Federal Court  Cour fédérale

NOTICE TO THE PARTIES AND THE PROFESSION
TRIAL MANAGEMENT GUIDELINES
APRIL 2017

Rule 270 of the *Federal Courts Rules* provides that a judge or prothonotary before whom an action has been set down for trial may hold a conference, before or during the trial, to consider any matter that may assist in the just and timely disposition of the action.

In order to ensure the most efficient, expedient and proportionally fair use of trial time for actions scheduled for five (5) or more days in Federal Court, the Court has adopted the following guidelines, with appropriate adjustments where warranted, having regard to pre-trial case management.

1. No motions may be brought within 60 days of the trial date without leave of the case management judge or trial judge; while motions are sometimes necessary during trial, contested motions during the trial are discouraged.

2. A trial management conference shall be requisitioned by the parties to take place at least two (2) months prior to trial, subject to an extension or abridgement by direction of the trial judge. An agenda for the trial management conference should be proposed at the time it is requisitioned. The requisition shall identify and propose the timing of any motions that need be brought before the case management judge or trial judge. Hours of sitting ordinarily will be established by the trial judge either at the trial management conference or at least two weeks prior to trial, after hearing from the parties, and shall include any necessary breaks for holidays or otherwise.

3. Any motion for commission evidence shall be brought as soon as it is deemed necessary to the party seeking such order and, in any event, no later than two (2) months before trial.

4. Any objections to expert reports or expert qualifications should be made to the case management judge within 30 days of service of the reports and no later than 30 days prior to trial, pursuant to Rules 52 and 262(2). The trial judge may, in his or her sole discretion, agree to hear any such objections at trial, if raised by the parties prior to the 30 day pre-trial period. The parties are encouraged to exchange short statements of each expert's proposed expertise and reach agreement when possible.

5. Expert reports to be relied upon at trial, together with a list of issues that remain in dispute, shall be submitted to the Court in both electronic and paper format at least two (2) weeks prior to trial, subject to any direction from the trial judge extending or abridging that time.

6. Expert reports relied upon at trial will be taken as read in and marked as exhibits at trial. Examination in chief of experts should be concise and limited to key issues for the Court to consider.

7. By submitting an expert report to the Court, the party is undertaking to the Court to call such expert as a witness at trial. If the calling of an expert is contingent on a subsequent event at trial, the expert report shall not be delivered until such undertaking to call the witness can be made.

8. The parties are encouraged to prepare a joint statement of issues to be delivered two (2) weeks prior to trial. For those issues upon which agreement cannot be reached, each party shall deliver their own statement.

9. The parties shall submit an electronic and paper version of an agreed statement of facts and an agreed joint book of documents at least one week prior to trial, including admissions on authenticity, to the extent possible. The trial judge in her or his discretion may limit the number of paper copies of documents to be filed, on request by either party.

10. The parties shall advise the Registry at the time of filing whether the trial judge may have access to their pre-trial conference memorandum, or portions thereof.

11. A proposed schedule for trial proceedings, including the order and estimated duration of the testimony of witnesses and opening statements, shall be submitted to the Court and trial judge at least two (2) weeks prior to trial. Any disagreement with respect to the schedule will be decided by the trial judge, in his or her sole discretion, after hearing from the parties.

12. The parties shall identify before trial any evidence in an expert report or of a fact witness that is considered to be confidential and not to be admitted on the public record, so that such evidence can be admitted accordingly.

13. The examination of an expert witness may include a slide presentation if such presentation does not go beyond the content of the report and will make the examination more concise and efficient.

14. Read-ins from discovery will be taken as read in and marked as exhibits at the trial, subject to objections in writing by the opposing party and/or qualifications to the read-ins prior to the end of the trial. Parties are encouraged to share lists of read-ins at least two (2) weeks before trial. Parties may orally read in any passages related to significant issues before the Court if deemed necessary, with leave of the trial judge.

15. The parties shall exchange a brief description of the proposed areas of testimony of fact witnesses at least two (2) weeks before trial.

16. The parties are encouraged to discuss the use of witness statements and fact stipulations where cross-examination may not be necessary.

17. Any special equipment or facilities needed by the parties for trial, which has not been raised at the pre-trial conference, shall be requisitioned no later than three (3) weeks prior to trial. The Court Registry will endeavour to accommodate all reasonable requests.

18. In actions involving scientific issues, including patent actions, the parties are encouraged to prepare and deliver a joint primer on the pertinent technology and scientific principles on a date to be determined by the trial judge in advance of the trial.

19. The parties shall canvass the timing of closing arguments either at the trial management conference or with the trial judge at the beginning of the trial. The time ultimately allotted will be decided by the trial judge in her or his sole discretion, after hearing from the parties.

20. Compendia in both electronic and paper format shall be provided to the trial judge, and shall include only the relevant excerpts to be relied upon by each party. Best efforts should be made to provide joint compendia. Otherwise, separate compendia shall be provided to the Court. The length of compendia and the number of copies to be provided shall be determined in the trial judge's discretion after hearing from the parties.

21. Unless otherwise directed, written arguments in both electronic and paper format shall be provided at the end of trial, at a time and in a length and format to be determined by the trial judge, after hearing submissions from counsel for the parties. The parties are encouraged to keep written arguments to no more than fifty (50) pages.