

PRACTICE DIRECTION NUMBER 10 OF 2014

SUPREME COURT OF QUEENSLAND

SUPERVISED CASE LIST INVOLVING SELF REPRESENTED PARTIES: CIVIL JURISDICTION BRISBANE

1. When does this Practice Direction apply?

- 1.1 This Practice Direction applies to cases in the Supreme Court which, by direction of any Judge of this Court, are placed on the Supervised Case List for cases involving self-represented litigants (*SRL Supervised Case List*).
- 1.2 A Judge may direct that a case in which a party is or becomes self represented is to be entered on the SRL Supervised Case List. However, such a direction will not ordinarily be made until at least one party has filed a defence, or otherwise taken a step in the proceeding to oppose the granting of relief sought by another party.
- 1.3 A party becomes self represented if the party files a [Form 92](#) notice that the party is acting in person or if the solicitor on the record for the party is granted leave to withdraw under [rule 991](#) of the Uniform Civil Procedure Rules 1999 (UCPR).
- 1.4 A direction under paragraph 1.2 may be made without an application by a party and without any appearance; but a party may apply to a Judge at any time to have the case removed from the SRL Supervised Case List.
- 1.5 If a direction is made under paragraph 1.2 for a case which is already on another list, such as the Commercial List or the Supervised Case List (*SCL*), the case is, subject to any order of a Judge, to be conducted under this Practice Direction, and not under any practice direction for such other list.

2. Notice requirement

- 2.1 If a party to a case is or becomes self represented, that party is immediately to notify in writing the List Manager for the SRL Supervised Case List (List Manager) of that fact, with a copy to all other parties.
- 2.2 If a party to a case is aware that another party is or has become self represented, and has not received a copy of a notice under paragraph 2.1, that party is to notify the List Manager in writing that another party to the case is self represented.
- 2.3 On receipt of a notice under paragraph 2.1 or 2.2, the List Manager is to refer the case to a Judge supervising the SRL Supervised Case List, to determine whether the case should be entered on the List.

3. Why does the Supreme Court have a Supervised Case List for self represented litigants?

3.1 The SRL Supervised Case List is designed to ensure that matters in the Supreme Court in which a party is self represented are dealt with efficiently by:

- (a) ensuring that a case is prepared for trial as effectively and efficiently as possible;
- (b) ensuring that the costs of litigation are reduced;
- (c) recognising the need to balance consistency and flexibility in dealing with cases on the SRL Supervised Case List;
- (d) using the benefits of more intensive supervision to ensure that cases involving a self represented party can be dealt with efficiently;
- (e) ensuring that the parties explore options to resolve their dispute without the need for trial;
- (f) ensuring that a trial is fully prepared when a trial date is set;
- (g) minimising the risk and costs of a trial being adjourned;
- (h) ensuring that at trial the parties focus on the real issues genuinely in dispute; and
- (i) ensuring that, consistently with the provisions of the UCPR and the need for the Court to remain impartial, self represented parties have a fair opportunity to present their case.

4. What happens when a case is put on the Supervised Case List for self represented litigants?

4.1 The List Manager shall notify the parties and send them the kit for Self Represented Parties on the SRL Supervised Case List within fourteen days of the case being entered on the SRL Supervised Case List. The List Manager shall draw the attention of the parties to paragraphs 7.6 and 7.7 of this Practice Direction.

4.2 The kit for Self Represented Parties on the SRL Supervised Case List shall contain:

- (a) a copy of this Practice Direction;
- (b) a list of Community Legal Centres which can provide assistance, with relevant details about particular centres, including any information sheet available to the List Manager;
- (c) a copy of the SRL Supervised Case List Questionnaire for self represented parties;
- (d) the web address for the Court's home page, drawing attention to the section headed "Representing yourself in court", and indicating how parties might get access to the Uniform Civil Procedure Rules.

4.3 The questionnaire will be in the form attached to this practice direction.

- 4.4 The parties are to each complete and file a questionnaire within twenty-one days of receiving the kit.
- 4.5 Once the questionnaire is returned, the List Manager shall allocate the matter to a Judge and set a hearing date and notify the parties of a Review Hearing at least two weeks after the questionnaire is returned.
- 4.6 The Judge initially allocated a file will be the Supervising Judge for the case and will conduct Review Hearings and may hear applications for the matter.

