
Bulletin No. 2024-02**Land Titles Act****Date: May 15, 2024****Court Orders**

Background

Court orders often deal with legal interests in real property. They can also effectively cure title issues and, in some circumstances, they may be the only appropriate remedy. This bulletin provides information regarding the registration of Court orders to help ensure that Court orders submitted for registration are registrable and can be implemented with the desired effect. This bulletin does not replace the professional judgment that must be exercised by lawyers in each individual case.

Contents**1. Proper Parties****2. Contents and Form of Order****a. Required Content and Form**

- i. Legal Description of Affected Property
- ii. Instruments to be Deleted
- iii. Instruments to be Added

b. Improper Content

- i. Alteration of Registered Instruments
- ii. Attachment of other instruments, photographs or sketches
- iii. Personal and/or non-title related information
- iv. Vague and “Basket Clause” Language
- v. Typographical errors and other mistakes

- vi. “Extensions” of Cautions
- vii. Directions to Certify
- viii. Consolidation of PINs
- ix. Conversions and Upgrades
- x. Adding lands to Parcels by Changing Legal Descriptions
- xi. Note re: Mandamus

c. Drafting to Achieve the Desired End Result

3. Court Order Document Types

- a. Application for Vesting Order
- b. Application to Amend Based on Court Order
- c. Application for Restrictions Based on Court Order
- d. Application to Register Court Order

4. Registration Process

- a. Preapprovals
- b. Registration
- c. Certification
- d. Deletion

5. Specific Orders and Issues

- a. Mareva Injunctions
- b. Vesting Orders and Receiver’s or Monitor’s Certificates
- c. Extra-provincial Court Orders
- d. Family Law Orders Dispensing with Signatures

1. Proper Parties

Neither the Director of Titles nor the Land Registrar is a proper party to a proceeding simply because the order sought affects title to land. The “Land Registry Office” is not a legal entity and should never be named as a party.

Subject to the exception noted below, if a vesting order or rectification order is sought in proceedings in which:

- there are no allegations of wrongdoing on the part of land registration staff or the officers appointed under the *Land Titles Act* or other land registration statutes, and
- the parties are not seeking damages or an order in the nature of mandamus against the officers or government with respect to the matters set out in section 2(b)(i through x)

there is no need to name His Majesty the King or these officers as parties or provide them with notice of the proceedings.

The exception to this rule is circumstances in which rectification of title is being sought pursuant to s. 57(13)(b) of the *Land Titles Act* (“**LTA**”) on the basis that a fraudulent instrument has been registered. In these limited circumstances, the Director of Titles is a mandatory statutory party and must be given notice and named as a party. Section 57(14) of the LTA establishes this as a condition of issuing a rectification order in relation to fraudulent instruments. In these cases, the Director should be named as “The Director of Titles, pursuant to subsection 57(14) of the Land Titles Act”. The Director’s participation in these proceedings is normally limited to issues of interpretation of the provisions of the LTA.

Proper parties and procedure in respect of appeals from decisions made under the LTA or *Boundaries Act* or claims against the Crown in respect of land registration matters may be found in the LTA, *Boundaries Act*, *Crown Liability and Proceedings Act* or the *Judicial Review Procedure Act*, as the case may be.

2. Contents and Form of Order

a. Required Content and Form

Court orders often deal with more than just title issues. Where possible, a separate order dealing with title should be obtained. If it is not possible to obtain a separate order, the provisions dealing with title should be placed in a distinct section of the order.

Any provisions of an order that direct rectification should be directed at the Land Registrar (e.g. “the Land Registrar is hereby ordered and directed to...”). As a rule, directives to the Land Registrar will not take the form of declaratory relief and therefore any such provisions should be separated from paragraphs which contain declaratory relief.

