

DRAFT MODEL ORDER FOR SEIZURE AND SAFEKEEPING OF EVIDENCE¹

This Model Order is prepared in response to comments of the Supreme Court of Canada in *Canadian Bearings Ltd. et al. v. Celanese Canada Inc. et al.*, 2006 SCC 36, which endorsed the development of model civil search and seizure Orders (a.k.a “Anton Piller” Orders) in Canadian jurisdictions. This draft is intended to provide guidance to the British Columbia bench and bar solely with respect to Orders for search, seizure and preservation of evidence and not Orders that combine search and seizure relief with other remedies.

The objective of this Order is to permit preservation of evidence for use in civil legal proceedings while ensuring fairness of the civil search and seizure process to defendants. This model Order does not alter the law with respect to *Anton Piller* Orders in the Province of British Columbia and its terms may not be appropriate for all types of cases. Additional, alternative or related relief may be sought and obtained from the Court. It is the responsibility of counsel to ensure that the proposed Order meets the requirements of their case and to provide evidentiary support and judicial authority for the relief sought, whether contained in this model order or otherwise.

[Style of Proceedings]

ORDER

BEFORE THE HONOURABLE) _____, the _____ day
MR./MADAM JUSTICE) of _____, 20___.
(Name of Judge))

UPON THE APPLICATION of the plaintiff made without notice, coming before me at [place of hearing] on this day, and on hearing [name], counsel for the plaintiff, no other party having been served, and on reading:

¹ An early draft of this Order was prepared by Gray and Russell JJ. It has been revised to reflect comments of an Anton Piller Working Group consisting of Madam Justice Victoria Gray; Michael D. Lucas, Manager, Policy and Legal Services, Law Society of British Columbia; K. Michael Stephens, Hunter Litigation Chambers; and Robert Dawkins, Borden Ladner Gervais LLP. The Working Group also extends its thanks to Mr. Robert H. Barrigar who provided comments on the draft order.

1. [list affidavits and any other material read at hearing]
2. [etc.]

AND UPON the plaintiff having undertaken to comply with the terms of the undertaking set out in Schedule "A" to this Order, which among other things requires service of the notice set out in Schedule "B" to this Order, [and payment into Court of \$_____ ordered to be posted as security prior to commencement of the search authorized by this Order];

THIS COURT ORDERS AND DIRECTS THAT:

Definitions

1. For purposes of this Order, the following terms shall have the meanings set out in this paragraph:
 - (a) "Evidence for Seizure" means all documents, records, items, devices, equipment, or other evidence within the categories listed in Schedule "C" to this Order.
 - (b) "Person in Apparent Control" means the person appearing to the Supervising Solicitor to be in control of the Premises. The Person in Apparent Control must appear to the Supervising Solicitor, acting reasonably, to be at least 18 years old.
 - (c) "Premises" means the premises at [address], every vehicle, container, storage area or other receptacle at, appurtenant, or adjacent to the Premises owned, leased or otherwise under the control of the defendant(s) and any further premises the Court may order.
 - (d) "Potentially Privileged Items" means:
 - (i) those items over which a defendant or Person in Apparent Control has asserted a claim of privilege; and
 - (ii) those items segregated and sealed by the Supervising Solicitor in accordance with paragraph 8 of this Order.

- (e) “Search Party” shall mean and include the following persons:
- (i) up to [number] lawyers, paralegals or articling students employed by [name of law firm], the solicitors for the plaintiff, at least one of whom must be a lawyer;
 - (ii) up to [number] of representatives of the plaintiff; and
 - (iii) up to [number] of representatives or individuals appointed by the plaintiff for the purpose of [Identify the purpose and specialized training of any persons appointed to assist. Examples may include accountants, computer forensic specialists, or private investigators, with special expertise as may be required to assist in the search.].
- (f) “Supervising Solicitor” means [name], a solicitor with [name of law firm], [address], [telephone number].