5. **What happens at a Review Hearing?**

- 5.1 At the Review Hearing the parties should be in a position to :
- (a) give the Supervising Judge an update on the current state of the matter;
 - (b) for Review Hearings after the initial Review Hearing, tell the Supervision Judge what has happened since the last Review Hearing.
- 5.2 At the Review Hearing the Court shall make orders to assist the parties to finalise the case consistently with the philosophy underlying the UCPR set out in [rule 5](#), which provides:
- (1) *The purpose of these rules is to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense.*
 - (2) *Accordingly, these rules are to be applied by the courts with the objective of avoiding undue delay, expense and technicality and facilitating the purpose of these rules.*
 - (3) *In a proceeding in a court, a party impliedly undertakes to the court and to the other parties to proceed in an expeditious way.*
 - (4) *The court may impose appropriate sanctions if a party does not comply with these rules or an order of the court.*
- 5.3 The Court must ensure that a self represented party has a fair opportunity to present the party's case. In making orders under this Practice Direction the Court should have regard to the following factors:
- (a) That the provisions of this Practice Direction are not intended to limit the Court's powers under the UCPR and are intended to allow the Court flexibility to manage cases to which this Practice Direction applies;
 - (b) That a self represented party may require longer to undertake a task than a lawyer;
 - (c) Review Hearings for self represented parties may not need to be conducted with the same degree of formality or frequency as review hearings for two represented parties;
 - (d) That the parties should be encouraged to explore options for mediation or other forms of dispute resolution, and should do so as early as is practical.

- 5.4 The Court shall make such orders as are appropriate and shall consider:
- (a) whether all the parties required to decide the case are parties to the case: see eg [rule 62 of the UCPR](#);
 - (b) whether the pleadings filed need to be further particularised or amended: see eg [rule 377 of the UCPR](#);
 - (c) whether any of the parties intends to apply to strike out a pleading or to apply for summary judgment: see [Chapter 9 of the UCPR](#);
 - (d) whether any special arrangements need to be made for disclosure in the case: see [Chapter 7 of the UCPR](#);
 - (e) alternative dispute resolution (ADR): see [Chapter 9, Part 4 of the UCPR](#);
 - (f) whether any issues can be determined prior to the trial of the substantive case;
 - (g) if expert evidence is required, whether an expert should be jointly appointed to give evidence on any issue in the case; and whether, where more than one expert is to give evidence in relation to an area of expertise, a joint experts report, or any other special arrangement is needed: see [Practice Direction 2 of 2005](#), [Chapter 11, Part 5 of the UCPR](#), [rule 429B\(1\)](#);
 - (h) trial arrangements (including trial plans, ways of giving evidence, and proof of documents);
 - (i) whether it is in the interests of justice to make any other orders for the matter; and
 - (j) the date for any further review.

5.5 A party who is legally represented should be represented at the review by a lawyer who is in a position to inform the Court about the current state of the proceedings and make submissions about directions. A self represented party should attend the review in person. However, in cases where personal attendance is difficult, a party may, with the prior approval of the Supervising Judge, attend by telephone. Ordinarily, approval will not be granted where it is expected that there will be substantial controversy about any matter to be dealt with at the review.

6. Resolution

- 6.1 At an early stage, the parties should identify and attempt to resolve any dispute relating to the inclusion of parties, the adequacy of the pleading of another party, particulars, and disclosure.
- 6.2 Parties are expected to attempt to reach agreement about whether and when they should engage in ADR; the form of ADR; and arrangements for undertaking ADR. They should inform the Supervising Judge of any agreement reached; or explain why no agreement has been reached. In the course of ADR, the parties, if they are unable to resolve the action, should attempt to resolve individual issues.

7. Directions and supervision

- 7.1 Parties are expected to confer at least one week before any review, to attempt to agree about orders to be sought at the upcoming review.
- 7.2 Where parties reach agreement about the orders to be made, they are to provide, by email, a copy of the proposed orders to the Associate. If the Supervising Judge is prepared to do so, such orders may be made without a formal hearing.
- 7.3 If the parties are unable to agree about orders, each party is to provide to the Associate, by email or facsimile, 24 hours before the review, a copy of that party's draft of the orders sought.
- 7.4 The Supervising Judge may, in the exercise of the Judge's discretion, prepare and make orders that the Judge considers appropriate.
- 7.5 Orders will usually refer:
- (a) to the date by which an order should be complied with; and
 - (b) to the steps to be taken (e.g. file an Amended Defence, or serve a List of Documents), describing in clear and practical terms what the parties have to do.
- 7.6 Once a matter has been assigned to a Supervising Judge, communications about the supervision of the matter are to be made in writing to the Judge's Associate, usually by email or alternatively by facsimile, with a copy sent to all other parties.
- 7.7 In communications with the Judge's Associate, the List Manager, or any other Court officer, parties are not to seek legal advice, including advice about the UCPR.
- 7.8 Review Hearings will generally be limited to the determination of directions, involving only limited disputes.
- 7.9 Applications for interlocutory relief and other substantial interlocutory disputes may be determined by the Supervising Judge on a day allocated in the Court calendar for matters on the List, by arrangement made at a review, or with the Associate.