Only a formal issued and entered order or judgment may be registered on title. A handwritten endorsement is not acceptable. The reasons for decision should not be registered on title where the reasons do not contain the specific order to the Land Registrar. Wherever possible, an order without reasons is highly preferable and will assist in a more efficient certification process, as Land Registry Office (the “**LRO**”) staff can more readily identify the Court’s directive. A redacted Court order may not be registered.

i. Legal Description of Affected Property

The property affected by a Court order must be clearly identified in the order. Land is registered under the LTA and *Registry Act* using legal descriptions, not municipal addresses. A municipal address may relate to multiple parcels of registered land. A parcel may also have no municipal address assigned. Accordingly, the legal description,

including the land registry or land titles division (i.e. LRO Number) and Property Identifier Number (the “PIN”) for affected land must be set out clearly in the order.

The LTA and O. Reg. 19/99 under the *Land Registration Reform Act* provides that a document submitted for registration must contain a registrable description. If the property affected by the order does not have a registrable description, the order may not be registered. Description requirements are set out in the LTA and in O. Reg. 43/96 under the *Registry Act*. Sketches and colloquial descriptions (e.g. “the six foot wide pathway between the properties”, “the north 40 acres”, “the lands south of the river”, “the access road” etc.) are all insufficient and should never be used. In many cases, a deposited reference plan will be required. The Examiner of Surveys has prescribed protocols and requirements for the submission, review and deposit of reference plans, the details of which should be familiar to an Ontario Land Surveyor. Where a reference plan is being used, the reference plan must be deposited prior to obtaining the court order and the court order must expressly reference specific part(s) on the properly deposited reference plan (e.g. “Part 1 on Plan 66R-XXX”, etc.).

ii. Instruments to be Deleted

Upon the registration of a Court order (including a vesting order) the Land Registrar will not make any determination as to what encumbrances the Court intends to be deleted (if any). If the Court intends the Land Registrar to delete all or certain encumbrances/instruments from the title, then the Court order must explicitly specify, by reference to the instrument number(s), which encumbrances are to be deleted from the lands. “Encumbrance” is not a defined term in the LTA. The Land Registrar cannot delete encumbrances that are not explicitly specified by reference to instrument numbers, even if the Court order has generic descriptive wording (e.g. “free and clear of all encumbrances”, etc.). Absent language ordering the deletion of specific instruments, all encumbrances will remain registered on title and if any new PIN is opened as a result of the order all encumbrances recorded against the Source PIN will be carried forward.

In light of the above, there is no need to list the documents which are to remain on title, as all such instruments will remain in the absence of a clear directive from the Court to remove the instrument(s). Stated another way, listing the “permitted encumbrances” is unnecessary. Only those currently recorded instruments that should be deleted should be set out in the order.

iii. Instruments to be Added

Parties should consider whether any instruments should be added to the parcel register as a result of a Court order. If so, these instruments must be clearly identified by instrument number. Consider, for example, a scenario in which adjoining lands are vested in a registered owner. If the registered owner has a charge on the original lands, the parties may wish to seek an order from the Court (i) deeming the existing charge to also include the newly vested lands *nunc pro tunc*; and (ii) order the existing charge, identified by instrument number, to be added to the PIN for the newly vested lands.

b. Improper Content

i. Alteration of Registered Instruments

The Land Registrar may amend the register, through changes to the contents of fields on the parcel page or through deletion or addition of instruments. The Land Registrar cannot alter the contents of registered instruments. A draft order purporting to compel the Land Registrar to do so should never be put before the Court. If the actual contents of a registered instrument are to be changed, the parties may consider obtaining declarative relief. An example of such relief would be an order deeming instruments to have been registered on a certain date or deeming them to contain certain provisions on a *nunc pro tunc* basis. Such an order should be registered using an Application to Register Court Order if no amendments are being performed by the Land Registrar.

ii. Attachment of other instruments, photographs or sketches

As a rule, copies of registered instruments should never be attached to other instruments being registered. Accordingly, a Court order should not have any other registered instrument attached to it. Instead, the order should reference the instrument number of the registered instrument.

