Image not found or type unknown
Zachary Rosen

May 6, 2026

Best Practices for Drafting Commercial List Orders

Between preparing your Notice of Motion or Application, researching and drafting your factum, and getting your affidavit evidence just right, it's easy to lose sight of the goal of the proceedings you commenced before the Commercial List: the Court's order.
Taking care to prepare a clear, enforceable, and court-compliant order ensures that your client is obtaining the relief they are looking for and that their litigation goals are being met.

Here are some best practices for drafting Commercial List court orders:

1. Get the Form Right

- Use the correct form prescribed by the Rules of Civil Procedure and include a backsheet with every order.
- Style the order to reflect that it was issued on the Commercial List, not the general Civil List. For example, title it "Ontario Superior Court of Justice (Commercial List)" and draft the preamble to show the hearing location as that of the Commercial List: 330 University Avenue, Toronto.
- Using model orders or other successfully issued orders as a precedent is a great place to start when drafting. The Commercial List Users' Committee has approved several model orders for use, including Initial CCAA Orders, Receivership Approval and Discharge Orders, Approving and Vesting Orders, *Anton Piller* Orders, and *Mareva* Orders. You can find links to these model orders and other helpful precedents here.

2. Be Clear and Organized

- Draft your orders in plain, unambiguous language. The parties (as well as any non-parties who may be impacted by the order, such as banks or bailiffs) must be able to clearly identify their rights and obligations under the order. Should you need to enforce your order later, that clarity will be crucial to demonstrate that non-compliance with the order has taken place.
- Commercial List orders are frequently lengthy and often

deal with several issues and heads of relief all at once. Headings are not just for factums. Use headings to help the reader navigate the order more effectively, which will make the order easier to understand and, ultimately, comply with.

- Ensure the order's preamble includes the list of all materials and evidence the court had before it when granting the order. Examples of commonly listed materials include affidavits, motion records, written submissions, and consents.
- Some orders will be situated within the context of a complex matter. For these files, use the preamble to provide helpful context. For example, a preamble (usually commencing with "Whereas…") might include background on previously issued orders or agreements relevant to the relief the order seeks.

3. Work With Your Counterparty

- Give consenting parties the opportunity to review the order and propose revisions before you put the order before the Court. Once everyone agrees on the form and content, obtain written consent from (or on behalf of) all of the parties' counsel and include it in the moving party's or the applicant's materials. Refer to the written consent in the preamble of the order alongside any other relied-upon materials or evidence.
- Even in a contested hearing, consult with the responding parties beforehand to try to reach consensus on a draft order that will apply if the Court grants your relief. Resolving the order's form and content in advance eliminates one more issue to argue about at the hearing.

4. Give Some Thought to Relief

- Reflect on whether the relief sought is consistent with your client's goals and instructions. Review the draft order with your client and make sure they understand the order's effect if granted.
- Ensure that the relief sought is reasonable from the perspective of the responding party or other affected individual. For example, does your draft order create a reasonable timeline for any party or non-party to meet their obligations under the order? You must justify your draft order to the judge at the hearing, and the judge will be unlikely to grant an order that is overly onerous or impossible to follow.

- The relief sought in your draft order should be consistent with the relief sought in your Notice of Motion or Application. This gives the judge and parties sufficient advance notice of your position. If you are varying the relief sought in your order, the judge may refuse to grant that relief at the hearing.

5. Prepare for the Hearing

- As moving party or applicant, always prepare a draft order ahead of time for the judge to consider at or after the hearing. This will expedite issuance, which is particularly important in urgent matters such as injunctions.
- The Consolidated Practice Directions for the Toronto Region require two copies of a draft order: a clean copy and a blackline against a model order approved by the Commercial List Users' Committee showing any variations from the model order.
- File draft orders (along with all other motion or application materials) with the Commercial List Office through the Ontario Courts Public Portal and the appropriate Case Center (formerly CaseLines) hearing bundle within the time prescribed by the *Rules of Civil Procedure* or an agreed-upon timetable.
    - For urgent matters, indicate in the Portal that the matter is time-sensitive and email the Commercial List Office at mag.csd.to.scjcom@ontario.ca to advise of the urgent filing and provide details of the filing.
    - Where you seek a sealing or non-publication order, serve and file a redacted version of the materials in the usual manner. Email any confidential documents or information supporting the requested order to the Commercial List Office at mag.csd.to.scjcom@ontario.ca.
- Upload draft orders to Case Center in both PDF and Word formats in case the judge needs to make amendments to your draft order before signature and issuance.