

EASTERN CARIBBEAN SUPREME COURT
CIVIL PROCEDURE RULES (REVISED EDITION) 2023

PRACTICE DIRECTION 26

No. 3 of 2023

CIVIL RESTRAINT ORDERS

This Practice Direction is made pursuant to Rule 4.2(1) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 and is applicable to all the Member States and Territories in the jurisdiction of the Eastern Caribbean Supreme Court.

1. INTRODUCTION

1.1 This Practice Direction supplements Rule 26.2(6) of the Eastern Caribbean Supreme Court Civil Procedure Rules (Revised Edition) 2023 which provides that a practice direction may set out

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- (a) the circumstances in which a court has the power to make a civil restraint order against a party to the proceedings;
- (b) the procedure where a party applies for a civil restraint order against another party; and
- (c) the consequences of the court making a civil restraint order.

1.2 This Practice Direction applies where the court is considering whether to make -

- (a) a limited civil restraint order;
- (b) an extended civil restraint order; or
- (c) a general civil restraint order,

against a party who has issued claims or made applications which are totally without merit.

2. GENERAL

2.1 A party to the proceedings may apply for a civil restraint order.

2.2 An application made under this Practice Direction for or pursuant to a civil restraint order must be made in accordance with Part 11 of the Civil Procedure Rules (Revised Edition) 2023.

2.3 An application by a party to the proceedings for a civil restraint order must specify the type of civil restraint order being sought.

2.4 Examples of a limited civil restraint order, an extended civil restraint order and a general civil restraint order are annexed to this Practice Direction as **Annexes A, B and C** respectively. These examples may be modified as appropriate in any particular case.

3. LIMITED CIVIL RESTRAINT ORDERS

3.1 A limited civil restraint order may be made by the court where a party has made two or more applications in the same proceedings which are totally without merit.

3.2 Where the court makes a limited civil restraint order, the party against whom the order is made –

- (a) will be restrained from making any further applications in the proceedings in which the order is made without first obtaining the permission of the court;
- (b) may apply for amendment or discharge of the order provided the party has first obtained the permission of the court; and
- (c) may apply for permission to appeal the order and if permission is granted, may appeal the order.

3.3 Where a party who is subject to a limited civil restraint order makes a further application in the proceedings in which the order is made without first obtaining the permission of the court, such application will automatically be dismissed –

- (a) without the court having to make any further order; and
- (b) without the need for the other party to respond to it.

3.4 A limited civil restraint order –

- (a) is limited to the particular proceedings in which it is made; and
- (b) will remain in effect for the duration of the proceedings in which it is made, unless the court otherwise orders.

4. EXTENDED CIVIL RESTRAINT ORDERS

4.1 An extended civil restraint order may be made by the court where a party has persistently issued claims or made applications which are totally without merit.

4.2 Where the court makes an extended civil restraint order, the party against whom the order is made –

- (a) will be restrained from issuing claims or making applications concerning any matter involving or relating to or touching upon or leading to the proceedings in which this order is made without first obtaining the permission of the court;

- (b) may apply for amendment or discharge of the order provided the party has first obtained the permission of the court; and
- (c) may apply for permission to appeal the order and if permission is granted, may appeal the order.

4.3 Where a party who is subject to an extended civil restraint order issues a claim or makes an application concerning any matter involving or relating to or touching upon or leading to the proceedings in which the order is made without first obtaining the permission of the court, the claim or application will automatically be struck out or dismissed –

- (a) without the court having to make any further order; and
- (b) without the need for the other party to respond to it.

4.4 An extended civil restraint order may be made for a specified period not exceeding two years.

4.5 The court may extend the duration of an extended civil restraint order, if it considers it appropriate to do so, but it must not be extended for a period greater than two (2) years on any given occasion.

5. GENERAL CIVIL RESTRAINT ORDERS

5.1 A general civil restraint order may be made by the court where the party against whom the order is made persists in issuing claims or making applications which are totally without merit, in circumstances where an extended civil restraint order would not be sufficient or appropriate.

5.2 Where the court makes a general civil restraint order, the party against whom the order is made –

- (a) will be restrained from issuing any claim or making any application in any court without first obtaining the permission of the court;
- (b) may apply for amendment or discharge of the order provided the party has first obtained the permission of the court; and
- (c) may apply for permission to appeal the order and if permission is granted, may appeal the order.