Appointment of Supervising Solicitor

2. The Supervising Solicitor, having consented to the appointment, is appointed by the Court to supervise the search and collection of Evidence for Seizure authorized by this Order and to perform such other duties assigned to the Supervising Solicitor in this Order.
3. The Supervising Solicitor:
 - (a) shall act as an officer of the Court in performing the duties assigned to the Supervising Solicitor in this Order and, in carrying out those duties, acknowledges that he or she is not acting as counsel for the plaintiff(s), the defendant(s), or any other person served with this Order; and
 - (b) shall have the authority to appoint further persons as his or her assistants who shall, acting under his or her supervision, be permitted to assist the Supervising Solicitor in carrying out the duties and obligations assigned to the Supervising Solicitor in this Order.

The Supervising Solicitor's reasonable fees and disbursements incurred in carrying out his or her mandate under this Order shall initially be paid by the plaintiff, without prejudice to the right of the plaintiff to seek recovery of those costs from any other party.

Service, Entry and Search of the Premises:

4. Upon attendance at the Premises to enforce this Order, either the Supervising Solicitor or the plaintiff's solicitor shall do all of the following forthwith:
 - (a) serve upon the Person in Apparent Control:
 - (i) an entered copy of this Order;
 - (ii) the writ and statement of claim in this action;
 - (iii) all affidavits relied upon in support of the application for this Order; and
 - (iv) a separate copy of the "Notice" attached as Schedule "B" to this Order;
 - (b) inform the Person in Apparent Control that both he or she and the defendant(s) have the right to consult legal counsel regarding the nature and effect of this Order;
 - (c) inform the Person in Apparent Control that both he or she and the defendant(s) have the right to assert solicitor-client privilege over anything found on or at the Premises or elsewhere; and
 - (d) specifically draw to the attention of the Person in Apparent Control the "Notice" attached as Schedule "B" to this Order.
5. If serving the Person in Apparent Control does not constitute serving the defendant(s), then the plaintiff must serve the defendant(s) with the materials described in paragraph 4(a) as soon as reasonably practicable.
6. The Person in Apparent Control, each defendant, its officers, directors, employees and agents, and anyone else acting on behalf of the defendant(s), shall immediately after being

served with this Order, allow the Supervising Solicitor and his or her assistants:

- (a) to enter, re-enter and remain in or at the Premises until such time as the search is complete;
 - (b) to take any steps required by paragraphs 4(a) – (d) above; and
 - (c) to take reasonable steps as the Supervising Solicitor determines appropriate to ensure that the Evidence for Seizure is not destroyed, defaced, hidden or tampered with before or during the search.
7. The Person in Apparent Control, each defendant, its officers, directors, employees and agents, and anyone else acting on behalf of the defendant(s), shall, subject to the limitations set out in this Order, during the times and in the manner specified in this Order, allow the members of the Search Party, collectively or independently, at the same or different times, to enter and re-enter the Premises to search for, identify, inspect, photograph, photocopy, reproduce, duplicate or otherwise preserve, and to remove into the custody of the Supervising Solicitor the Evidence for Seizure or items which the plaintiff's solicitors believe to be the Evidence for Seizure. Such entry must be permitted immediately, subject to the express restrictions set out in this Order.
8. The Supervising Solicitor shall use reasonable efforts during the search to prevent the Search Party from viewing:
- (a) any items over which anyone has made a claim to the Supervising Solicitor of solicitor-client privilege; or
 - (b) any items which the Supervising Solicitor has noticed as an item over which solicitor-client privilege might reasonably be claimed.