Photographs and sketches are also not appropriate attachments to an order registered on title and any orders with such attachments will not be acceptable for registration.

iii. Personal and/or non-title related information

To the extent possible, personal and/or non-title related information should be excluded from any Court order which is to be registered on title. The land registration system is public and even once deleted the contents of the Court order may be viewed. If the Court is dealing with personal property and/or non-title related issues and title related issues, the option of obtaining two Court orders (one dealing with title issues and one dealing with all other matters) should be considered. Note that an order in a proceeding in which the parties have been anonymized (for example, where, by order, parties are identified only by initials or a pseudonym) may not be registered on title if doing so may identify the parties (unless the language of the order itself explicitly permits its registration). If the order in an anonymized proceeding explicitly permits its registration, a law statement confirming the initials represent the individuals reflected on title will be required.

iv. Vague and “Basket Clause” Language

Directions to the Land Registrar should always be set out in clear and precise language. As a general rule, if any aspect of the directive to the Land Registrar is unclear, ambiguous or contradictory, the Court order will not be registrable because it cannot be implemented.

Court orders should not include “basket clause” language. An example of such a clause would be a provision providing that the Land Registrar will “...accept for registration such further and other instruments or assurances and take all steps and do all things that may be necessary or desirable to better to give effect to the true intention of this Order and the Court's decision herein.” Of course, there are any number of variations of this type of “basket clause” language, all of which are too vague, and none of which should be included in a Court order to be registered on title.

v. Typographical errors and other mistakes

Errors, even seemingly “minor” ones, in any of the key information set out in the order, including without limitation, the PIN, an instrument number or a vestee’s name may render the order unregistrable and entail the order having to be amended.

vi. “Extensions” of Cautions

Cautions registered pursuant to s. 128 of the LTA cease to have effect 60 days from the date of registration and may not be renewed. Pursuant to s. 130 of the Act a second caution by the same cautioner or with respect to the same matter may not be registered and will not have effect except with the permission of the Land Registrar. It is improper for a party to seek that a caution be extended beyond this statutory time period.

Cautions are intended as temporary measures to allow time for parties to seek other injunctive relief and/or a certificate of pending litigation.

vii. Directions to Certify

Pursuant to s. 78 of the LTA, certification of instruments is within the statutory mandate of the Land Registrar. Documents which fail to comply with the requirements under the LTA and/or *Land Registration Reform Act* or otherwise contain errors, omissions or deficiencies cannot be certified. Consequently, it is not appropriate for a party to seek that the Court direct the Land Registrar to certify a document. Furthermore, “expedited” certification is not available. Applications that are based on Court orders are reviewed for certification in accordance with the ordinary queue of documents and their complexity.

viii. Consolidation of PINs

Pursuant to s. 141(2) of the LTA, the division of land into parcels and assignment of PINs is within the statutory mandate of the Director of Titles. It is inappropriate for parties to seek an order which purports to direct the consolidation or division (splitting) of PINs. Before consolidating adjoining PINs certain administrative requirements must be satisfied. PIN splits will be effected by the division of ownership of parts of land contained in one parcel. No direction is required. Consolidations must be effected by the registration of an Application Consolidation Parcels with the required statements.

ix. Conversions and Upgrades

The LTA confers on the Land Registrar and Director of Titles the statutory authority to register land under the Act and to determine and/or remove title qualifiers. The Director of Titles has specified the forms and requirements for conversion and title upgrades. First registration and the removal of qualifiers requires a careful examination of title and may include a requirement for a new plan, full title search, solicitor's opinion and notice to adjoining landowners.

The Court should not be requested to order land to be registered under the LTA or to alter qualifiers. As with consolidation, these are government prerogatives, and they materially affect the nature and scope of the government's guarantee under the Act. If one of the purposes of seeking the Court order is to facilitate conversion or title upgrade, the issue preventing or complicating the conversion or upgrade should be addressed by the Court order and then the proper procedure under the LTA should be followed for a conversion or title upgrade.

x. Adding Lands to PINs by Changing Legal Descriptions

The legal descriptions of parcels of land are within the purview of the Land Registrar pursuant to Section 140(1) of the LTA. When determining or altering the legal description of a parcel of land, the reason for the change, as well as the audit history of the description must be maintained as part of the record in order to maintain the clarity and integrity of the system. Changes in legal descriptions that would ultimately expand or reduce the land included in a PIN must also be processed in a way that facilitates the alteration in mapping.

