

PRACTICE DIRECTION

COURT OF QUEEN'S BENCH OF MANITOBA

RE: PRE-TRIAL BRIEFS IN CIVIL ACTIONS

When the Queen's Bench Rules were most recently amended, the requirement to file a responding pre-trial brief was changed to the following:

Responding pre-trial brief

50.02(6) Any party to the action that wishes to file a responding pre-trial brief at the first pre-trial conference must file the brief with the court and serve it on all other parties at least seven days before the pre-trial conference.

The impetus for this amendment was to reconcile the issue of the responding party filing a pre-trial brief with the introduction of the screening function provided in Rule 50.04, wherein it was considered disproportionate to require the filing of a responding pre-trial brief if it was the responding party's position that the pre-trial conference ought not to proceed. There has been an increasing number of pre-trial conferences where there is no suggestion that the pre-trial conference ought not to proceed, but the responding party has not filed a responding pre-trial brief on the basis of Rule 50.02(6). It was always anticipated that prudent practice would dictate that where an action is properly at a pre-trial conference, the responding party would file a pre-trial brief.

Given the potential disruption to the pre-trial conference process of not having responding pre-trial briefs, pending review of a related rule amendment by the Statutory Rules Committee, **it is now directed that the responding party to a scheduled pre-trial conference file a pre-trial brief with the court and serve it on all other parties at least seven days before the pre-trial conference.** Where it is the responding party's position that the pre-trial conference ought not to proceed, the responding party, in the pre-trial brief, may indicate this position, along with its reasons. Where the responding party does not object to the pre-trial conference proceeding, the responding party's brief must respond to the pre-trial brief of the party who sought the pre-trial conference,

including a response to the statement of the factual and legal issues in the action and the estimated duration of the trial. The responding party's pre-trial brief should also address any pre-trial orders or directions that may be sought from the pre-trial judge.

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 4, 2018