The Supervising Solicitor is not required to review the Evidence for Seizure or to assert claims of solicitor-client privilege on behalf of any party, but is directed to be mindful of issues of privilege in respect of any items that are specifically brought to or come to his or her attention in the course of carrying out his or her duties under this Order. Where during the search the Supervising Solicitor notices items over which solicitor-client

privilege might reasonably be claimed, the Supervising Solicitor is directed to draw those items to the attention of the person or persons that the Supervising Solicitor believes may be entitled to assert claims of privilege so that they have an opportunity to claim privilege. If the person or persons that the Supervising Solicitor believes may be entitled to assert claims of privilege in respect of such items are not present during the search, the Supervising Solicitor will segregate and seal such items as if a claim of privilege had been made, subject to further Order of the Court or written agreement of the parties and the person(s) that the Supervising Solicitor believes may be entitled to assert claims of privilege in respect of such items.

9. If it is deemed impracticable by the Supervising Solicitor, in his or her discretion, to search for, identify, inspect or reproduce Evidence for Seizure located on any of the defendant's computers, CD-ROMS or other electronic media at the Premises or delivered up pursuant to this Order, the Supervising Solicitor shall be entitled to remove such items into his or her possession for these purposes for a period of up to 7 days or such further period as may be agreed to by the parties or ordered by the Court.²
10. Following the service of this Order on the Person in Apparent Control, no entry to the Premises shall be permitted unless the Search Party, or one or more of them, and the Supervising Solicitor or one of his or her assistants, are also present.
11. Except as expressly authorized by the Court, the Search Party shall not make a video, photographic, or similar recording of the execution of this Order unless the defendant(s), its officers, directors, employees and agents, or anyone else acting on behalf of the defendant(s), and/or the Person in Apparent Control first commences so recording the search, or the defendant(s) and/or Person in Apparent Control consents to such recording. The Search Party, and any member thereof, is hereby authorized to make a video, photographic or similar recording:
 - (a) of the state of the Premises prior to commencement and at completion of the search;

² There may be cases in which it is necessary to remove electronic media from the premises in order to copy them in an efficient way. However, the removal of electronic media such as network servers and computer hard drives may shut down all or parts of a business, and potentially expose a plaintiff to a claim for damages. If the removal of electronic media is proposed, counsel should address this issue in the motion materials.

- (b) of the state of the Premises at the commencement and at completion of any day on which the search is undertaken, if the search is undertaken over multiple days;
- (c) of the state of any computers or other electronic storage media prior to, during, and upon completion of any search, inspection, or reproduction of same; and
- (d) for purposes of identification of any computers or other electronic storage media or of the Evidence for Seizure.

Any video, photographic or similar recording made by the Search Party for purposes authorized by this Order shall be delivered to the Supervising Solicitor upon completion of the search and retained in the custody of the Supervising Solicitor unless the parties agree otherwise in writing or the Court otherwise orders.

12. The Supervising Solicitor, the plaintiff and all members of the Search Party shall take reasonable steps to ensure that no damage is done by the Search Party to the Premises, or to any computer data, or anything seized or present at or in the Premises while conducting the search authorized by this Order.

Cooperation and Disclosure Obligations of the Defendant(s)

13. Each defendant, its officers, directors, employees and agents, and anyone else acting on behalf of the defendant(s), and the Person in Apparent Control, shall disclose to the Search Party and to the Supervising Solicitor:
 - (i) their full and proper names, telephone numbers, street and postal addresses, including the addresses at which registered mail sent to them will be received;
 - (ii) any other names by which any of them may be known;
 - (iii) any other addresses or telephone numbers at which they may from time to time be reached;
 - (iv) the whereabouts of all items within the categories of Evidence for Seizure and particulars of the means of access thereto, whether located at the Premises or