A Court order can vest a part of an existing PIN to someone other than the current registered owner (presuming that there is a proper description based on a reference plan for the affected part of the PIN). If the new owner owns adjacent land, the vesting order for the partial PIN will not result in the description of the newly vested land being added to the previously owned PIN. Instead, the Land Registrar will create a new PIN for that newly vested piece and record the new owner as the registered owner of this new PIN. A Court order should not compel the Land Registrar to simply amend the new owner's existing PIN to include newly vested lands. If lands are being removed, the order should not purport to alter the legal description of the PIN to remove the vested lands. In this case the Land Registrar will "split" the existing Source PIN so that the original Source PIN becomes inactive and create two new active PINs in its stead (one PIN to reflect the newly vested lands and one PIN to reflect the remnant of the Source PIN). An application to consolidate the PIN for the vested lands with the owner's adjoining lands can then be made. This will ensure that the audit history of the parcelization is maintained and the mapping is updated appropriately.

xi. Note Re: Mandamus

This bulletin sets out several things that should not be addressed by a Court order. This is not to suggest that a Court cannot ultimately order the Land Registrar to do such

things. Indeed, the Court has broad jurisdiction. However, where the relief sought by a party would effectively “override” the legislative authority expressly otherwise conferred upon the Land Registrar, Director of Titles and/or Director of Land Registration and circumvent the administrative process or discretion exercised by these officials then appropriate legal proceedings, with the requisite notice, should be commenced and the pleadings should be framed as a prayer for a writ of mandamus or other similar actions against the Crown. As a procedural matter, the Land Registrar will alert the Ministry of the Attorney General whenever there are proceedings seeking a writ of mandamus, and a lawyer from the Crown Law Office (Civil) branch of the Ministry of the Attorney General will typically be appointed.

c. Drafting to Achieve the Desired End Result

Court orders are often used to cure specific conveyancing errors. In some circumstances these errors have been carried through multiple instruments in the chain of title. There may be a natural tendency to seek to make adjustments to multiple documents to attempt to cure the original conveyancing error and to achieve a title that reflects in a resulting corrected “chain of title”. However, it is more efficient and there is less possibility for error if practitioners seek an amendment that reflects the desired end result.

As a drafting principle, practitioners are encouraged to seek to make the changes to those PINs that would reflect, today, the ultimate “end state” that the parties are asking the Court to approve. Examples of this drafting principle include:

- an erroneous or defective power of sale – consider obtaining a vesting order, rather than trying to “unwind” the erroneous or defective power of sale, so that the mortgagee can re-convey properly under a new transfer under power of sale;
- missing lands, in a situation in which an owner has multiple adjoining PINs that were intended to be conveyed together, but only one of the PINs has been conveyed – consider vesting the missing lands in the name of the owner who should now own all the lands (and consider vesting the lands already owned, if necessary to address any potential Planning Act concerns);
- joint tenancy intended when title reflects tenancy in common – consider vesting the title in the surviving joint tenant(s) rather than trying to re-characterize the parties as joint tenants, so that a survivorship application can then be registered.

Again, the Land Registrar, the Land Registry Office, and the Director of Titles take no substantive position on the arguments or whether a Court should order a given result, but if the Court is otherwise prepared to order a certain outcome, then the parties should consider crafting their Court orders to implement the desired end state rather than trying to rectify all the instruments in the chain of title.

3. Court Order Document Types

Four distinct document types are available for the registration of Court orders. It is occasionally appropriate to register the same Court order multiple times using different

document types. When deciding whether to register the same court order using more than one document type, thought should be given, not only to the content of the order, but also the timing and conditions for deletion. For example, if an order contains a provision vesting title to a property, but also contains a provision which deems another instrument to be registered on a certain date, the order may be registered using an Application for Vesting Order and an Application to Register Court Order. This will ensure that when the Vesting Order is deleted upon the registration of a Transfer, the Application to Register Court Order will remain on title, which may be appropriate in these circumstances.

