



The Magistrates' Court of Bermuda

CIRCULAR NO. 3 OF 2019

Practice Directions

Punctuality

1. Counsel are reminded that it is their duty as Officers of the Court to appear before the Court at the fixed date and time for the commencement of any trial/hearing. Counsel should therefore understand that the Court may commence their matter whether or not they are present.
2. If Counsel appear late then they should explain to the Court the reasons for their absence, and if the Court is not satisfied that their explanation is reasonable the Court will consider taking appropriate action (e.g. it may refer the matter to the Bar Council or proceed summarily with contempt proceedings against the said Counsel).

Listing of Matters

3. At the earliest opportunity, and certainly when requested by the Court to do so, Counsel shall inform the Court of the estimated time that it will take to complete a trial/hearing.
4. Counsel shall, unless there are exceptional circumstances, appear on the fixed date and be fully prepared and ready for the trial or hearing. The Court, in its discretion, may proceed with the hearing of the matter on the fixed date whether or not Counsel are prepared and ready for the trial/hearing.
5. If the Court decides that a Pre-trial Case Management Hearing should be fixed then Counsel shall be in a position at the said hearing to advise the Court of the following:
 - (i) the parties' readiness for trial (including any applications for an adjournment);
 - (ii) any disclosure issues;
 - (iii) the availability of Counsel and witnesses;
 - (iv) the legal and factual issues in dispute;
 - (v) an issues regarding the admissibility of evidence (documentary or otherwise);

- (vi) the estimated length of the trial or hearing;
- (vii) the use of any specific technology during the proceedings;
- (viii) any other preliminary issues deemed relevant and appropriate by the Court, the parties or the parties' respective Counsels.

Variation of Fixed Times

6. If after listing the date for the matter Counsel determine that the length of times estimated should be varied then they shall as soon as practicable, in writing, notify the Court and the other party of such request for a variation of the fixed times. Upon receipt of such request the Court may determine whether the matter should or could be brought forward to consider whether the listed times should be varied, or, to leave the times as listed.
7. Counsel must appreciate that any application to vary a fixed time will be at the sole discretion of the Court and will be subject to the exigencies of the Court and the proper administration of justice. Counsel should therefore not be under the misapprehension that an application for a variation will be granted, even if there is agreement between the parties.
8. It will be the sole responsibility of Counsel requesting the variation of fixed times to advise the other party of the said request and to ensure that their client, particularly in criminal matters, appears in Court on the date of the application to vary the fixed time.

Adjournments

9. Counsel shall, in writing, provide notice of any applications for an adjournment, and such notice shall be given to the Court and to the other party at least seven (7) days prior to the trial or hearing date. The said notice shall set out the reasons for seeking an adjournment and indicate whether the other parties consent or object.
10. Applications for an adjournment on the day of the trial or hearing, or at a time less than the said seven (7) days, will only be granted in exceptional circumstances.
11. If a party has failed to comply with any Court direction or order the Court may refuse an adjournment.
12. Counsel must appreciate that any application for an adjournment will be at the sole discretion of the Court and will be subject to the Overriding Objectives and will accordingly engage considerations not just of fairness to the parties but the needs of other Court users as well. Counsel should therefore not be under the misapprehension that an application for an adjournment will be granted, even if there is agreement between the parties. Therefore, Counsel should still be prepared and ready to proceed with the trial or

hearing on the fixed date and time unless the Court signifies in writing that it will accede to the adjournment request before the relevant hearing.

Filing of Pleadings and Disclosure

13. In accordance with directions or orders of the Court, the Magistrates' Court Rules 1973, the Disclosure and Criminal Reform Act 2015, and any other relevant legislation Counsel shall take all reasonable efforts to file with the Court any pleading, statement, or affidavit and/or to make disclosure of any evidence upon which they seek to rely upon at trial.
14. If Counsel are unable to comply with the said directions or orders of the Court or with the requirements of the said relevant legislation they shall forthwith inform the Court and the other party of (i) their inability to do so, and (ii) whether they will be seeking an adjournment of the trial/hearing as a result.
15. In respect of any application for an adjournment reference should be made to paragraphs 9 to 12 herein.

Readiness for Trial or Hearing

16. Counsel shall:
 - (a) comply with directions and orders of the Court;
 - (b) take every reasonable step to make sure that their witnesses will attend Court when needed;
 - (c) make appropriate arrangements to present any written or other materials to the Court;
 - (d) promptly inform the Court or any other party of any development that may:
 - (i) affect the date or duration of the trial or hearing, or
 - (ii) significantly affect the progress of the case in any other way.

Dated the 1st day of June, 2019

The Worshipful Juan P. Wolffe
Senior Magistrate