8. Listing for trial

- 8.1 Once a matter is on the SRL Supervised Case List, it will not be allocated a trial date or dates unless a [request for trial date](#) is subsequently filed or the Supervising Judge orders otherwise.
- 8.2 Before a request for trial date is filed for a matter on the SRL Supervised Case List, each party is to inform the Supervising Judge at a review that:
- (a) the party has given recent consideration to whether any additional parties should be joined to the action;
 - (b) the party has given recent consideration to the question whether the party's pleadings properly reflect the case to be presented at the trial;

- (c) the party has given recent consideration to the question whether the party maintains any challenge to the pleadings or particulars of any other party;
- (d) the party has recently reviewed the pleadings to identify the issues in respect of which the party proposes to adduce evidence, and has considered whether the party is in a position to do so;
- (e) the results of these considerations;
- (f) the party has considered whether the party will make an offer to settle under the rules;
- (g) the parties have or have not attempted to resolve the case through ADR; and
- (h) the party has complied with all orders made in the case.

8.3 Once a matter on the SRL Supervised Case List has been allocated trial dates, the parties should seek to make arrangements through the Associate to the Judge before whom the matter is listed, or the Associate to the senior Judge in the civil sittings at the commencement of the trial, no later than 21 days before the commencement of the trial, about the following matters:

- (a) the provision to the Judge of copies of pleadings and other documents (including joint reports and any other reports of experts);
- (b) how expert evidence will be heard (for example, whether experts dealing with a particular issue will give evidence in the ordinary course of the presentation of the case of each party; or successively by area of expertise; or concurrently);
- (c) whether any other special arrangements are required for any part of the case (for example, evidence by telephone or video link – where a party anticipates that there may be a need for such facilities, the List Manager should be notified at the earliest opportunity, and no less than 21 days before the hearing date);
- (d) arrangements for the exchange and delivery of written submissions and copies of authorities.

9. Removal from list

9.1 A case may be removed from the SRL Supervised Case List by order of a Judge at any time.

9.2 Otherwise, a case may be removed from the List by the List Manager where:

- (a) the whole of the proceeding (including any counterclaim and any appeal) has been determined.
- (b) the proceedings have been discontinued by the plaintiff filing a notice of discontinuance under [rule 309](#) or giving written notice that the proceeding has been settled under [rule 308A](#).

Contact details

SRL Supervised Case List Manager: supcasemanager@justice.qld.gov.au

Current Associates: associate.PLyonsJ@courts.qld.gov.au;
associate.BoddiceJ@courts.qld.gov.au.



Paul de Jersey
Chief Justice
19 February 2014

Questionnaire for Self Represented Parties on the SRL Supervised Case List

_____ v _____

Case _____ of 20____

1. What stage are the proceedings at?

2. What category best describes this case?

Business/Commercial

Mortgage Repossession

Nuisance

Personal Injury

Negligence

Wills and Estates

Property

Defamation

Corporations

Other (please specify) _____

3. What is your best estimate of the amount of money at issue in the case?

4. What are the key issues to be determined in this case?

5. Have the parties attempted to resolve the dispute by mediation or negotiation?

6. Have the parties considered making settlement offers?

7. What interlocutory steps (if any) have been taken, or are proposed? (Please circle yes or no)
- | | | |
|-----|---|----------|
| (a) | Requests for particulars (See Chapter 6, Part 3 of the UCPR) | YES / NO |
| (b) | Strike-out application? (See rule 16 of the UCPR) | YES / NO |
| (c) | Summary Judgment? (See rules 292, 293 of the UCPR) | YES / NO |
| (d) | Third Party Proceedings? (See Chapter 6, Part 6 of the UCPR) | YES / NO |
| (e) | Joining another party? (See Chapter 3 of the UCPR) | YES / NO |
| (f) | Amendments to a pleading? (See rule 377 of the UCPR) | YES / NO |
| (g) | Request for interrogatories? (See Chapter 7, Division 2 of the UCPR) | YES / NO |
| (h) | Disclosure? (See Chapter 7 of the UCPR) | YES / NO |
| (i) | Appointments of an Expert? (See Chapter 11, Part 5 of the UCPR) | YES / NO |
| (j) | Notices to admit facts or documents? (See rule 189 of the UCPR) | YES / NO |

8. What steps do the parties need to undertake to be ready for trial? Note that under [rule 476](#) of the UCPR “ready for trial” means that disclosure has been completed, all orders requiring particulars or the issuing and giving of interrogatories have been complied with, the necessary witnesses will be available, and that all necessary steps are complete.

9. What is your best estimate of the timeframes you expect the steps outlined in paragraph 8 to take?

10. Does either party propose to rely on expert (that is opinion) evidence?

11. Do the parties propose to exchange written outlines of argument and to identify relevant authorities and statutory provisions?
