

Year	Date	Title	Note
1997 11/6/93	22 Aug 1997	Directions Hearings	see also

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Notice to Practitioners

DIRECTIONS HEARINGS

This Notice to Practitioners supersedes the Notice to Practitioners dated 19 October 1994.

In accordance with the Notice to Practitioners dated 11 June 1993, originating process will be classified into categories when filed. Practitioners are required to note on the original process the category into which each falls as follows:-

- A PERSONAL INJURY (to include both motor vehicle accidents, and industrial accidents as well as all others involving personal injury such as assault and occupiers liability).
- B DEBT (to include all claims for liquidated demands).
- C OTHER: REQUIRING DIRECTIONS (such as defamation actions, building disputes, medical negligence and all other actions covered by Part 2 of the Rules but not included in A or B above).
- D OTHER: NO DIRECTIONS REQUIRED (generally those matters in Parts 4 to 14 of the Rules such as applications under the Corporations Law, bail applications, adoptions and other ex parte applications).

Once an appearance has been entered to a category C matter, a directions hearing will be allocated generally about one month after the entry of the appearance.

During that time, the parties will be expected to:-

- (a) communicate with each other about the appropriate progress of the action, including the questions whether pleadings, discovery or interrogatories are necessary and including any possible settlement or alternative dispute resolution process;
- (b) without waiting for the directions hearing, take any reasonable step in the proceedings, such as deliver a statement of claim, seek or supply particulars and file a defence if any of these are appropriate; and
- (c) formulate the directions the parties propose to seek at the directions hearing and, if possible, agree on them and the time for each step to be taken.

The matters to be considered under (c) above include, but are not limited to:

- (a) mediation or other alternative dispute resolution;
- (b) further pleadings;
- (c) any requests for particulars (but only if necessary);
- (d) whether there is to be a challenge to any pleading;
- (e) discovery, especially whether it can be limited to any particular issues; and
- (f) interrogatories.

In this context, it should be noted that directions as to discovery and interrogatories will not be made as of course and it will be necessary for a party seeking such orders to establish by reference to the issues between the parties the need for an affidavit as to documents or interrogatories. Where a party seeks the service of an affidavit as to documents and there is a large quantity of documents, the Court will consider whether orders should be made for describing the nature of a group of documents in a bundle without describing each document. If interrogatories are sought the Court will ensure that orders are made only for those interrogatories which are truly necessary and will usually limit the administration of the interrogatories to appropriate issues and require submission of the draft interrogatories.

Directions hearings will be held at 9.30 am each Monday before the Deputy Registrar at the conclusion of the Return of Subpoenas List.

As is clear from the above, the representative of any party at a directions hearing should be familiar with the action and the issues involved.

If parties have agreed on directions, they may, instead of appearing, proceed under O 42 r 11, but any such draft consent order must be filed not later than 1.00 pm on the Thursday preceding the listed directions hearing or personal attendance will be required. Should the Court not approve the agreed directions, it may require the attendance of the representative of the parties at the directions hearing.

The Court will allow a further directions hearing either to be sought at the first hearing or by re-listing on two clear days notice.

If, within one month after the completion of the last of any interlocutory step in respect of which a direction has been given no Certificate of Readiness has been filed, the Court will list the matter for a listing conference.

At such listing conference, the Court will require to be told why the action is not ready for a hearing and give such directions as may be desirable to get the action ready for a hearing.

At such a listing conference or a listing hearing following the filing of a Certificate of Readiness the Court will also consider such issues as:-

- (a) the preparation and filing of a statement of agreed issues;

- (b) the giving of evidence-in-chief by witness statement and the exchange of such statements;
- (c) the exchange of experts' reports; and
- (d) the fixing of a date for hearing.

The parties may enlarge the time for compliance with any direction given at a directions hearing, listing conference or listing hearing, by consent by filing a consent order under O 42 r 11. Should the Court not approve the consent order, the representatives of the parties may be required to attend a directions hearing.

In the case of any default in compliance with a direction, any party may apply for appropriate directions (extending time or remedying the default or seeking other direction) by notice of motion returnable before the Deputy Registrar at the next appropriate directions hearing.

