy for any tort, other than trespass to land;
  - (b) in which any claim by the plaintiff is based on an allegation of fraud;
  - (c) in which a claim is made by the plaintiff for damages for breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under any Law or independently of any contract or any such provision) where the damages claimed consist of or include damages in respect of the death of any person or in respect of personal injuries to any person or in respect of damage to any property;
  - (d) in which a claim is made by the plaintiff in respect of the infringement of a patent; and
  - (e) which are a probate action.

### **Proceedings which must be begun by originating summons (O. 5, r. 3)**

3. (1) Proceedings by which an application is to be made to the Court of a Judge thereof under any Law must be begun by originating summons except where by these Rules or by or under any Law the application in question is expressly required or authorised to be made by some other means.
- (2) This rule does not apply to an application made in pending proceedings.

### **Proceedings which may be begun by writ or originating summons (O. 5, r. 4)**

4. (1) Except in the case of proceedings which by these Rules or by or under any Law are required to be begun by originating motion or petition, proceedings may be begun either by writ or by originating summons as the plaintiff considers appropriate.

- (2) Proceedings -
- (a) in which the sole or principal question at issue is, or is likely to be, one of the construction of any Law or of any deed, will, contract or other document, or some other question of law; or
  - (b) in which there is unlikely to be any substantial dispute of fact,

are appropriate to be begun by originating summons unless the plaintiff intends in those proceedings to apply for judgment under Order 14 or Order 86 or for any other reason considers the proceedings more appropriate to be begun by writ.

**Proceedings which may be begun by petition or by writ (O. 5, r. 4A)**

4. (1) Proceedings under section 23 or 26(1) of the Cayman Islands Constitution Order 2009 (as amended) shall be begun by petition or writ.

- (2) Such proceedings -

- (a) in which the sole or principal question at issue is, or is likely to be, one of the construction of any Law or of any deed, will, contract or other document, or some other question of law; or
- (b) in which there is unlikely to be any substantial dispute of fact,

are appropriate to be begun by petition unless the applicant for any other reason considers it more appropriate to begin the proceedings by writ.

**Proceedings to be begun by motion or petition (O. 5, r. 5)**

5. Proceedings may be begun by originating motion or petition if, but only if, by these Rules or by or under any Law the proceedings in question are required or authorised to be so begun.

**Right to sue in person (O. 5, r. 6)**

6. (1) Subject to paragraph (2) and to Order 80, rule 2, any person (whether or not the person sues as a trustee or personal representative or in any other representative capacity) may begin and carry on proceedings in the Court by an attorney or in person.
- (2) Except as expressly provided by or under any Law, a body corporate may not begin or carry on or defend any such proceedings otherwise than by an attorney.

## **ORDER 63**

### **OFFICE OF THE GRAND COURT**

#### **Distribution of business in the Court (O. 63, r. 1)**

1. The office of the Court shall be divided into such departments and the business performed in the office of the Court shall be distributed amongst the departments in such manner as the Chief Justice may direct.

#### **Court files (O. 63, r. 2)**

2. (1) The Clerk of the Court shall create a Court file in respect of every proceeding immediately prior to sealing the originating process by which such proceeding is commenced. For the purpose of rules 2 and 3 of this order an "originating process" includes an application pursuant to Order 53, rule 3.
- (2) The Court file shall be identified by the cause number and, subject to paragraph (3), the full title of the proceeding to which it relates.
- (3) If the full title of the proceeding is too long to be typed or printed on one sheet of 11" x 8½" paper, the Court file shall be given an abbreviated title.
- (4) If the Court file comprises more than one volume, each volume shall be identified by the cause number, the full or abbreviated title of the proceeding, as appropriate, the volume number in a chronological sequence and the period of time to which the volume relates.

