

Consolidated Practice Direction for the Central South Region

Effective July 1, 2014

This Practice Direction applies to proceedings in the Superior Court of Justice, Central South Region, effective July 1, 2014. It *supersedes* all previous region-specific Practice Directions for the Central South Region issued prior to July 1, 2014, which are hereby revoked.

Counsel and parties are advised to refer to the relevant Parts of the [Consolidated Provincial Practice Direction](#) as well as the [Consolidated Practice Direction for Divisional Court Proceedings](#) which are available on the Superior Court of Justice website at: www.ontariocourts.ca/scj.

Part I: Family Proceedings

1. In addition to this Part, counsel and parties to family proceedings are advised to refer to Part I of the [Consolidated Provincial Practice Direction](#).

A. Mandatory Information Programs (MIPS)

2. MIPS are mandatory for all family matters, except for motions to change and contempt proceedings. Dates are available through the Trial Coordinator.

B. Conferences

3. Case conferences, settlement conferences and trial management conferences are held before a Superior Court judge. In Hamilton, Family Court Dispute Resolution Officers (DROs) are also available to hear case conferences for any motion to change. Counsel and parties are advised to refer to Part I of the Consolidated Provincial Practice Directions for further direction regarding DROs.
4. All conferences require briefs and Form 14C confirmations filed in accordance with the [Family Law Rules](#). Confirmation forms must be filled out completely and filed or faxed at least two days prior to the conference, no later than 2:00 p.m. Failure to comply with rules may result in costs sanctions and/or postponement of the conference date.
5. Counsel and parties are required to attend all conferences in person unless otherwise directed by the court. Attendance by telephone conference call may be permitted under rule 17(16) of the [Family Law Rules](#). Counsel, or a party who wishes to attend by telephone conference, must contact the Trial Coordinator at least 72 hours before the scheduled conference, who will then seek permission from the presiding judge or another judge of the court.
6. Any request for an adjournment of any conference shall initially be made through the Trial Coordinator's office as soon as a party is aware that an adjournment will be sought. If the request is not made in writing at least 14 days before the scheduled event, absent an order of a judge to the contrary, counsel and the parties shall attend at the scheduled time to request the adjournment before the presiding judge.
7. Dates for all conferences and contested temporary care and custody motions may be scheduled with the Trial Coordinator.

C. Motions and Applications

8. Paragraphs 9-15 of this Practice Direction apply to motions and applications.
9. Short motions are defined and governed in accordance with Part III of the Consolidated Provincial Practice Direction.
10. Dates for urgent motions may be obtained through the Trial Coordinator, subject to the [Family Law Rules](#).
11. Motion confirmations must be filed or faxed in all matters no later than 2:00 p.m. two days before the motion date, pursuant to Rule 14 of the [Family Law Rules](#). It is the responsibility of counsel or self-represented parties to ensure all 14C confirmation forms are filled out completely; failure to do so may result in an adjournment and/or cost sanctions.

12. If the Trial Coordinator receives a written confirmation that the parties have agreed to a consent adjournment by 2:00 p.m. the day before the motion is returnable, the adjournment will be granted, subject to the discretion of the presiding judge and subject to paragraph 14 below. The written consent must specify the date to which the matter is to be adjourned, unless the motion has been settled.
13. Counsel and parties are not required to attend before the presiding judge if the appropriate information is provided in a timely manner. No further confirmations will be accepted after 2:00 p.m. on the day before the motion is returnable. It is the responsibility of counsel and parties, or their agent, to address the motion in court in these circumstances. The Trial Coordinator shall immediately be notified if an adjournment is anticipated so that the presiding judge will not waste his or her time reading the material.
14. Counsel and parties will be permitted two adjournments on consent per motion. If a further adjournment is sought, counsel and/or parties are required to attend in person, unless otherwise ordered by a judge, and shall confirm their attendance through confirmation.
15. Subject to the discretion of the presiding judge, only the documents and material filed by counsel and/or parties on the motion and specifically referred to in the confirmation form will be before the court. If counsel or a self-represented party wishes to refer to additional materials, beyond that which has been included in their motion materials, they should contact the Trial Coordinator to ensure that those materials are before the court.