The costs of the directions hearings will be costs in the cause. In the case of a hearing on a notice of motion to remedy a failure to comply with directions, the costs will be reserved to the trial.

To assist practitioners a sample list of directions is annexed (Annexure "A").

Sgd J E CIRCOSTA
Deputy Registrar

22 August 1997

SAMPLE DIRECTIONS

THE COURT DIRECTS THAT:

- Any request for further and better particulars of the statement of claim be delivered by 4.00 pm on
- Subject to any proper objection, the further and better particulars of the statement of claim be provided by 4.00 pm on
- The defence and counter-claim, if any, be filed and served by 4.00 pm on
- Any request for further and better particulars of defence and counter-claim, if any, be delivered by 4.00 pm on
- Subject to any proper objection, the further and better particulars of the defence and counter-claim, if any, be provided by 4.00 pm on
- The reply and defence to counter-claim, if any, be filed and served by 4.00 pm on
- Any request for further and better particulars of the reply and defence to the counter-claim, if any, be provided by 4.00 pm on
- Subject to any proper objection, the further and better particulars of the reply and defence to the counter-claim, if any, be provided by 4.00 pm on
- The plaintiff have leave to amend its statement of claim in accordance with the draft amended statement of claim annexed to the notice of motion dated _____ by 4.00 pm on
- The defendant have leave to amend its defence in accordance with the draft amended defence annexed to the notice of motion dated _____ by 4.00 pm on
- The writ of summons be amended by adding the name of _____ as a plaintiff and that service of the writ of summons and appearance of the defendant do stand.
- The writ of summons be amended by adding the name of _____ as a defendant and that service on and appearance by the defendant do stand.
- The writ of summons be amended by substituting _____ as plaintiff in the place of the abovenamed _____ and that the amended writ of summons be served on the defendant within _____ days but the appearance of the defendant do stand.

- The abovenamed _____ cease to be a party in this action and his/her/its name be struck out of the writ of summons.
- The defendant have leave to issue a third party notice.
- Discovery be made by:-
 - Affidavit to be filed by 4.00 pm on
 - List of documents to be filed by 4.00 pm on
- Inspection of documents be given and taken by 4.00 pm on

THE COURT GRANTS LEAVE TO:

- The plaintiff to deliver interrogatories in the form annexed hereto and marked “A” by filing and serving the same by 4.00 pm on
- The defendant to deliver interrogatories in the form annexed hereto and marked “A” by filing and serving the same by 4.00 pm on

THE COURT DIRECTS THAT:

- Answers to the plaintiff's interrogatories, subject to all proper objections, be filed and served by 4.00 pm on
- Answers to the defendant's interrogatories, subject to all proper objections, be filed and served by 4.00 pm on
- The plaintiff file and serve statements of all witnesses upon whom it intends to rely at trial by 4.00 pm on
- The plaintiff file and serve all expert's reports upon which it intends to rely at trial by 4.00 pm on
- The defendant file and serve statements of all witnesses upon whom it intends to rely at trial by 4.00 pm on
- The defendant file and serve all expert's reports upon which it intends to rely at trial by 4.00 pm on
- The plaintiff file and serve any further statements in reply by 4.00 pm on

Alternatively

- The trial proceed on affidavit evidence.
- The plaintiff file and serve any affidavits on which it intends to rely by 4.00 pm on
- The defendant file and serve any affidavits on which it intends to rely by 4.00 pm on
- The plaintiff file and serve any affidavits in reply by 4.00 pm on

There be a separate trial of the issues raised by the following allegations in the pleadings:-

- (a) In the statement of claim, paragraphs ;
- (b) In the defence, paragraphs ;
- (c) In the reply, paragraphs .

- The plaintiff prepare and file a chronology of relevant dates and events by 4.00 pm on
- The parties agree and file a bundle of relevant documents to be tendered into evidence at trial by 4.00 pm on
- The parties prepare bundles of additional documents which are not agreed, but which are intended to be used at trial and file the same on or before 4.00 pm on
- The plaintiff/defendant retain and preserve pending the trial of the action the subject matter of the action, namely and upon days notice give inspection of it to the defendant/plaintiff and to its legal advisers and experts.