#### **Filing of documents (O. 63, r. 3)**

3. (1) Every document required to be filed in any proceeding shall be provided to the Clerk of the Court whereupon the Clerk of the Court shall take the same steps, mutatis mutandis, as apply to originating processes provided pursuant to Order 5, rule 1(5) and (6).
- (2) Any document required to be filed which is more than 50 pages long (and not filed electronically) shall be placed in a ring binder or otherwise suitably bound and be kept with and deemed to form part of the Court file.
- (3) Subject to paragraphs (4) and (5), the Court file relating to any proceeding shall be open to inspection only by the parties to that proceeding.
- (4) The Court may order that the Court file relating to any proceeding or any specific document therein be closed and not open to inspection by any party or other person except with the prior leave of the Court.

- (5) The Court may give leave on application to any person not *being* a party to the proceedings to inspect the Court file or to take a copy of any document on the Court file relating to those proceedings.
- (6) This rule shall have no application to Court files in respect of proceedings relating to –
  - (a) the estate of any deceased person;
  - (b) the winding up of any company; or
  - (c) the bankruptcy of any person,

which shall be open to inspection in accordance with the Succession Act (as amended and revised), the Company Winding Up Rules 2018 (as amended and revised), and the Grand Court (Bankruptcy) Rules (as amended and revised), respectively.

#### **Filing of documents by electronic means (O. 63, r. 3A)**

- 3A.**
- (1) Every document required to be filed in any proceedings shall be filed by electronic means unless it is not practicable for the person filing the document to do so, having regard to Practice Directions 5, 5A, 5B, 5C, and 5D of 2020 and 11 of 2020 and any subsequent related Practice Directions replacing, amending or supplementing the same.
  - (2) For the purposes of rule 2 and Order 5, rule 1(3) documents filed by electronic means insofar as they are required by the Rules to be filed, shall comprise or otherwise form part of the Court file in respect of the proceedings to which they relate.
  - (3) This rule applies to documents filed by electronic means and to the Court file in all respects as they would apply to paper documents and files.

#### **Restriction on removal of documents (O. 63, r. 4)**

- 4.**
- (1) No document shall be removed from a Court file except –
    - (a) by order of the Court; or
    - (b) by the Clerk of the Court in the event that it has been mistakenly placed on the wrong Court file.
  - (2) A document may be temporarily removed from the Court file by or with the permission of the Clerk of the Court for the purposes of photocopying it.
  - (3) When a Court file is contained in more than one volume, the volumes shall not be separated unless they are so numerous or so large that it is inconvenient for the Judge using such file to have before the Judge the whole of it.

### **Identity of party filing documents (O. 63, r. 5)**

5. Every document filed in or document sealed by the Court office shall contain a statement (at the foot of every page) of the name and address of the party or the party's attorney responsible for filing it or causing it to be sealed, as the case may be.

### **Deposit of documents (O. 63, r. 6)**

6. (1) Where the Court orders any documents to be deposited in Court they must, unless otherwise directed, be deposited with the Clerk of the Court.
- (2) No document deposited in accordance with paragraph (1) shall be taken out of the Court office without the leave of the Court.

### **Register of judgments (O. 63, r. 7)**

7. (1) The Clerk of the Court shall create a file upon which shall be placed an office copy of every final judgment given or made by the Court of the kind referred to in Order 42, rule 5(8), unless otherwise directed by the Court, which shall be referred to as "the Register of Judgments".
  - (1A) With effect from 1 January 2022 every document entered on the Register of Judgments will be an electronic copy and the Register of Judgments will thereafter be maintained in electronic form only.
  - (2) The Register of Judgments shall be open to public inspection upon payment of the prescribed fee, if any.
  - (3) Any person shall be entitled, upon payment of the prescribed fee, to obtain from the Clerk of the Court a certified paper copy of any judgment or order contained in the Register of Judgments.

