

## PRACTICE MEMORANDUM No. 27

### CASE MANAGEMENT

#### SETTLEMENT CONFERENCES

1. Settlement conferences may be offered if requested by a party and consented to by all other parties to the action. Requests for a settlement conference, at any stage of the proceedings, shall be made in writing, confirming the consent of all parties to the request, to the office of the prothonotary.
2. A settlement conference date may be assigned at the date assignment conference which is scheduled after the filing of a notice of trial.
3. It is desirable to have settlement conferences at least sixty (60) days prior to trial and to have completed examinations for discovery and production of documents.
4. At least seven (7) days prior to the settlement conference the parties shall file a concise brief which shall contain a summary of the facts, issues and the relevant law in the proceeding and the relevant portions of:
  - (a) transcripts of examination discovery
  - (b) expert reports
  - (c) evidence expected at trial
  - (d) authorities to be relied upon at trial
5. The judge who presides at the settlement conference shall not be the trial judge.
6. A settlement conference is a private and confidential negotiation. All communications within it shall be treated in the same fashion as without prejudice communications. Some judges may seek further or more specific agreements respecting confidentiality before a conference begins.
7. Counsel for the parties must have available to them persons who can give them immediate instructions.
8. When a settlement is reached, the prothonotary shall be immediately informed.

### **APPEARANCE DAY**

1. Appearance day is held weekly on Friday at 12:00 noon.
2. The appearance notice must set out the nature of the dispute. No supporting affidavit is required and it is expected that appearance day matters will be brief. There is no cost for filing the appearance notice.
3. The court may on its own motion bring matters forward on appearance day to have counsel or the parties discuss with the court the status of the case where:
  - (a) ten (10) months have passed since the close of pleadings for fast process cases or twenty-four (24) months have passed since the close of pleadings for ordinary process cases;
  - (b) twenty-four (24) months have passed since the filing of the originating notice and no defence has been filed.
4. The appearance day judge has the jurisdiction to award costs. Failure to appear at an appearance day may result in an order being issued against the absent party.

### **OTHER MATTERS**

1. In all cases, a notice of trial and record for the trial judge must be filed as prescribed by Rule 28.05. Following this filing, a date assignment conference will be scheduled with a judge at which a settlement conference date may also be scheduled with the consent of all parties.
2. Rule 28.11 will continue to be used by the court to keep the General List of cases updated.
3. A case can only be identified as COMPLEX on the direction of an appearance day judge. Relevant factors to be considered include the complexity of the issues of fact or law, the anticipated length of trial, the number of parties involved and the nature and extent of the anticipated expert evidence and document production required.