- elsewhere, in printed or electronic or other format, including but not limited to Internet-accessible data, and whether in the possession, custody or control of the defendant(s) or any third party; and
- (v) the identity and contact information, including names, telephone numbers, street, email and postal addresses, of any third party who is in possession, custody or control of any of the Evidence for Seizure.
14. For the purposes of the search authorized by this Order, each defendant, its officers, directors, employees and agents, and anyone else acting on behalf of the defendant(s), and the Person in Apparent Control, shall:
- (i) unlock, open and make available to the Search Party every part of the Premises within their respective possession, custody or control;
- (ii) provide all keys, identification codes, passwords, usernames, pass phrases, or any other similar information or knowledge required to permit the Search Party to search for, identify, locate, decode, access, decrypt, copy and/or remove the Evidence for Seizure (collectively “Passwords”), including but not limited to Passwords required to access and decrypt electronic Evidence for Seizure, however stored, and whether physically located at the Premises or elsewhere; and
- (iii) under the supervision of the Supervising Solicitor, make reasonable efforts to contact and obtain Passwords from persons not present during the search and provide Passwords so obtained to the Search Party.
15. The Person in Apparent Control, each defendant, its officers, directors, employees and agents, and anyone else acting on behalf of the defendant(s) shall forthwith grant access and deliver up to the Search Party and the Supervising Solicitor, any and all items within the categories of Evidence for Seizure that are in his or her possession or under his or her control, wherever situate, whether at the Premises or elsewhere, and regardless of whether such items are located by the search.

Restrictions on the Search Authorized by this Order

16. This Order is subject to the following restrictions:

- (a) The search authorized by this Order may be commenced only between 9:00 a.m. and 5:00 p.m. on a business day.³
- (b) The search may not be carried out at the same time as the execution of any police search warrant.
- (c) The Supervising Solicitor or the plaintiff's solicitor must serve this Order on the Person in Apparent Control before the commencement of the search authorized by this Order, and all parties having notice of this Order shall ensure that the search and collection of evidence authorized by this Order is carried out only under the supervision of the Supervising Solicitor, in the presence of the Supervising Solicitor and/or his or her assistants and, unless the Person in Apparent Control and/or the defendant(s) refuse to be present or waive their right to be present during the search, in the presence of either the Person in Apparent Control or the defendant(s).
- (d) No one having notice of this Order, other than the Search Party and the Supervising Solicitor, shall during the search remove any item from the Premises unless they have first obtained the consent of the plaintiff and the Supervising Solicitor.
- (e) Prior to removing any items seized under this Order from the Premises, the Supervising Solicitor:
 - (i) must have and provide to the Person in Apparent Control, and as soon as reasonably possible, also to the defendant(s), a list of the items to be removed;

³ The Order may be served prior to 9:00 a.m. but if this occurs defendants should still be given a reasonable opportunity to consult legal counsel during business hours. The right of defendants to obtain legal advice is discussed in paragraph 18, below, and service prior to business hours may be justification for the Supervising Solicitor to exercise his or her

- (ii) must provide to the Person in Apparent Control, and as soon as reasonably possible, also to the defendant(s), an acknowledgement of receipt of the items removed; and
 - (iii) must allow the Person in Apparent Control an opportunity to check the list of items to be removed to ensure that it correctly lists what is being taken.
 - (f) the Person in Apparent Control must confirm in writing, upon demand of the Supervising Solicitor, whether the list of items to be removed from the Premises accurately reflects the items removed in accordance with this Order.
 - (g) the Supervising Solicitor may permit the search to proceed and may take items into safekeeping and remove them from the Premises without compliance with sub-paragraphs 16 (e) and 16 (f) of this Order if he or she deems it impracticable to comply with those sections, but shall include in any report to the Court the basis for invoking this subparagraph.
17. The Person in Apparent Control, each defendant, its officers, directors, employees and agents, and anyone else acting on behalf of the defendant(s), must allow the Search Party to continue the search of the Premises until ____ p.m. on the day the search is commenced and, if the search is not completed by that time:
- (i) to re-enter the Premises on subsequent day(s) between the hours of _____ a.m. and _____ p.m. to complete the search in accordance with the terms of this Order; and
 - (ii) to secure the Premises and Evidence for Seizure between the hours of _____ p.m. and _____ a.m. until the search is complete.

discretion to extend the time for obtaining legal advice beyond two hours where the defendant is diligently pursuing its right to obtain such advice.