### **Register of writs and other originating processes (O. 63, r. 8)**

8. (1) Subject to paragraph (1A), the Clerk of the Court shall create a file containing, in chronological order, an office copy of every writ and every other originating process and every third-party notice, including amendments thereto, sealed by the Court, which shall be referred to as "the Register of Writs and other Originating Processes". For the avoidance of doubt, the Register of Writs and Other Originating Processes shall include every ex parte originating summons and ex parte originating motion but it shall not include any application made pursuant to Order 53, rule 3.
  - (1A) Unless otherwise directed by the Court, any originating process issued pursuant to the following Acts or rules shall not be included in the Register of Writs and other Originating Processes but shall be maintained on separate registers, collectively referred to as Restricted Registers of Writs and other Originating Processes:
    - (a) Proceeds of Crime Act (2020 Revision);

- (b) Misuse of Drugs Act (2017 Revision);
  - (c) Criminal Justice (International Cooperation) Act (2021 Revision);
  - (d) Tax Information Authority Act (2021 Revision);
  - (e) Mutual Legal Assistance (United States of America) Act (2015 Revision);
  - (f) Order 70, rule 3;
  - (g) family proceedings;
  - (h) any application seeking to make a child a ward of court;
  - (i) any application seeking a declaration of paternity pursuant to the Status of Children Act 2003;
  - (j) any application seeking any order pursuant to the Mental Health Act (2022 Revision);
  - (k) any application pursuant to section 7 of the Legal Practitioners Act (2022 Revision).
- (1B) With effect from 1 January 2022 every document entered on the Register of Writs and other Originating Processes and on the Restricted Registers of Writs and other Originating Processes (together, the “Registers”) will be an electronic copy and the Registers will thereafter be maintained in electronic form only.
- (2) The Register of Writs and other Originating Processes shall be open to public inspection upon payment of the prescribed fee.
- (3) Any person shall be entitled, upon payment of the prescribed fee, to obtain from the Clerk of the Court a certified copy of any writ and every other originating process and third-party notice, including amendments thereto, contained in the Register of Writs and other Originating Processes.
- (4) The parties to proceedings referred to in paragraph (1A), or their attorneys, may, upon payment of the prescribed fee or fees, inspect and take copies of documents contained on the Restricted Registers of Writs and other Originating Processes. Save as aforesaid, no person may inspect, or take copies of, documents contained on any of the Restricted Registers of Writs and other Originating Processes without the leave of the Court. Any such application for leave to inspect or take copies of such documents shall be made on notice to all of the parties to the proceedings.
- (5) Nothing in paragraph (1A) of this rule shall limit the right of the Attorney General to inspect and take copies of any documents contained in the Restricted Registers of Writs and other Originating Processes.

**Office hours (O. 63, r. 9)**

- 9.** The office of the Court shall be open on every day of the year except -
- (a) Saturdays and Sundays; and

(b) public holidays.

The hours during which the office of the Court shall be open to the public shall be such as the Chief Justice may from time to time direct.

## **ORDER 65**

### **SERVICE OF DOCUMENTS**

#### **When personal service required (O. 65, r. 1)**

1. (1) Any document which by virtue of these Rules is required to be served on any person need not be served personally unless the document is one which by an express provision of these Rules or by order of the Court is required to be so served.
- (2) Paragraph (1) shall not affect the power of the Court under any provision of these Rules to dispense with the requirement for personal service.

#### **Personal service: how effected (O. 65, r. 2)**

2. Personal service of a document is effected by leaving a copy of the document with the person to be served.

#### **Service on body corporate (O. 65, r. 3)**

3. Personal service of a document on a body corporate other than a company registered under the Companies Act (Revised) may, in cases for which provision is not otherwise made by any enactment, be effected by serving it in accordance with rule 2 on the chairperson or president of the body corporate or the secretary, treasurer or other similar officer thereof.

#### **Substituted service (O. 65, r. 4)**

4. (1) If, in the case of any document which by virtue of any provision of these Rules is required to be served personally on any person, it appears to the Court that it is impracticable for any reason to serve that document personally on that person, the Court may make an order for substituted service of that document.
- (2) An application for an order for substituted service may be made by an affidavit stating the facts on which the application is founded. The affidavit shall set out the means by which it is proposed to bring the document to the notice of the person to be served, including electronic means if reasonably practicable.
- (3) Substituted service of a document, in relation to which an order is made under this rule, is effected by taking such steps as the Court may direct to bring the document to the notice of the person to be served.

