



Matheson

The New Case Management Rules

Practical issues for solicitors

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Irish Tax Firm of the Year
European M&A Tax Deal of the Year
International Tax Review 2016

European Law Firm of the Year
The Hedge Fund Journal 2015

Financial Times 2012-2015
Matheson is ranked in the FT's top 10 European law firms 2015. Matheson has also been commended by the FT for corporate law, finance law, dispute resolution and corporate strategy.

Overview

- Increased level of co-ordination and co-operation required
- Additional burden for Plaintiffs' solicitors
- Earlier consideration of requirements for trial / advice on proofs
- Attendance requirements
 - Solicitor attending case-management conference to be “sufficiently familiar” with proceedings and must have authority
 - “Leading solicitor” for party to attend pre-trial conference
- Risk of adverse costs rulings

SI 254 of 2016 – Pleadings, Conduct of Trial and Experts

- Intention to adduce expert evidence on particular matters and field of expertise concerned to be stated in Statement of Claim / Defence.
- Clampdown on unnecessary and duplicative expert evidence. Need for a clear vision of scope of expert evidence and likely duration.
- Assessors
- Evidence by video link

SI 254 of 2016 – Pleadings, Conduct of Trial and Experts

- Choice of experts
 - “Financial or economic interest” in party retaining expert
 - Suitability for private meeting for the purposes of a joint report and potential “debate among experts” in court
- Single joint expert
- Written questions to experts / single joint expert

SI 255 of 2016 – Pre-trial Procedures

- Case management
 - Plaintiff's solicitor to prepare case booklet to be lodged with Registrar not later than four clear days in advance of case management conference.
 - Booklet to contain:
 - Agreed outline of the case and chronology of events
 - List of issues and agreed statement of issues in dispute for case management conference
 - Pre-trial documentation in chronological sequence to include pleadings, affidavits, statements of issues, orders and, where directed, correspondence

SI 255 of 2016 – Pre-trial Procedures

- Case management (continued)
 - Plaintiff's solicitor to maintain case booklets and update as necessary
- Clear instructions from client are required for case management conference

SI 255 of 2016 – Pre-trial Procedures

- Pre-trial conference
 - Each party to complete and lodge a “pre-trial questionnaire” with Registrar not later than four clear days in advance
 - Plaintiff’s solicitor to prepare “trial materials”, containing:
 - List of persons involved / *dramatis personae*
 - Case summary and chronology of events
 - Pleadings, Affidavits, statements of issues
 - Booklet of expert reports
 - Glossary of terms
 - Book of authorities and legal submissions

SI 255 of 2016 – Pre-trial Procedures

- Pre-trial conference (continued)
 - Plaintiff's solicitor to maintain trial materials and update as necessary
 - Registrar delivers trial materials to trial judge
 - Any material updating trial materials must be delivered to Registrar not less than 14 days prior to date fixed for trial (or earlier, if directed)
- Trial judge may require parties to prepare an agreed list of concise questions to be decided by the court. If not agreed, each party furnishes own list of questions.

SI 255 of 2016 – Pre-trial Procedures

- Increased level of co-ordination and co-operation required, particularly in respect of materials to be lodged
 - Agreed outline of the case and chronology of events, list of issues and agreed statement of issues in dispute for case management conference
 - List of relevant concise questions to be decided, list of relevant persons / *dramatis personae*, chronology of relevant events for pre-trial conference
 - Where appropriate, a glossary of technical terms for pre-trial conference

SI 255 of 2016 – Pre-trial Procedures

- Additional burden, particularly for Plaintiffs' solicitors
- Possible burden-sharing where smaller solicitor firms and litigants in person involved?
- Front-loading of work in preparation for trial
- Additional steps will lead to increase in pre-trial costs
- Keep case summary / *dramatis personae* / chronology on ongoing basis
- Important to build in sufficient time to seek to agree required elements of case materials

SI 255 of 2016 – Pre-trial Procedures

- Electronic service, exchange and lodgement of documents
 - Practice direction required before this can become a reality

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