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The following Notification is, by command of His Excellency the Governor-General, published for general information.

RYAN EVANS
Governor-General's Secretary and
Clerk to the Privy Council.

JUDICIAL NOTICE

PRACTICE DIRECTION (No. 8) OF 2020

PRACTICE DIRECTION (CIVIL)

Filing of Bundles for Applications in Chambers

This Practice Direction supersedes the Practice Direction dated 12th September, 1997.

1. *Introduction*

Subject to specific directions, given by the Judge or Master in any particular case, this Practice Direction applies to all applications listed for hearing in chambers before a Judge or Master.

It is intended that the use of a Judge's Bundle in all applications in chambers will reduce, if not eliminate, the need to have the court's file of original documents present in chambers at the hearing of each application.

On completion of the hearing a copy the original minute of the judge's order must be attached to the judge's bundle and the original returned to the original registry for placement on the court's file.

2. *Preparation of Bundles*

- 2.1 In all applications to be heard in chambers by a Judge or Master, and whether made on notice or without notice to the Respondent, and whether made by way of Fixed Date Claim Form or by Notice of Application, the Applicant must file a paper bundle and an electronic bundle.
- 2.2 An electronic bundles need not be filed only if applicant is self-represented and is unable to file an electronic bundle after making good-faith effort to do so.
- 2.3 In cases of urgency or where it is not practicable to file a bundle before the application is heard, the Judge or Master must require an undertaking from the applicant to file the bundle in accordance with the Practice Direction by a specified date but such date must not be later than seventy two hours after the application is heard.
- 2.4 Parties are at liberty to utilize bundles previously filed instead of, or in addition to, the bundle required at paragraph 2.1 above. The relevant registry is to be informed of the decision to use previous bundles at least three clear days before the date of hearing.
- 2.5 The costs of preparing any bundles pursuant to this Practice Direction are allowable on taxation of the costs of the application, or of the action as the case may be, save that the Judge or Master hearing the application may at his or her discretion, order that on such taxation, the costs of including any document should be disallowed.

3. *Responsibility for the Preparation of the Bundle*

- 3.1 Unless the court directs otherwise, bundles are to be filed by the party whose application is being heard.
- 3.2 If there are cross-applications, a bundle must be filed by the respective applicants. Alternatively, the parties may agree on which party will file the relevant bundle. In the further alternative, the Judge or Master may give directions accordingly.
- 3.3 A copy of the index to each bundle filed must be served on all parties to the proceedings at least seven clear days before hearing.

4. *Contents of the Bundle*

- 4.1 The bundle must contain the following documents:
 - (a) an index to the bundle, which must bear:
 - (i) the correct heading of the matter together with a footnote indicating the name, current address, current telephone and facsimile numbers and functioning email address of the person filing same;
 - (ii) a statement of the total number of binders that comprise the bundle (see paragraph 5 below);
 - (b) the Fixed Date Claim Form or the Notice of Application to be heard;
 - (c) a case summary which must include:
 - (i) a chronology of relevant events;
 - (ii) an outline of the likely factual and legal issues which are to be determined at the trial of the claim; and
 - (iii) a statement of the relief sought at the hearing.
 - (d) the Affidavit(s) in support of the Fixed Date Claim Form or the Notice of Application;
 - (e) the Affidavits filed in Response and any filed in Reply
 - (f) if there is/are cross-application(s):—
 - (i) the Notice of Application for the cross-application(s);
 - (ii) the Affidavit(s) which support the cross application(s); and
 - (iii) the Affidavit(s) in response to the cross-application(s)
 - (g) any other document on which a party intends to rely and in respect of which a notice of intention to rely has been filed and served;
 - (h) the written submissions or skeleton arguments filed in the application and cross-application(s), if there are any;
 - (i) the lists of authorities filed in the application;
 - (j) where practicable, copies of the statute, subsidiary legislation and case law, contained in the said list;
 - (k) a backing page which sets out:
 - (i) the date the bundle was prepared;
 - (ii) the date and time of the hearing for which it was prepared; and
 - (iii) the Judge or Master before whom the matter will be heard (if known).

