



**THE SUPREME COURT OF BERMUDA
PRACTICE DIRECTION**

ISSUED BY THE CHIEF JUSTICE

Ref. A50

Thursday 10th March 2011

CIRCULAR NO. 6 OF 2011

COMMUNICATIONS BETWEEN COUNSEL AND THE COURT ETC.

Communications with the trial Judge

1. There have been recent instances of counsel attempting to communicate directly with the Judge, particularly by e-mail. This is not permissible, may compromise the integrity of the proceedings concerned and should stop.
2. The general rule is that all out of court communications between counsel and the Court, whether written or oral, should take place with or through the Registrar.

Correspondence with the Registry

3. Normal party and party correspondence should not be copied to the Registry. The only correspondence which should be directed to the Registry is that which covers a filing, seeks a date or seeks some other form of action from the Registrar.
4. Save as regards applications which are properly made on an *ex parte* basis¹ without notice to any other party, no communications with the Court should take place without notice to all parties affected. In particular all correspondence should be copied to the other parties.

Ex parte Applications

5. Counsel should note that an *ex parte* application is not the normal or ordinary means of applying for an injunction, and the jurisdiction of the court to entertain an *ex parte* application for an injunction is predicated upon urgency. Thus RSC Ord. 29, r. 1(2) provides:

“(2) Where the case is one of urgency such application may be made *ex parte* on affidavit but, except as aforesaid, such applications must be made by motion or summons.”

6. Counsel should also note that even where an *ex parte* application is justified on grounds of urgency, the application should ordinarily be *ex parte* on notice **unless** the giving of notice is likely to defeat the application by reason of either delay or precipitating the action the application is designed to prevent: see the White Book, at 29/1A/21, 29/1A/25 and Augustus-v-Gibbons [2009] SC (Bda) 53 Civ (30 November 2009). Where prior notice of an *ex parte* application is not given, the supporting affidavit should ordinarily explain why.

Implementation of Orders

7. Counsel are reminded that in the case of Orders requiring action from the Registrar (e.g. the setting of a date, or an order requiring the removal of a matter from the cause-book) counsel having carriage of the Order should write to the Registrar asking that it be implemented.

Dated this 10th day of March, 2011

Richard W. Ground OBE QC
Chief Justice

¹ For a list of such applications see the White Book, 1999 ed. 32/6/5.