- a. Application for Vesting Order** – This document has the effect of conveying the property. Upon registration of a Vesting Order the ownership field will be updated and the Vesting Order will become the current ownership document. Pursuant to s. 25(2) of the LTA all persons affected by a vesting order must be shown by the order to be a party to the proceeding or the lawyer will be required to furnish such evidence as is satisfactory to the Land Registrar to show that the affected person is effectively bound by the court order. If all persons affected have not been named, the Applicant must submit the above referenced evidence to the Land Registrar for approval prior to submitting the Vesting Order for registration. An Application for Vesting Order includes a required law statement (statement 3659) which provides that all persons affected by the order have been named as parties or the Land Registrar’s written approval has been obtained. Consequently, it is best practice to name all persons that could be affected should the court order be granted. Vesting orders should be clearly drafted to “vest” title to the property. Language such as “convey”, “transfer” or “re-vest” should be avoided. Language in an order stating that the property “belongs to” or is “an asset of” an individual is also not clear vesting language for the purposes of registration.

The order must state the full name of the party(ies) in whom the land vests, along with the party’s (ies’) date of birth. If the order vests the property in multiple individuals, their shares and capacities should also be set out.

An execution search must be conducted before registering an Application for Vesting Order. Unless the executions are otherwise addressed, the property will vest in the new owner subject to any existing executions against the previous registered owner. A writ clearing statement will be required unless the Court Order also explicitly states that the vesting is not subject to “writs” or “writs of execution” against the registered owner. Language sufficient to vest fee and clear of writs includes:

The Court hereby orders that the Land Registrar shall vest title as herein provided, free and clear of, and without regard to, any relevant writs of executions that may have been filed with the Sheriff as against each and every registered owner, either before or after the date of this Order providing for vesting.

Language identifying the writ that would otherwise have attached by writ number and confirming that the order explicitly provides that vesting is not subject to any outstanding writs against the outgoing registered owner(s) must be entered into the above referenced law statement for vesting orders (statement 3659).

An Application for Vesting Order should not be used if the interest created or confirmed in the Court Order is an easement (see below). If an order includes a statement that the property vests in a person, followed by an order directing the current registered owner to transfer or convey title to that person, it will not be recognized as a Vesting Order for the purposes of registration. That language is recognized as a confirmation of a vested interest coupled with an order that one party register a Transfer.

- b. Application to Amend Based on Court Order** – This document type should be selected in the event that the order directs the Land Registrar to alter the register. Examples of common amendments include the deletion of registered instruments from the register, the addition of instruments creating easements or other instruments and amendments to the parcel register fields. If previously registered instruments are to be deleted or added to the register they must be referenced in the order by Instrument No. The Applicant(s) identified in the Application to Amend Based on Court Order is the party(ies) submitting the order for registration. This individual(s) need not be the Applicant (or all the Applicants) named in the underlying proceeding. For information concerning what may not be properly included in a title rectification order see Section 2(b) of this bulletin. An Application to Amend Based on Court Order will generally be deleted once the amendments have been performed, if the amendment performed is the deletion of an instrument, notation or other information. It will remain in the “stack” as a deleted instrument for reference. If the order is intended to remain on title after the amendments (e.g. a declaratory order that also includes rectification provisions) the order may also be registered as an Application to Register Court Order.
- c. Application for Restrictions Based on Court Order** - If a Court order restricts dealings with a property, it may be registered using this document type. The restrictions expressed in the Order should clearly restrict registrations against a properly identified property. For example, an order restricting the owner from transferring or charging an identified property is the proper subject of an Application for Restrictions Based on Court Order. An order providing only that a person may not deplete assets does not create a clear restriction against registrations relating to an identified property. The Applicant(s) identified in the Application for Restrictions Based on Court Order is the party(ies) submitting the order for registration. This individual(s) need not be the Applicant (or all the Applicants) named in the underlying proceeding. If an order contains restrictions but is registered using an Application to Register Court Order instead of an Application for Restrictions Based on Court Order, it will be accepted for registration but the document No Dealings Indicator (NDI) will not be triggered.

d. Application to Register Court Order – This document type may be used for Court orders which do not solely vest title, impose restrictions, or direct the Land Registrar to amend the register. To be registered, the order must still actually affect title. Court orders should not be registered where the subject matter of the order is only ancillary to title. For example, if an order directs that a property be listed for sale or that one party transfer a property, such an order should not be registered on title. Other examples would be costs orders, orders for monetary awards and orders that the proceeds of the sale of a property be distributed in a certain manner. An Application to Register Court Order may be used to register orders that provide declaratory relief regarding title matters. For example, an order that deems the content of documents to be different from the registered document, may be registered using an Application to Register Court Order. An example of an order that is properly registered using this document type is an order deeming a specific instrument to have been registered on a specific date which differs from the action date of registration. Careful consideration should be given before registering an order using an Application to Register Court Order. Unless the order itself clearly provides for its deletion, this instrument will remain on title indefinitely. Another Court order will often be required to remove a Court order that does not set out express conditions for its deletion.