5. *Format of the Bundle*

- 5.1 The bundle must be appropriately compiled such that it does not fall apart as pages are turned. The use of more than one letter size binder is recommended, where necessary.
- 5.2 Where more than one binder is used, a distinguishing number must be noted on each binder and a confirmation of the total number of binders used (e.g. 1 of 4 etc).
- 5.3 The bundle must be paginated and all pages of the bundle must be clearly numbered at the top right hand corner of each page. If more than one bundle is used, the page numbers shall run continuously from one bundle to the next (For example if Bundle 1 of 4 has 50 pages, then the first page of bundle 2 of 4 should be numbered 51 etc.)

6. *Time for Filing the Bundle*

- 6.1 The bundle for the use of the Judge or Master must be filed at the registry of the court at least two clear days prior to the date of the hearing.
- 6.2 The index to the bundle must be served on the Respondent and any other interested party at least two clear days prior to the date of the hearing.
- 6.3 In the event a document or documents is/are filed subsequent to the date a bundle is filed, which document would otherwise have been in the bundle, a supplemental bundle appropriately labeled containing only such document or documents must be filed and its index served. The supplemental bundle must be numbered having regard to paragraph 4.2.

7. *Filing Electronic Bundles*

- 7.1 Electronic bundles are to contain only the documents and written submissions relevant to the application as set out in paragraph 4 above.
- 7.2 Each electronic bundle should be paginated and indexed in the manner indicated in this Practice Direction.
- 7.3 The electronic bundle must be prepared in Portable Document Format (PDF) which must be searchable. Electronic Bundles that are not searchable will not be accepted. A scanned version of the bundle is not acceptable. The bundle should be sent by email, at least three clear days before the hearing to the appropriate email address listed below:
 - (i) for the civil registry (HCV) — the email address is civilregistry@supremecourt.gov.jm;
 - (ii) for the matrimonial division — the email address is matrimonial@supremecourt.gov.jm;
 - (iii) for the probate division — the email address is probate@supremecourt.gov.jm;
 - (iv) for the commercial division — the email address is commercialregistry@supremecourt.gov.jm;
 - (v) for the Revenue Court — the email address is revenuecourt@supremecourt.gov.jm.

8. *Written Submissions/Skeleton Arguments*

It is not necessary for a party to file written submissions in addition to skeleton arguments. Written submissions/skeleton arguments:

- (i) must clear and concise;
- (ii) must state the point of law and cite the principal authorities in support with references to the particular page(s) where the principle concerned is set out;
- (iii) the strong general rule is that no more than one principal authority need be cited in support of a particular point of law. If it is proposed to cite more than one supporting authority to make the same point of law, reference should be made to this authority in a footnote;
- (iv) the Judge or Master may refuse costs on taxation on submissions that offend this practice direction.

9. *Citing Authority and the Use of Case Law*

- 9.1 When authority is cited, the following practice must be followed:
 - (a) Only relevant authorities should be cited and produced in the bundle.
 - (b) Where a party intends to rely on an authority that is reported, the reported version of the authority must be cited and the authority provided in the bundle. Every effort should be made to source and cite the most authoritative report containing the authority being relied upon.
 - (c) Where a party intends to rely on an authority that is not reported, the unreported authority must be cited and provided.
 - (d) Notwithstanding 9.1(a) above parties are permitted to cite, refer to and rely on authorities posted on the websites of the Judicial Committee of the Privy Council, Court of Appeal and Supreme Court of Jamaica.
 - (e) Where there is binding authority from (a) the Judicial Committee of the Privy Council on appeal from the Court of Appeal of Jamaica or (b) the Court of Appeal of Jamaica then that authority must be cited.
 - (f) If the Applicant and the Respondent are relying on the same authority, only one copy of the judgment or decision should be placed in the bundle.

10. *Non-compliance with this Practice Direction*

- 10.1 For applications scheduled for hearing in chambers, failure to file the bundle at least three clear days before the date of the hearing, may result in the Judge or Master adjourning the hearing of the application and/or penalizing the defaulting party or his attorneys-at-law in costs, unless good reason is shown for such failure.
- 10.2 If the Judge or Master adjourns the hearing of the application because of a party's failure to comply with this practice direction, the Judge or Master may make a wasted costs order in accordance with CPR rule 64.13 or some other appropriate costs order.

11. *Effective Date*

This Practice Direction will come into effect on the 16th day of September, 2020.

Dated this 2nd day of September, 2020.

BRYAN SYKES, OJ, CD
Chief Justice.