Despite the foregoing, the search may continue beyond _____ p.m. with the consent of the defendant(s) or, if the defendant(s) is not present, the Person in Apparent Control, until the search is complete.

Protections for Parties Served with this Order

18. Before permitting entry to the Premises by any person other than the Supervising Solicitor and his or her assistants, the Person in Apparent Control may, for a period not to exceed two hours (unless the Supervising Solicitor agrees to a longer period):
 - (a) seek legal advice regarding the nature and effect of this Order and the rights the defendant(s) and anyone else may have to assert solicitor-client privilege; and
 - (b) gather together any things over which the Person in Apparent Control or the defendant(s) wish to claim privilege and hand them to the Supervising Solicitor to be dealt with in accordance with paragraph 20.
19. If the Person in Apparent Control wishes to take legal advice, to gather documents, or both, as permitted by paragraph 18, he or she must inform the Supervising Solicitor of his or her intention to do so, and keep the Supervising Solicitor informed of the steps being taken.

Custody of and Access to Evidence Seized During the Search

20. The Supervising Solicitor shall take custody of any items removed from the Premises or delivered up pursuant to this Order and:
 - (a) shall maintain custody of those items until further Order of the Court or written agreement of the parties;
 - (b) shall segregate and seal all Potentially Privileged Items pending further Order of the Court or written agreement of the parties; and
 - (c) shall provide the defendant(s) or their solicitors reasonable access to the Evidence for Seizure in the Supervising Solicitor's custody, for purposes of

reviewing and making copies under the supervision of the Supervising Solicitor or such person designated by the Supervising Solicitor to supervise such access and copying.

21. The plaintiff and its representatives are not, after completion of the search, entitled to inspect the items seized and held in the custody of the Supervising Solicitor pursuant to this Order, unless the defendant(s) consent or the Court otherwise Orders.⁴
22. If the defendant(s) or the Person in Apparent Control or any other person disputes the ownership of material or its status as Evidence for Seizure, the Supervising Solicitor shall take custody of such material pending further directions from the Court or agreement of the parties in writing.

Duties of the Supervising Solicitor Following the Search

23. Following the completion of the search and collection of evidence authorized by this Order, the Supervising Solicitor is responsible to do the following:
 - (a) to retain in his or her custody all items obtained by him or her as a result of this Order until the parties agree in writing or the Court directs otherwise; and
 - (b) unless the Court otherwise orders, or unless necessary to comply with any duty to the Court pursuant to this Order, to keep confidential the contents of any documents seized or read during the search.
24. The Supervising Solicitor shall within seven (7) business days of receipt of a request in writing from any party, prepare a report that describes the execution of this Order,

⁴ The primary purpose of an *Anton Piller* Order is preservation: *Celanese Canada*, 2006 SCC 36 at para. 52. Accordingly, the plaintiff will usually not have access to the Evidence seized until discovery. However, it may be appropriate in certain cases to provide the plaintiff with access to the evidence seized. In particular, the Courts have held in counterfeit goods or piracy cases that the interests of justice required that the plaintiff be provided with access to information regarding the customers and suppliers of the defendants: *Titan Sports Inc. v. Mansion House (Toronto) Ltd.*, [1990] 1 F.C. 448 (F.C.T.D.) at 459-460; *E.M.I. Limited and Another v. Sarwa and Haidar*, [1977] Fleet Street Law Reports 146 (C.A.); *Dunlop Holdings Ltd. & Another v. Staravia* (1981), D. No. 1988 (C.A.); *Columbia Picture Industries v. Robinson*, [1986] 3 All E.R. 338 at 353 (Ch.D.) at 367. In this type of case, the Courts have adopted a form of order in which the defendants have a limited period of time to review the Evidence seized in the presence of the Independent Supervising Solicitor and assert claims of legal privilege and non-relevance, following which the plaintiff is

including who was present at the execution, what materials were reproduced and/or removed into the custody of the Supervising Solicitor, and any other matters specified in this Order, and deliver a copy of the report to the parties, or their solicitors of record and file a copy of the report with the court.