#### **Ordinary service: how effected (O. 65, r. 5)**

5. (1) Service of any document, not being a document which by virtue of any provision of these Rules is required to be served personally, may be effected -

- (a) by leaving the document at the proper address of the person to be served;
  - (b) by post;
  - (c) by facsimile, in accordance with paragraph (2); or
  - (d) in such other manner as the Court may direct.
- (2) Service by facsimile may be effected only where -
- (a) the party serving the document acts by an attorney;
  - (b) the party on whom the document is served acts by an attorney and service is effected by transmission to the business address of such an attorney; and
  - (c) the attorney acting for the party on whom the document is served has indicated in writing to the attorney serving the document that the attorney acting for the party on whom the document is served is willing to accept service by facsimile at a specified facsimile number and the document is transmitted to that number; and for this purpose the inscription of a facsimile number on the writing paper of an attorney shall be deemed to indicate that such an attorney is willing to accept service in accordance with this paragraph unless the attorney acting for the party on whom the document is served states otherwise in writing; and
  - (d) as soon as practicable after service by facsimile, the attorney acting for the party serving the document despatches a copy of it to the attorney acting for the other party by any of the methods described for service by paragraph (1), and if the attorney acting for the party serving the document fails to do so the document shall be deemed never to have been served by facsimile.
- (3) Where a facsimile is transmitted on a business day before 4 p.m., it shall, unless the contrary is shown, be deemed to be served on that day, and, in any other case, on the business day next following.
- (4) For the purposes of this rule and Section 53 of the Interpretation Act (as amended and revised), in its application to this rule, the proper address of any person on whom a document is to be served in accordance with this rule shall be the address for service of that person, but if at the time when service is effected that person has no address for service that person's address for the purposes aforesaid shall be.
- (a) in any case, the business address of the attorney (if any) who is acting for the person in the proceedings in connection with which service of the document in question is to be effected; or
  - (b) in the case of an individual, that person's usual or last known address; or
  - (c) in the case of individuals who are suing or being sued in the name of a firm, the principal or last known place of business of the firm within the jurisdiction; or
  - (d) in the case of a body corporate, the registered or principal office of the body.

- (5) Nothing in this rule shall be taken as prohibiting the personal service of any document or as affecting any enactment which provides for the manner in which documents may be served on bodies corporate.

**Service by electronic means (O. 65, r. 5A)**

- 5A. Any document which pursuant to these Rules is required to be served on any person may be served by electronic means where an address for service by electronic means is, or has been, provided by that person for those purposes. For the avoidance of doubt, in such circumstances no prior order for substituted service is required.

**Service on the Cabinet, etc., in proceedings which are not by or against the Crown (O. 65, r. 6)**

6. Where for the purpose of or in connection with any proceedings in the Court, not being civil proceedings by or against the Crown within the meaning of the Crown Proceedings Act (as amended and revised), any document is required by any enactment or these Rules to be served on a government department or on the Attorney General, Section 12 of the said Law and Order 77, rule 4, shall apply in relation to the service of the document as they apply in relation to the service of documents required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown.

**Effect of service after certain hours (O. 65, r. 7)**

7. Any document (other than a writ or other originating process) service of which is effected under rule 2 or under rule 5(1)(a) between midnight on a Friday and midnight on the following Sunday or after 4 p.m. on any other weekday shall, for the purpose of computing any period of time after service of that document, be deemed to have been served on the Monday following that Friday or on the day following that other weekday, as the case may be.

**Affidavit of service (O. 65, r. 8)**

8. An affidavit of service of any document must state by whom the document was served, the day of the week and date on which and the time when it was served, where it was served and how.

**No service required in certain cases (O. 65, r. 9)**

9. Where by virtue of these Rules any document is required to be served on any person but is not required to be served personally, and at the time when service is to be effected that person is in default as to acknowledgment of service or has no address for service, the document need not be served on that person unless the Court otherwise directs or any of these Rules otherwise provides.

**Service of process on Sunday (O. 65, r. 10)**

10. (1) No process shall be served or executed within the jurisdiction on a Sunday except, in case of urgency, with the leave of the Court.
- (2) For the purpose of this rule "process" includes a writ, judgment, notice, order, petition, originating or other summons, or warrant.