5.3 Where a party who is subject to a general civil restraint order issues a claim or makes an application without first obtaining the permission of the court, the claim or application will automatically be struck out or dismissed –

- (a) without the court having to make any further order; and
- (b) without the need for the other party to respond to it.

5.4 A general civil restraint order will be made for a specified period not exceeding two years.

5.5 The court may extend the duration of a general civil restraint order, if it considers it appropriate to do so, but it must not be extended for a period greater than two (2) years on any given occasion.

6. EFFECTIVE DATE

This Practice Direction shall come into effect in a Member State or Territory on the 15th day of January, 2024.

Dated the 15th day of December 2023

Sgd.

Dame Janice M. Pereira DBE, LL.D

Chief Justice

ANNEX A
LIMITED CIVIL RESTRAINT ORDER
(Heading as in Form 1)

BEFORE:

MADE :

ENTERED:

PENAL NOTICE

[NOTICE: IF YOU FAIL TO COMPLY WITH THE TERMS OF THIS ORDER, PROCEEDINGS MAY BE COMMENCED AGAINST YOU FOR CONTEMPT OF COURT AND YOU MAY BE LIABLE TO BE IMPRISONED.]

UPON THE APPLICATION/UPON THE COURT CONSIDERING ON ITS OWN INITIATIVE that the Defendant/Claimant

AND UPON hearing the Claimant/Defendant

AND UPON hearing the Defendant/Claimant in response (if applicable)

AND UPON FINDING THAT the Claimant/Defendant has made two or more applications in these proceedings which are totally without merit.

IT IS ORDERED THAT:

1. The Claimant/Defendant be restrained from making any further application in these proceedings without first obtaining the permission of the court.
2. This Order will remain in effect for the duration of the proceedings or until [insert date].
3. There is no order as to costs/Costs to be paid in the sum of [].

By the Court,

Chief Registrar/ Registrar

ANNEX B
EXTENDED CIVIL RESTRAINT ORDER
(Heading as in Form 1)

BEFORE:

MADE :

ENTERED:

PENAL NOTICE

[NOTICE: IF YOU FAIL TO COMPLY WITH THE TERMS OF THIS ORDER, PROCEEDINGS MAY BE COMMENCED AGAINST YOU FOR CONTEMPT OF COURT AND YOU MAY BE LIABLE TO BE IMPRISONED.]

UPON THE APPLICATION/UPON THE COURT CONSIDERING ON ITS OWN INITIATIVE that the Defendant/Claimant

AND UPON hearing the Claimant/Defendant

AND UPON hearing the Defendant/Claimant in response (if applicable)

AND UPON FINDING THAT the Claimant/Defendant has persistently issued claims or made applications which are totally without merit.

IT IS ORDERED THAT:

1. The Claimant/Defendant be restrained from issuing claims or making applications concerning any matter involving or relating to or touching upon or leading to the proceedings in which this order is made without first obtaining the permission of court.
2. This Order will remain in effect until [insert date].
3. There is no order as to costs/Costs to be paid in the sum of [].

By the Court,

Chief Registrar/ Registrar

ANNEX C
GENERAL CIVIL RESTRAINT ORDER
(Heading as in Form 1)

BEFORE:

MADE :

ENTERED:

PENAL NOTICE

[NOTICE: IF YOU FAIL TO COMPLY WITH THE TERMS OF THIS ORDER, PROCEEDINGS MAY BE COMMENCED AGAINST YOU FOR CONTEMPT OF COURT AND YOU MAY BE LIABLE TO BE IMPRISONED.]

UPON THE APPLICATION/UPON THE COURT CONSIDERING ON ITS OWN INITIATIVE that the Defendant/Claimant

AND UPON hearing the Claimant/Defendant

AND UPON hearing the Defendant/Claimant in response (if applicable)

AND UPON FINDING THAT the Claimant/Defendant persists in issuing claims or making applications which are totally without merit, in circumstances where an extended civil restraint order would not be sufficient or appropriate.

IT IS ORDERED THAT:

1. The Claimant/Defendant be restrained from issuing any claim or making any application without first obtaining the permission of the court.
2. This Order will remain in effect for the duration of the proceedings or until [insert date] or until further order.
3. There is no order as to costs/Costs to be paid in the sum of [].

By the Court,

Chief Registrar/ Registrar