

Personal Injuries and Dust Diseases

A User's Guide to Litigation in the Supreme Court



The Hon. Chief Justice Warren

- Welcome



The Hon. Justice Rita Zammit

Judge in Charge of the Personal Injuries List
Co-Judge in Charge of the Dust Diseases List

- Introduction

Personal Injuries List / Dust Diseases List

- Specialist personal injury Lists: a ‘one-stop-shop’ approach
- The PIL/DDDL team:
 - Assoc. Justice Ierodias
 - Kate Clark (Deputy Registrar, Common Law)
 - Marnie Kies (Case Management Officer)
 - Tim Richardson (Personal Injuries/Dust Diseases Associate)
 - Natasha Russo (Registry Applications Coordinator)



Stuart Moran

Common Law Division Legal & Policy

- Key steps in the life of a file
 - Choosing the right court and List
 - First directions hearings: getting a trial date and timetable
 - Coming back to court: further directions and applications
 - Final directions

Where do I start?

- County or Supreme?
- Monitoring of potential case transfers

Which List?

- If it *can* be in a List, it *should* be in a List!
- 9 specialist Lists in Common Law Division
- New Practice Notes effective 1 Jan 2015
- **It's in *your* interest!**

Which List?

- Consider whether proceeding more appropriate for Dust Diseases List, Major Torts List or Civil Circuit List – see Practice Notes
- NB: Civil Circuit List appropriate for proceedings with regional characteristics
- *If in doubt, initiate personal injury claims in Personal Injuries List*

First directions

- Defence triggers directions hearing - 9:30am Fridays before Zammit J
- Fixing for trial and timetabling orders
- Consent orders encouraged
- Dedicated list inboxes:
 - personal.injuries@supremecourt.vic.gov.au
 - dust.diseases@supremecourt.vic.gov.au

Issues at first directions

- Serious injury certificate documents required
- Realistic timetable
- Nature of pleadings

Interlocutory issues

- Attempt to resolve interlocutory issues between parties: *Civil Procedure Act* ss 19-25
- Extension of time by consent R 3.02(3):
“Unless the Court otherwise orders, any time fixed by these Rules or by any order fixing, extending or abridging time may be extended by consent without an order of the Court.”

Further directions

- Liberty to apply:
 - relates to orders previously made
 - does not allow for substantive applications without summons
- Request via List inboxes copying in all parties – Fridays 9:30am

Applications on summons

- Do I need a summons?
 - *Williams*: “such considerations as past practice, fairness to any party or person who will be affected by any order which the court may make and just the plain good sense of the thing.”
 - Court’s practice in personal injuries jurisdiction is to require a summons for any substantive order

Applications on summons

- *Notice to the Profession*
- Submit information form and receive date for return of proposed summons
 - 11:30am Fridays before Ierodiaconou AsJ for matters under 2 hour estimate
- File summons and supporting affidavit within 48 hours
- Short written outline of submissions encouraged

Interlocutory Applications – Personal Injuries List & Dust Diseases List Information Form



This form must be completed and submitted before filing your application, by emailing this form to the appropriate email personal.injuries@supremecourt.vic.gov.au or dust.diseases@supremecourt.vic.gov.au. You will be advised by return email of an available hearing date and then you may file your application.

Hearing Return Date before the Associate Justice (Court Use Only)		
Proceeding number (If any):		
Is the proceeding listed for a Directions Hearing?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Date(s):
Is the proceeding listed for Trial?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Date(s):
Preferred hearing date/s (if any):	Date(s):	
Is your application urgent? If so, reason?	Yes <input type="checkbox"/> No <input type="checkbox"/> Reason:	
Application estimate: The solicitor for the applicant must notify the Court immediately upon becoming aware that the hearing is no longer required or if the hearing estimate has been revised in any way, by email or contacting the Coordinator on 9603 9345.		
Summary of proceeding: Provide a short summary of the nature of proceeding in which the application is brought.		
Who is bringing the application? Party type and name of party.		
Summary of application: Provide a short summary of the application before the Court. Please include reasons for urgency if the requested return date is within five (5) working days of filing the application.		
Affidavit(s) relied upon:		
Rule or legislative provision under which the application is brought:		
Whether the matter Opposed / Unopposed / Ex-Parte?		
Firm name:		
Practitioner with conduct:		
Direct telephone number:		
Email address:		
Date and signature:	Date:	Signature:

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Common applications

- Extension of validity of writ
- Speedy (expedited) trial
- Substitution/addition of parties
- Adjournment/vacation of trial date
- Amendments to pleadings
- Further and better particulars

Procedural law

- Know the *Rules*
- *Index to Rulings from the Kilmore East-Kinglake Bushfire Class Action* (Judicial College of Victoria)

Final directions

- All PIL/DDDL matters listed for final directions approx 4 weeks before trial
 - Confirm readiness and estimated length
 - Provide list of lay and expert witnesses
 - Identify outstanding interlocutory issues
 - Identify main issues remaining in dispute
- Practitioner with conduct or counsel briefed for trial must appear

Patrick Over

Victorian Bar

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