D. Form14B Motions

16. Form 14B motions procedures are governed by Part I of the Consolidated Provincial Practice Direction. Counsel and parties are advised to refer to that Practice Direction for further direction.

E. Long Motions

17. Long motions are defined and governed in accordance with Part III of the Consolidated Provincial Practice Direction. Failure to comply with the requirements in that Practice Direction may result in an adjournment of the motion and/or cost sanctions.

F. Trial Lists

18. Cases that have been placed on the trial list will be deemed ready to proceed.
19. All counsel, or their agents, and parties must attend assignment court unless prior arrangements have been made with the Trial Coordinator.
20. Counsel and parties have a duty to inform the Trial Coordinator of any pertinent information (e.g. a case has been settled or a change has occurred that will affect the status of the trial).
21. Any request for an adjournment of trial should be communicated to the Trial Coordinator's office immediately. An adjournment can only be granted by the order of a judge, even if all parties agree to the adjournment.

G. Long Trial Sitings

22. All cases requiring more than 15 days in length for trial must seek a referral to the Regional Senior Judges' office. This can be done by consent motion, by the order of a judge made at a settlement conference or by ordinary motion.
23. Once an order is obtained that the case be tried at the Long Trial Team sittings, each counsel and each party must complete the Long Trial Team Input Form available from the Registrar in each courtroom or from the Trial Coordinator's office. The Form must be submitted to the Office of the Regional Senior Judge of the Superior Court of Justice, 45 Main Street East, Suite 721, Hamilton L8N 2B7 within 10 days of the order being made which placed the case on the Long Trial Team List.
24. All motions for an adjournment of a trial on the Long Trial Team List, including a consent adjournment, shall be made returnable before the Regional Senior Judge or his/her designate.

Part II: Civil Proceedings

25. In addition to this Part, counsel and parties to civil proceedings are advised to refer to Part III of the Consolidated Provincial Practice Direction.

A. Civil Motions and Applications

26. Short and long motions are defined and governed in accordance with Part III of the Consolidated Provincial Practice Direction.

27. All motions and applications require confirmations in writing by 2:00 p.m. three days before the hearing date pursuant to rules 37.10.1 and 38.09.1 (Forms 37B and 38B). It is the responsibility of counsel and parties to ensure that the confirmation form is fully completed; failure to do so may result in an adjournment and/or cost sanctions.

B. Adjournments of Motions/Applications

28. If the Trial Coordinator receives an amended written Confirmation that the parties have agreed to a consent adjournment by 2:00 p.m. the day before the motion is returnable, the adjournment will be granted, subject to the discretion of the presiding judge and subject to paragraph 35 below. The written consent must specify the date to which the matter is to be adjourned, unless the motion has been settled. Counsel and parties are not required to attend before the presiding judge if the appropriate information for a consent adjournment is provided in a timely manner.

29. Confirmations of a request or consent for an adjournment will not be accepted after 2:00 p.m. on the day before the motion is returnable. It is the responsibility of counsel, or their agent, and parties, to personally speak to the motion/application in court in these circumstances. The Trial Coordinator shall immediately be notified if an adjournment is anticipated so that the presiding judge will not waste his/her time reading the material.

30. Counsel and parties will be permitted two adjournments on consent per motion/per application. If a further adjournment is sought, counsel and parties are required to attend in person, unless otherwise ordered by a judge, and shall confirm their attendance through confirmation.

31. Subject to the discretion of the presiding judge, only the documents and material filed by counsel and parties on the motion/application and specifically referred to in the confirmation form will be before the court. If counsel and parties wish to refer to additional material, beyond that which has been included in their motion materials, they should contact the Court Registrar's office to ensure that those materials are before the court. Any additional material that is required shall be requisitioned from the Registrar's office and shall be itemized on the confirmation form by counsel.

