



Personal Injuries List Users Group Meeting - 18 May 2016

Key Points Bulletin

On 18 May 2016 Her Honour Justice Rita Zammit, the Judge in Charge of the Personal Injuries List, chaired a meeting of representatives of law firms and members of the Bar who frequently appear in this List. The following Key Points emerging from the meeting are offered for the benefit of users of the List generally.

Practitioners are encouraged to provide feedback concerning any of these issues or other issues concerning the general management of cases in the List to Kate Clark, Deputy Registrar – Common Law: kate.clark@supcourt.vic.gov.au

1. Review of Practice Note.

- With the introduction of the Case Management Pilot for Personal Injuries and Dust Diseases Lists in February 2016, PN No 3. of 2015 is largely out of date and should be read in conjunction with the Notice to the Profession concerning the Pilot. All Supreme Court Practice Notes will undergo review in 2016 and a new Practice Note is due for publication in September. Practitioners should consult the Personal Injuries page of the Court's website <http://www.supremecourt.vic.gov.au/home/law+and+practice/specialist+areas+of+law/personal+injuries/> for the most up-to-date practice information.
- Justice Zammit noted that the Timeline in Schedule 2 of the current Practice Note should not be considered mandatory and encouraged practitioners to agree on a more appropriate interlocutory timetable if need be.

2. Appropriateness of jurisdiction

- The Court has experienced a steady rise in initiations in this List and is closely scrutinising proceedings to assess possible transfer to the County Court.

3. Directions and interlocutory applications

- The Court's requirement that requests for consent minutes ahead of Friday directions hearings be submitted by 4pm on Wednesdays appears to be saving time and cost for practitioners as Court staff have more time to process requests for orders on the papers, thereby avoiding the need for attendance on the day.
- A much firmer approach is being taken in relation to applications without notice during directions hearings, particularly to vacate trial dates. In the absence of exceptional circumstances, applications must be made on summons supported by affidavit material.
- Interlocutory applications are now listed for the convenience of practitioners in Court 1, William Cooper Justice Centre rather than Court 4, 436 Lonsdale Street.
- The Court welcomes and encourages young practitioners to appear at directions hearings and applications but requires that they be properly prepared by their

principals. Non-admitted persons are required to seek leave to appear at least the day before and be in a position to provide meaningful assistance to the Court.

4. Post-mediation directions hearings

- The new Post Mediation Direction Hearing was introduced following consultation with the profession and is designed to enable the Court to get a better idea at an earlier stage of whether matters are on track for trial.

5. Expert evidence (joint reports, concurrent evidence)

- The Court is looking to deploy conclaves/concurrent evidence where appropriate, possibly in complex medical negligence matters. Practitioners are asked to consider this as an option at an early stage, in particular whether a joint report would be useful.

6. Final directions and immediate pre-trial preparation

- Joint memoranda of issues are being routinely ordered however the documents received are often less than helpful. A sample document will be made available on the website for practitioners to use as a guide to the type of information/detail required.
- The need for and utility of Court Books in the Personal Injuries List was discussed. The Court is considering whether it may in future merely order the provision of key documents e.g. medical/expert reports instead.

7. Technology

- Off the back of a recent eTrial in the Major Torts List, the Court is exploring ways to introduce this type of trial in document heavy matters.

8. Section 134AB(30) *Accident Compensation Act 1985* costs applications

- These applications are now dealt with by Judicial Registrar Ware instead of Associate Justice Daly and the Court's requirements concerning supporting material for such applications are under review. Applications are often made after final orders dismissing a proceeding and this is causing issues for the Court. It was suggested that plaintiff practitioners include liberty to apply for such orders (where relevant) when seeking final orders in respect of the claim against the defendant.

9. Contact details on court documents

- Practitioners were reminded of Rules 27.03(8)(c) and 27.03(11)(b) which require the name and email address of an individual within a firm who can be contacted in respect of a proceeding to be included on court documents. Registry staff have been instructed to reject documents which do not comply with these rules which facilitate important communications between the Court and legal representatives, particularly where a large firm is involved.