

PRACTICE DIRECTION

COURT OF QUEEN'S BENCH OF MANITOBA

RE: PRE-TRIAL CONFERENCES FOR JUDGE-ALONE TRIALS RESOLUTION CONFERENCES

Pre-trial Conferences for Judge-Along Trials

Beginning in February 2018, as a one-year pilot project, all pre-trial conferences **for judge-alone trials in the case of new criminal matters** will be managed by one of approximately eight judges. A first group of four of these pre-trial judges will be assigned to this project for the first six months of the year and a second group of four pre-trial judges will be assigned to this project for the second six months of the year. Each new criminal matter proceeding by judge-alone will be assigned to one of these pre-trial judges. The role of these pre-trial judges will be twofold.

First, the pre-trial judge will encourage focused and purposeful resolution. Pre-trial judges may employ a variety of approaches developed through their experience and background. This may include, for example, requiring counsel early on to explain the basis for their position on a given issue with the opportunity for the pre-trial judge to offer a non-binding commentary on the probable outcome. Where appropriate, the pre-trial judge may preside over the disposition of the case where a guilty plea will be entered.

Second, if the matter is not resolved, the trial will be scheduled in accordance with the governing practice direction (most recently dated October 20, 2016), but the pre-trial judge will ready the case for an expeditious trial with the objective of having as focused and efficient a trial as possible, while preserving fairness (as reflected in the inquiries required of the pre-trial judge in Rule 12.07 of the ***Criminal Proceedings Rules of the Manitoba Court of Queen's Bench***).

It is anticipated that this will assist in reducing overall delay and ensure that valuable judicial resources are being deployed as effectively as possible. While last-minute resolution may sometimes be inevitable, it is not desirable. It is anticipated that with this new model, such last-minute resolutions will be reduced. Where a matter cannot be resolved in its entirety, it is anticipated that the trial that proceeds will be more focused on the actual issues in dispute and that the time scheduled for the trial will be assessed as realistically as possible. Now more than ever there will be a focus on the manner in which evidence may be presented at trial and the narrowing and simplifying of the issues that remain in contest. All of this can and must provide a more predictable timeframe for the trial.

The initial pre-trial conference will be scheduled at 9:00 a.m. and 1:00 p.m., and various times throughout the day, with subsequent pre-trials being scheduled at these or other available times in the judge's rota. Where possible, other afternoon times may also be offered for the first pre-trial conference.

The pre-trial judges will be part of a dual track approach where the pre-trial judge will remain involved and available to discuss resolution even after the trial judge has ruled on preliminary matters.

Resolution Conferences

As a result of delays in the Transcription Services Unit, transcripts of proceedings are frequently not available for resolution conferences. Because meaningful resolution discussions are hampered without transcripts, we will be eliminating the requirement of a resolution conference as a prerequisite to a pre-trial conference in a judge and jury trial. Rather, the following approach will be employed:

- At any stage of the criminal proceeding involving a trial by judge and jury, it will be open to Crown counsel, defence counsel or the presiding pre-trial/trial judge (only one person is required to opt in) to request the assignment of a judge to hold a resolution conference.
- Where counsel are prepared to agree, they may make a joint written request to the Chief Justice or the Associate Chief Justice to have one of at least three judges whom counsel have agreed would be acceptable to conduct the resolution conference. Where possible, one of these judges will be assigned.
- It is also open to counsel or the presiding judge to request that the matter be referred to one of the eight pre-trial judges discussed above for the purpose of conducting a resolution conference.

Coming into effect

This Practice Direction comes into effect immediately.

ISSUED BY:

“Original signed by Chief Justice Joyal”

**The Honourable Chief Justice Glenn D. Joyal
Court of Queen's Bench (Manitoba)**

DATE: December 22, 2017