C. Listing

32. Every civil action that has been listed for trial shall be placed on the appropriate Assignment Court list.

33. The filing of a trial record with proof of service shall be accompanied by a Trial Data Form.

34. The Registrar shall provide listing counsel and parties with the Notice of Assignment Court. The listing counsel and parties shall, within five days, serve the Notice of Assignment Court on all counsel or any self-represented parties.

35. An action that is struck off the trial list must be restored by the order of a Judge. The order shall include a specific Assignment Court date or Trial Sittings. An affidavit of counsel detailing the reason for the action being removed from the trial list, along with the current status of the action, shall be filed in support of the motion.

D. Assignment Court

36. Assignment Court lists will be posted prior to the Assignment Court at the Trial Coordinator's office. It is the responsibility of counsel and parties to monitor the Assignment Court list. Pre-trial dates and trial dates will be fixed at the Assignment Court. The parties or their representatives are encouraged to contact the Trial Coordinator well in advance of the Assignment Court date to obtain suitable dates for the Judicial Pre-trial and the trial dates or sittings. If the parties arrange those dates with the Trial Coordinator, they do not have to appear at Assignment Court.

37. All actions may be adjourned on consent to another Assignment Court through the Trial Coordinator. Counsel must file or fax a written consent signed on behalf of all parties for the adjournment with the Trial Coordinator prior to 2:00 p.m., three days before the Assignment Court date. An action listed on the Assignment Court List may only be adjourned two times on consent of the parties without the parties having to appear personally

at Assignment Court or a "Speak to Court". After two adjournments have been granted, any further adjournment must be requested with representatives of all parties present in person or by agent.

E. Dates for Pre-trial and Trial

38. The trial of many actions will be set for a particular sittings or a designated trial week. Counsel and parties should expect to proceed any time during the sittings or trial week. Counsel and parties are responsible to advise the Trial Coordinator of the status of the trial. Some examples of the information which must be communicated to the Trial Coordinator, as soon as it is apparent to a party, includes: settlement of the action or pending settlement of the action; whether it is likely that a request for adjournment will be sought; whether there will be any motions at the outset of the trial; and whether the parties may consent to dispensing with a jury.
39. Civil pre-trials are mandatory in all cases. Pre-trials are scheduled for 45 minute intervals. It is the responsibility of the parties, when scheduling the pre-trial, to advise if additional time is required for complex actions. Failure to provide this information in a timely manner may result in an adjournment of the pre-trial and possible cost sanctions.

F. Pre-trial Conference

40. Pre-trial conference briefs must be filed, with proof of service five clear working days prior to the pre-trial date, pursuant to rule 50.04 of the *Rules of Civil Procedure*. Failure to comply may result in cancellation of the pre-trial and possible cost sanctions. *Self-represented parties are not excused from filing a pre-trial conference brief.*
41. Counsel of record, or counsel fully briefed with full authority, must attend the pre-trial.
42. All parties are required to participate at the pre-trial conference unless otherwise ordered by the court in advance as per rule 50.05 of the *Rules of Civil Procedure*.
43. Arrangements for a pre-trial conference by telephone for any party must be made in writing and received at least 10 days in advance.

G. Adjournment of Trial Matters

44. Actions placed on the trial list will be deemed ready to proceed as per Rule 48.
45. Any requests for an adjournment of a trial that has been assigned a trial date or to a trial sittings should be communicated to the Trial Coordinator's office immediately. A motion must be brought before a judge supported by affidavit evidence indicating the reason for the requested adjournment.
46. All counsel have a duty to inform the Trial Coordinator if an action has been settled or if any other changes have occurred that will affect the status of the trial.