Assistance in Enforcing the Order

25. The _____⁵, and any other police services having jurisdiction may, in its discretion, attend to keep the peace while this Order is being executed, but may not otherwise assist or participate in its execution.⁶

Prohibited Acts

26. Unless this Court first grants leave to do so, neither the defendant(s) nor the Person in Apparent Control, nor any other person, may commence legal proceedings against the Supervising Solicitor for any reason arising out of the operation or enforcement of this Order.
27. Each defendant, its officers, directors, employees and agents, and anyone else acting on behalf of the defendant(s), and the Person in Apparent Control, are enjoined until further order of this Court from doing the following acts, or any of them:
- (a) parting with possession or custody or control of any item within any of the categories of the Evidence for Seizure, except to the Search Party or Supervising Solicitor; or
 - (b) hiding, defacing, altering, erasing or destroying any item within any of the categories of the Evidence for Seizure, whether such item is in or on the Premises or elsewhere, and including but not limited to electronic evidence accessible to such persons directly or remotely; or

permitted to access all documents over which no such claim is made (see for example *DIRECTV, Inc. v. Sandhu*, 2006 BCSC 1970).

⁵ Insert name of police services with jurisdiction over the Premises.

⁶ The police must not participate in enforcement of the Order and this term should be included only where there are reasonable grounds to believe a breach of the peace may occur as a result of enforcement of the Order. This term may not be appropriate in all cases.

- (c) removing any item within any of the categories of the Evidence for Seizure from the Premises or relocating any such item, except as reported to and approved by the Search Party and Supervising Solicitor.
28. The Evidence for Seizure shall be used by the plaintiff only for purposes of this action, unless the Court orders otherwise. The plaintiff, the members of the Search Party, and the Supervising Solicitor shall otherwise keep confidential the contents of all documents seized, removed or copied during or as a consequence of the search, subject to further Order of the Court.⁷
29. Any person who is ordered not to do something in this Order, shall not do it personally or through others acting on their behalf, and shall not ask, instruct or encourage someone else to do something they would be prohibited from doing by this Order.

Effective Date of Order

30. This Order binds every defendant and every other person who obtains notice of the Order, as of the time such defendant or person first receives notice of the Order, and whether or not such defendant or person has been served with a copy of the Order.

⁷ In *Celanese Canada, supra* at para. 42, the Court suggested a “limited use clause”. Such a clause may not be appropriate in every case. In particular, there may be cases in which the Plaintiff requires the Evidence to pursue parties related to the Defendant in an expeditious manner. It may also be appropriate for the *Anton Piller* Order to provide that the Plaintiff is entitled to use the Evidence seized in other proceedings, despite the deemed undertaking rule: *DIRECTV, Inc. v. Sandhu, supra*; *Titan Sports, supra* at 259-60; *Nintendo of America, Inc. v. Coinex Video Games Inc., [1983] 2 F.C. 189 (F.C.A.)* at para. 11(c); *Canadian Derivatives Clearing Corp. v. EFA Software Services Ltd., [2001] A.J. No. 653* at Appendix, paras. 5,8, 9 (Q.B.).

Court Review of Execution of the Order

31. Anyone affected by this Order may apply to the Court at any time to vary or discharge it, or so much of it as affects the person so applying, or to request that the plaintiff be required to post security for the undertaking [or vary the amount of security], on giving no less than two hours' notice to the plaintiff's solicitor of his or her intention to do so, but this Order will remain in force until further Order even if such an application is pending.
32. All applications to vary or discharge this Order, or arising out of the issuance or enforcement of this Order, shall be heard by the Judge who issued this Order with the exception of:
 - (a) urgent matters for which the Judge is not available; or
 - (b) as otherwise directed by the Judge.

By the Court.