4. Registration Process

a. Preapprovals

Land Registry Office staff cannot draft Court orders for parties. However, once the parties have a draft order ready for review, parties should submit the draft order through the OnLand portal at <https://www.onland.ca> for registration preapproval. Preapproval helps ensure that, should the order be granted, it can be registered and implemented with the desired effect. Once submitted for preapproval, the document in preparation will be automatically assigned to specialist staff within the Land Registry Office for review and processing in the ordinary course. The current lead-time is approximately ten business days, but parties are always encouraged to provide as long a lead-time as possible, and more so in the case of complex Court orders.

Parties should be aware that there is no entitlement to an “expedited” pre-approval, so documents should be submitted well in advance of attending Court. Pre-approval of the form of the Court order is limited to registrability and form only -- the Land Registry Office, the Land Registrar, and the Director of Titles will not take any position or provide any legal advice on the substantive merits of the arguments being made in support of or in opposition to the Court order itself. Lawyers should never suggest to the Court that pre-approval by the Land Registry Office indicates the support or endorsement of the substantive arguments in favour of the Court order.

b. Registration

It is not appropriate to provide that a Court order is operative vis-à-vis the Land Registrar immediately, as it can only be operative as against the Land Registrar once it

is registered on title, which includes the certification process. Furthermore, it is not appropriate to order the Land Registrar to cause the registration of the Court order on title. Registration on title is the obligation of the party seeking its implementation. Court orders are registered on title electronically and guidance on how to register documents in Teraview (including Court orders) can be found in the Electronic Registration Procedures Guide, available at www.teraview.ca.

Registrants should be mindful that an order cannot be registered on title where the interest affected by the order has “traded” subsequent to the issuance of the order. For example, a vesting order cannot be registered where the property is sold following the date of the order and prior to the Application for Vesting Order being registered. Similarly, if a charge is to be deleted by Court order but that charge is subsequently transferred prior to the order being registered a new order will need to be obtained.

An order should not be registered by attaching it to a Transfer or other instrument, even if that Transfer or other instrument is empowered by the order. The order should be registered using the appropriate document type and then it can be appropriately referenced in the subsequent instrument. A statement will be required in any subsequent instrument empowered by the order confirming that the order is in full force and effect.

c. Certification

If a deficiency is identified in an order which renders the instrument uncertifiable, the Land Registry Office will return the document for correction. Counsel will then have 30 days (the longest amount of time provided for pursuant to s. 78(2) of the LTA) to obtain an amended order addressing the deficiency. If the document is not corrected within this timeframe the document will be withdrawn. If the document is withdrawn and counsel is concerned that the land might be dealt with prior to the registration of an amended order, counsel can consider whether the registration of a caution may be appropriate in the circumstances.

If an amended order is obtained before the instrument is withdrawn, to maintain the original registration date, it is necessary for counsel to add in a provision to the order as amended which shall deem it to be effective as of the date of the original registration in order to permit the “slip-sheeting” of the amended order with the instrument as originally registered.

In rare circumstances, where an order is not capable of correction such that it would be registrable or implementable (For example, if the order relates to matters that do not affect title) notification that the document will be withdrawn will be given in the normal course.

d. Deletion of Court Orders

As set out above, a Court order registered as an Application for Vesting Order is treated as a conveyance and will, therefore, automatically be deleted from the PIN upon a

further conveyance. Likewise, an Application to Amend Based on Court Order that orders deletions will automatically be deleted once the amendments have been performed. Other Court orders may remain permanently on title as part of the document pool unless they contain a clear provision providing for their deletion.