## **ORDER 67**

### **ATTORNEYS-AT-LAW**

#### **PART I – CHANGE OF ATTORNEY**

##### **Notice of change of attorney (O. 67, r. 1)**

1. (1) A party to any cause or matter who sues or defends by an attorney may change the party's attorney without an order for that purpose but, unless and until notice of the change is filed and copies of the notice are served in accordance with this rule, the former attorney shall, subject to rules 5 and 6, be considered the attorney of the party until the final conclusion of the cause or matter in the Court.
- (2) The party giving the notice must serve on every other party to the cause or matter (not being a party in default as to acknowledgment of service) and on the former attorney a copy of the notice.
- (3) The party giving the notice may perform the duties prescribed by this rule in person or by the party's new attorney.

##### **No rule (O. 67, r. 2)**

2. No rule (O. 67, r. 2)

##### **Notice of appointment of attorney (O. 67, r. 3)**

3. Where a party, after having been sued or defended in person, appoints an attorney to act in the cause or matter on the party's behalf, the change may be made without an order for that purpose and rule 1 shall, with the necessary modifications, apply in relation to a notice of appointment of an attorney as it applies in relation to a notice of change of attorney.

##### **Notice of intention to act in person (O. 67, r. 4)**

4. Where a party, after having sued or defended by an attorney, intends and is entitled to act in person, the change may be made without an order for that purpose and rule 1 shall, with the necessary modifications, apply in relation to a notice of intention to act in person as it applies in relation to a notice of change of attorney except that the notice of intention to act in person must contain an address for service of the party giving it.

##### **Removal of attorney from record at instance of another party (O. 67, r. 5)**

5. (1) Where —
  - (a) an attorney who has acted for a party in a cause or matter has died or becomes bankrupt or cannot be found or has been struck off the roll of attorneys or has been suspended from practising or has for any other reason ceased to practice; and
  - (b) the party has not given notice of change of attorney or notice of intention to act in person in accordance with the foregoing provisions of this Order, any other party to the cause or matter may apply to the Court for an order declaring that the attorney has ceased to be the attorney acting for the first mentioned party in the cause or matter, and the Court may make an order accordingly.

- (2) An application for an order under this rule must be made by summons and the summons must, unless the Court otherwise directs, be served on the party to whose attorney the application relates. The application must be supported by an affidavit stating the grounds of the application.
- (3) Where an order is made under this rule the party on whose application it was made must file the order and serve a copy on every other party to the cause or matter (not being a party in default as to acknowledgment of service).
- (4) An order made under this rule shall not affect the rights of the attorney and the party for whom the attorney acted as between themselves.

**Withdrawal of attorney who has ceased to act for party (O. 67, r. 6)**

6. (1) Where an attorney who has acted for a party in a cause or matter has ceased so to act and the party has not given notice of change in accordance with rule 1, or notice of intention to act in person in accordance with rule 4, the attorney may apply to the Court for an order declaring that the attorney has ceased to be the attorney acting for the party in the cause or matter, and the Court may make an order accordingly, but unless and until the attorney files and serves a copy of the order on every party to the cause or matter (not being a party in default as to acknowledgment of service) the attorney shall be considered the attorney of the party until the final conclusion of the cause or matter in the Court.
- (2) An application for an order under this rule must be made by summons and the summons must, unless the Court otherwise directs, be served on the party for whom the attorney acted. The application must be supported by an affidavit stating the grounds of the application.
- (3) An order made under this rule shall not affect the rights of the attorney and the party for whom the attorney acted as between themselves.
- (4) Notwithstanding anything in paragraph (1), where a certificate within the meaning of Section 2 of the Legal Aid Act (*as amended and revised*) in respect of any matter is revoked or discharged, the attorney assigned to the person to whom the certificate was granted shall cease to be the attorney acting in the cause or matter; and if the person whose certificate has been revoked or discharged desires to proceed with the cause or matter without legal aid and appoints that attorney or another attorney to act on the person's behalf, the provisions of rule 3 shall apply as if that party had previously sued or defended in person.