Registrar

SCHEDULE "A"

I, [name of person or of person authorized by corporate plaintiff to give undertaking], declare as follows:

1. I have read the attached draft Order (the "Order").
2. I undertake [or I am authorized by the corporate plaintiff to give its undertaking and it does hereby undertake] to do the following:
 - a) to take reasonable steps to ensure service on the defendant of a copy of [the writ of summons, statement of claim,] the Order and every affidavit referred to in the Order, and a separate copy of the Notice to the defendant which is Schedule "B" to the Order; and
 - b) to abide by any Order the British Columbia Supreme Court may make as to damages in the event that the Court is of the opinion that the defendant(s), or any of them, or any other person served with this Order has sustained damages by reason of this Order which the plaintiff ought to pay.
3. I understand that if I breach this undertaking or the Order, I may be imprisoned or fined.

Dated [month/day/year]

Signed [name of person giving undertaking]

Witness [Name of]

SCHEDULE "B"

IMPORTANT NOTICE TO THE PERSON IN APPARENT CONTROL

OF THE PREMISES, AND TO THE DEFENDANT(S)

1. The Order of Mr./Madam Justice [Name] dated [date] ("Order") requires you to allow the Search Party, in the presence of the Supervising Solicitor, to enter the premises at [address], in the Province of British Columbia to search for, and remove or copy the Evidence for Seizure specified in the Order.
2. The Search Party and Supervising Solicitor are identified in the Order, which will have been given to you with this Notice. The Order includes limitations on the rights of the Search Party in conducting the Search and protections for you. You should read the terms of the Order very carefully.
3. The Order requires the defendant(s), people acting on behalf of the defendant(s), and the person who appears to the Supervising Solicitor to be in control of the Premises, to provide certain information regarding the Evidence for Seizure to the Supervising Solicitor and the Search Party, and to hand over for examination and removal or copying the Evidence for Seizure. "Evidence for Seizure" is a term defined in the Order.
4. The Supervising Solicitor has been appointed by the Court, is attending to supervise enforcement of the Order as an officer of the court, and does not advise or represent the plaintiff. You may address any questions you have about the Order to the Supervising Solicitor. However, the Supervising Solicitor is not your lawyer, no solicitor-client relationship exists or is created between you and the Supervising Solicitor, and the Supervising Solicitor may disclose your discussions to the Search Party or the Court or both.
5. You are entitled to seek legal advice from your own lawyer regarding this Order and the rights you may have, including the right to claim solicitor-client privilege. You may refuse to permit the search to begin, initially for up to two hours, while you consult a lawyer but you must immediately obey all terms of this Order requiring preservation of the Evidence for Seizure. The Supervising Solicitor has the discretion to agree to extend the period for you to consult a lawyer if there is reason to do so. While you can refuse to permit the search to begin while you consult your lawyer, you must immediately permit the Supervising Solicitor, and/or those assisting him or her, to have access to the Premises, and must permit the Supervising Solicitor to take steps he or she determines appropriate to preserve the Evidence for Seizure until the search begins.

6. You are entitled to refuse initial entry to the Premises by the Search Party before 9:00 a.m. or after 5:00 p.m., or at any time that is not a business day.

7. If you disobey this Order, you may be guilty of contempt of court and may be fined or imprisoned. Furthermore, if you fail to cooperate as required by the Order, the Court may draw negative inferences from that failure that could prejudice the defendant(s) in the Court proceedings.

8. You should consult your own lawyer as soon as possible.

Dated: _____ Month/Day/Year

I acknowledge receipt of a copy of this notice.

Acknowledged and delivered in the
presence of:)
))
))
))
))
))
))

Witness Signature _____)
Name: _____)
Address: _____)

Recipient _____
Name: _____
Address: _____

SCHEDULE "C"

CATEGORIES OF EVIDENCE FOR SEIZURE

The Evidence for Seizure consists of all documents and articles within the following categories:

- 1.
- 2.
- 3.