H. Motions to Transfer a Civil Proceeding under rule 13.1.02 of the *Rules of Civil Procedure*

47. All requests for a transfer of a civil proceeding from one county to another shall be pursuant to rule 13.1.02 of the *Rules of Civil Procedure*. The motion will be granted or denied based on its merits. Counsel and parties are advised to refer to Part III of the Consolidated Provincial Practice Direction, which prescribes specific requirements for motions to transfer a civil proceeding.

I. Long Trial Sittings

48. All cases requiring more than 15 days for trial must be placed on the Long Trial List. This can be done by consent motion, or by other order obtained from a judge at any stage of the proceedings. Once an order is obtained that the case be tried at the Long Trial Team sittings, each counsel and each party must complete the Long Trial Team Input Form available from the Registrar in each courtroom or from the Trial Coordinator's office and submit it to the Office of the Regional Senior Judge of the Superior Court of Justice, 45 Main Street East, Suite 721, Hamilton L8N 2B7 within 10 days of the order being made which placed the case on the Long Trial Team List.

49. All motions for an adjournment of a trial on the Long Trial Team List, including a consent adjournment, shall be made returnable before the Regional Senior Judge or his/her designate.

J. Construction Liens

50. All construction lien actions will proceed in a summary fashion as envisioned by the *Construction Lien Act*, R.S.O. 1990, c. 30.
51. Pursuant to the *Construction Lien Act* a settlement meeting is mandatory. This settlement meeting is not required to be held at the courthouse; counsel shall make suitable arrangements and serve notice on all interested parties.
52. A trial date for a Construction Lien Action may be obtained in one of the following ways:
- a. A motion under section 60 of *the Construction Lien Act*, without notice.
 - b. A motion on notice to all parties.
 - c. Setting the action down for trial under Rule 48. The case will then be placed on an Assignment Court list.

Part III: Criminal Proceedings

A. Committal to Superior Court of Justice

53. Any change regarding the status of a criminal matter must be brought to the immediate attention of the Trial Coordinator.
54. The accused will be remanded to the next Assignment Court at that particular court location that is at least three days from the date of the order to stand trial.
55. Original Designations for the Superior Court of Justice should be filed in advance of Assignment Court if counsel intends to appear pursuant to the Designation.

B. Trials and Pre-trials

56. All trials and pre-trials will be set by the Assignment Court judge. Counsel and parties should contact the Trial Coordinator prior to Assignment Court regarding the availability of dates.
57. Pre-trials will be held in all criminal matters, within 60 days of the date of Committal.
58. Pre-trial conference reports are to be filed with the Trial Coordinator pursuant to rule 28.04 accompanied by a synopsis of the crown's case.
59. The assigned prosecutor and counsel of record for each accused must attend the pre-trial fully briefed and with specific authority to act on the matter.
60. Where an accused is unrepresented by counsel, the pre-trial shall be held in a courtroom and all discussions will be recorded by a court reporter.

C. Summary Conviction Appeals

61. Summary Conviction Appeals shall be placed on an Assignment Court list. Appeals involving appellants who are detained in custody on the judgment from which the appeal is taken, shall be placed on an Assignment Court list which is at least 30 days from the date of filing the Appeal. Appeals involving appellants who are out of custody shall be placed on an Assignment Court list three months from the date of the filing of Notice of Appeal. When the appeal is perfected, the court will assign a hearing date and time.

D. Judicial Interim Release and Bail Review Applications

62. Dates for the hearings of these applications shall be arranged through the Trial Coordinator's office.
63. The applicant is responsible for procuring the attendance of the accused.

E. Detention Reviews

64. Upon receipt of the Detention Review Application, the matter will be placed on an Assignment Court list/Speak to List. Counsel and accused shall attend at the Assignment Court/Speak to List unless a waiver signed by the accused has been received by the Trial Coordinator.
65. The applicant is responsible for procuring the attendance of the accused.

Dated: April 11, 2014

Heather J. Smith

Chief Justice

Superior Court of Justice (Ontario)

James R.H. Turnbull

Regional Senior Judge

Superior Court of Justice, Central South Region
