



Supreme Court of Victoria

Common Law Division

Practice Note No. 9 of 2016

Personal Injuries List

1. INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 The purpose of this Practice Note is to describe the procedures to be followed in the Personal Injuries List. Additional material concerning the management of the List can be found on the Personal Injuries List [webpage](#) of the Court's [website](#).
- 1.3 This Practice Note replaces *Practice Note No. 3 of 2015* which is hereby revoked.
- 1.4 This Practice Note commences on 1 September 2016 and will apply to all proceedings commenced in the Personal Injuries List regardless of date of commencement.

2. DEFINITIONS

- 2.1 In this Practice Note:
List means the Personal Injuries List

3. PROCEEDINGS SUITABLE FOR INCLUSION IN THE LIST

3.1 Proceedings that should be initiated in the List include claims in respect of:

- a) Industrial accidents.
- b) Motor vehicle accidents.
- c) Public and occupier's liability.
- d) School accidents.
- e) Medical negligence.
- f) Bullying and harassment.
- g) Sexual abuse.
- h) Personal accident or disability insurance policies.
- i) Recovery of payments by the Transport Accident Commission under section 104 of the *Transport Accident Act 1986* (Vic).
- j) Recovery of compensation by the Victorian WorkCover Authority under section 138 of the *Accident Compensation Act 1985* (Vic) or section 369 of the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic).

3.2 Dependency claims arising from proceedings of the nature set out in paragraph 3.1 should also be initiated in the List.

3.3 Where the plaintiff alleges that he or she is suffering from a dust disease, the proceeding should be initiated in the Dust Diseases List (see *Practice Note No. 10 of 2016*).

3.4 Save for claims in respect of a dust disease, unless the balance of convenience and interests of justice dictate otherwise, where the cause of action arose in regional Victoria, or where the majority of witnesses or parties reside in regional Victoria, the proceeding should be initiated in the Civil Circuit List (see *Practice Note No. 1 of 2015*).

4. PROCEDURE FOR ENTRY INTO THE LIST

- 4.1 Proceedings of the nature set out in paragraphs 3.1 and 3.2 should be initiated in the List by endorsing the heading of the originating process “Personal Injuries List”. The heading of all subsequent documents filed in the proceeding should also be endorsed “Personal Injuries List”.
- 4.2 If at any time after the initiation of a proceeding it appears to the Court that it is appropriate to have the proceeding managed in the List, the Court may transfer the proceeding into the List.
- 4.3 Conversely, a proceeding initiated in the List may be transferred out of the List if it appears to the Court that it is appropriate to have the proceeding managed in a different list.
- 4.4 No additional fees will be payable for the inclusion of a proceeding in the List.

5. COURT APPEARANCES

- 5.1 Non-admitted persons may appear at directions hearings but must seek leave of the Court at least one day beforehand by emailing personal.injuries@supremecourt.vic.gov.au.
- 5.2 All persons appearing at directions hearings must be fully briefed on all relevant aspects of the matter so as to be in a position to assist the Court.
- 5.3 Parties are required to appear at directions hearings unless otherwise advised by the Court, including matters in which minutes of proposed consent orders have been submitted.

6. FIRST DIRECTIONS

- 6.1 The Court will give directions for the management of a proceeding in the List at a First Directions Hearing. Parties will generally be notified of the date and time of the First Directions Hearing by the Court within seven days of the filing of the first defence.
- 6.2 At or shortly after the First Directions Hearing, the proceeding will be given a trial date.
- 6.3 The parties are encouraged to seek agreement concerning proposed consent orders in advance of the First Directions Hearing, with a view to obtaining orders by consent without the need for an appearance.
- 6.4 Requests for such orders are to be made using the *Request for Consent Orders Pursuant to Rule 59.07 First Directions* form, a link to which can be found on the [Personal Injuries List webpage](#) of the Court's [website](#). This form contains standard first directions for matters in the List. While parties may dispense with unnecessary directions or add additional directions, they are requested not to alter the wording of standard clauses without good reason.
- 6.5 Parties should email completed *Request for Consent Orders Pursuant to Rule 59.07 First Directions* forms in both Word and signed PDF format to personal.injuries@supremecourt.vic.gov.au copying orders@supremecourt.vic.gov.au by 4.00pm two days prior to the hearing. Requests received after that time may not be considered in time for the Court to excuse parties from attending a directions hearing.

7. INTERLOCUTORY APPLICATIONS

- 7.1 Parties should consult the practice material on the [Personal Injuries List webpage](#) of the Court's website for information concerning interlocutory

applications, particularly the *Notice to the Profession, Interlocutory Applications in the Personal Injuries and Dust Diseases Lists*.

7.2 All interlocutory applications (including any application to adjourn or vacate a trial date) should be made on summons filed in the Registry together with any supporting documentation.

7.3 The Registry Applications Coordinator will list the application before the appropriate judicial officer.

8. INTERROGATORIES

8.1 The number of interrogatories served in proceedings in the List should be limited to thirty (including sub-parts).

8.2 In motor vehicle and industrial accident cases, interrogatories should be confined to questions of liability and contributory negligence.

9. POST MEDIATION DIRECTIONS

9.1 The parties will be required to attend a Post-Mediation Directions Hearing approximately 2-3 weeks after the date by which they have been ordered to attend mediation.

9.2 Attendance at the Post-Mediation Directions Hearing is compulsory and the parties will be required to advise the Court:

- a) whether the court ordered timetable has been complied with;
- b) what issues remain in dispute;
- c) what, if any, interlocutory applications are contemplated, particularly to amend pleadings or join further parties;
- d) whether the initial estimate of the length of the trial requires adjustment;
and
- e) whether the trial date can be maintained.

10. FINAL DIRECTIONS

10.1 Proceedings will be listed for a Final Directions Hearing at which an appearance is compulsory by a person adequately briefed to address questions from the Bench as to the readiness of the proceeding for trial.

10.2 As part of final directions, parties will usually be ordered to file a joint memorandum identifying the factual and legal issues in dispute and to prepare a folder of key documents for the assistance of the trial judge. Court Books are not required.

11. COMPLIANCE WITH ORDERS

11.1 If at any time the parties are unable to comply with the orders of the Court, they must notify personal.injuries@supremecourt.vic.gov.au and request an extension of time.

12. COMMUNICATIONS WITH THE COURT

12.1 At all stages of the proceeding, communications with the Court should be by email with a copy to all other parties, and should be confined to uncontroversial matters.

12.2 Communications should be directed to personal.injuries@supremecourt.vic.gov.au (prior to the case being allocated to a trial judge) or to the associate to the trial judge (once allocated). Contact details for all associates are on the Court website.

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1 September 2016