Clear conditions for deletion include language that provides that the order may be deleted from title after a specified date or after the registration or deletion of an identified instrument. If the removal provision requires any interpretation or decision making required on the part of the Land Registry Office staff to determine that the requisite condition for removal has been met, a law statement confirming the fulfilment of the condition(s) will be required in the application to delete the order.

As, absent a deletion provision, a Court order may be required to remove a Court order, it is highly recommended that orders be drafted to include a provision for their eventual removal wherever appropriate.

5. Specific Orders and Issues

a. Mareva Injunctions

In circumstances where a party is seeking a Mareva injunction, an Application for Restrictions Based on Court Order will be required. The order itself should expressly identify that it is a Mareva injunction so that the Land Registrar can easily identify the nature of the document. The injunction order should clearly identify both the PIN for the relevant land including the LRO number and the restriction being imposed upon such land. No unnecessary personal information should be included. The wording of the restriction(s) in the order should be repeated in Statement 3750 in the application.

A Mareva injunction must never delegate authority to any entity or party in respect of the restriction (e.g. "This Court orders the Land Registrar to allow no dealings on the [PINs] except as may be directed by Bob Smith").

b. Vesting Orders and Receiver's or Monitor's Certificates

Vesting orders issued in connection with insolvency proceedings under the *Companies' Creditors Arrangement Act* and the *Bankruptcy and Insolvency Act* are often structured as conditional vestings, effective on the delivery of a "receiver's certificate" or "monitor's certificate" in a prescribed form. These vesting orders can only be registered as an Application Vesting Order if there is a law statement confirming that the "receiver's certificate" or "monitor's certificate", as the case may be, has been obtained. Given this law statement, the actual "receiver's certificate" or "monitor's certificate" need not be incorporated into the Application Vesting Order.

The "Applicant" for the purposes of the registration of Court orders will be the receiver, Whereas the applicant in the related insolvency proceedings will likely be a different

party.

No aspect of the Court order should be altered or completed by the receiver (or any other individual) after the order is issued (for example, by inserting a purchaser's name or particular PIN), as all the material details should be included in the Court order at the time it is signed and issued by the Court.

c. Extra-Provincial Orders

The Land Registrar will accept Court orders from the Ontario Superior Court of Justice (excepting the Small Claims Court), Ontario Court of Appeal, Supreme Court of Canada and Federal Court Orders, including orders issued in Federal Courts situated in another Canadian province or territory. As the Small Claims Court lacks the jurisdiction to deal with real property or issue declaratory relief, Ontario Small Claims Court orders may not be registered, except with respect to the exception identified in respect of Notices of Security Interests, as more particularly set out in Bulletin 2022-04.

In addition, as a general rule, Court orders which are from any other province or territory, or any other country, including the U.S.A. will not be accepted for registration. There are only very limited exceptions to this, as follows:

- extra-provincial or foreign court orders that have been “re-sealed” by the Ontario Superior Court of Justice;
- Province of Quebec Letters of Verification, Certificates of Judgment, and Prothonotarial Wills;
- support orders as per Bulletin 2017-02;
- orders issued by other Canadian provincial courts pursuant to federal statutes.

Under no circumstances will an arbitral award, whether it be from Ontario or otherwise, be accepted as a “Court order” as there is no authority under the Act for the registration of an arbitral award.

d. Family Law Orders Dispensing with Signatures

Occasionally, Court orders in family law matters will provide that the signature of one of the registered owners is dispensed with for the purposes of transfers or charges. This type of order should be registered using an Application to Register Court Order. In the subsequent registration, the registered owner must still be included as a party to the document. Instead of the usual Family Law Act statements, law statement 08, which provides that the document is authorized by the Court Order should be selected. While Court orders may not usually be deleted by a transfer or charge document, if the only title related relief granted by the Court order is to dispense with a signature on a transfer or charge, the order may be deleted by the transfer or charge. If the order is included in the transfer or charge as an instrument to be deleted, the instrument must contain a law

statement providing that the only title related relief contained in the Court order is an order dispensing with the signature of the transferor or chargor named in the instrument.

Original signed by

Rebecca Hockridge
Director of Titles