**Address for service of party whose attorney is removed, etc. (O. 67, r. 7)**

7. Where —
  - (a) an order is made under rule 5; or
  - (b) an order is made under rule 6, and the applicant for that order has complied with rule 6(1); or
  - (c) a certificate within the meaning of Section 2 of the Legal Aid Act (*as amended and revised*) is revoked or discharged,then, unless and until the party to whose attorney or to whom, as the case may be, the order or certificate relates either appoints another attorney and complies with rule 3 or, being entitled to act in person, gives notice of the party's intention so to do and complies with rule 4, the party's last known address or, where the party is a body corporate, its registered or principal office shall, for the purpose of the service on the party of any document not required to be served personally, be deemed to be the party's address for service.

**Copy of notice to be filed (O. 67, r. 8)**

8. A notice required to be given under rule 1, 3 or 4 shall be filed on the Court file.

**PART II – DISCIPLINARY PROCEEDINGS AGAINST ATTORNEYS**

**Commencement and service of Proceedings (O. 67, r. 9)**

9. (1) No proceedings against an attorney pursuant to section 7 of the Legal Practitioners Act (the “Act”) shall be commenced without the prior authorisation of the Chief Justice. Upon the Chief Justice authorising the commencement of such proceedings the Attorney General, as *ex officio* head of the legal profession and acting in the public interest, shall file and serve on the attorney an originating notice of motion embodying full particulars of charge (which shall be a pleading for the purpose of Order 18) together with affidavit evidence in support thereof. The form of notice of originating motion shall be in Form 6A of the Grand Court Rules Volume II.
- (2) The Clerk of the Court shall place the notice of originating motion on a Restricted Register of Writs and other Originating Processes.
- (3) From the date of service of the notice of originating motion on the attorney until the determination of the proceedings (including any appeals) against the attorney:
- (a) any application by the attorney to the Clerk of the Court voluntarily seeking to be struck off the Court Roll will be stayed;
- (b) if, at any time during that period, the attorney has for a period of twenty-four months not been in possession of an annual practising certificate pursuant to section 12 of the Act, the Clerk of the Court will stay consideration of striking the attorney off the Court Roll pursuant to section 14 of the Act pending the determination of the proceedings.
- (5) At any time the Attorney General may delegate conduct of the proceedings to the Solicitor General.

**Acknowledgment of Service (O. 67, r. 10)**

10. Within 14 days of the service of the notice of originating motion, the attorney shall file and serve on the Attorney General an acknowledgment of service. The provisions of Order 12 with respect to acknowledgment of service of an originating summons shall apply *mutatis mutandis*.

**Case management (O. 67, r. 11)**

11. Within 28 days of the service of the notice of originating motion and the affidavit evidence referred to in rule 9(1) of this Order, there shall be a case management conference for the future conduct of the proceedings.

**Trial (O. 67, r. 12)**

- 12.** (1) The burden and standard of proof shall be the same as in criminal proceedings.
- (2) If at the conclusion of the trial the Court determines that the attorney either be suspended from, or struck off, the Court Roll then, absent agreement from the attorney, the judgment will be effective from 14 days after delivery of the judgment or such longer period as the Court orders.
- (3) Unless the Court dismisses the motion then 14 days after delivery of the judgment, or such longer period as the Court orders, all judgments delivered in the proceedings will be placed on the Register of Judgments and Orders and a copy of the notice of originating motion (and any amendments thereto) will be placed on the Register of Writs and other Originating Processes.
- (4) If the Court dismisses the motion then the Court may order that any such judgment in anonymised or redacted format may be placed on the Register of Judgments and Orders.

**Confidentiality of proceedings (O. 67, r. 13)**

- 13.** Unless the Court otherwise orders all hearings, including the trial, shall be conducted in private.

**Hon. Sir Anthony Smellie KCMG, QC, JP**

**Colin McKie QC**

**Hon. Sam Bulgin QC**

**Colette Wilkins QC**