HIGH COURT
LAUTOKA

Practice Direction No. 1 of 2000

Order 34 Pre-trial Conferences and Setting Down for Trial

It is apparent that pre-trial conferences are not being carried out in accordance with the High Court Rules. The purpose and efficacy of holding such conferences, an important interlocutory step, is thereby lost.

The parties arrive at Court for the trial with many matters, which should have been agreed, not agreed. Facts, which on a realistic appraisal by counsel are no longer in issue, have therefore still to be proved by witnesses and exhibits unnecessarily. Documents or exhibits not to be challenged should also have been agreed, to avoid time-wasting proof.

Summonses for setting down for trial now go before a Judge [see Chief Registrar's Practice Direction 27 July 1998].

The Judge will review the case position pursuant to powers provided under Ord. 34 r. 2(6).

In particular the Judge will be inquiring of Counsel or litigants:

1. Whether a Pre-trial conference has taken place and if it has been adequate. This means the judge will look into the question of whether the conference has been adequate also.

2. Whether proper discovery has been given and completed.
3. The possibility of further admissions, agreement on some evidence, which is not seriously challenged, and which could shorten the trial.
4. The number of witnesses to be called
5. The names of witnesses
6. Whether there are any difficulties with the availability of witnesses, or difficulties of attendance.
7. The length of trial - a re-examination of the earlier estimate, a more realistic estimation.
8. The legal issues; and the desirability of and need for written submissions.
9. Whether the trial is ready to proceed.

Only when the trial judge is satisfied that the case is ready for trial in all these aspects, will a trial date be allocated.

If counsel is unprepared, or unable to assist with these issues at the hearing of the summons to enter for trial, the judge may decline to hear counsel, decline to enter for trial, or he may enter for trial (if there has been unnecessary delay by either or any litigant to the proceedings) and may consider this failure to comply with Ord. 34 when he comes to consider an order of costs at the end of the trial [Ord. 62 r.10].

Anthony Gates
Puisne Judge

26 January 2000