



## THE NUNAVUT COURT OF JUSTICE

### **PRACTICE DIRECTIVE # 41**

### ***CRIMINAL CASE MANAGEMENT RULES***

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#### **1. APPLICATION OF THIS PRACTICE DIRECTIVE**

1.1 This Practice Directive applies to any summary conviction or indictable criminal or quasi-criminal proceeding under any Federal or Territorial enactment where a judge of the Court has directed that a trial or hearing be subject to case-management.

1.2 Any case-management directions given or made by a judge under these rules continue to bind the litigants unless or until this direction is varied by a case management judge appointed under section 551.1 of the Criminal Code.

1.3 A direction under paragraph 1.1 may be made in any proceeding where the use of case-management rules may help to facilitate the fair, expeditious and efficient hearing of a cause or matter and so maximize the effective use of scarce court resources.

1.4 Unless the Court orders otherwise, all existing Rules of Court and Practice Directives governing other litigation processes continue to apply to a proceeding in case-management under this Directive.

1.5 The Court may make a direction under paragraph 1.1 on its own motion, or on the application of one of the parties to the proceeding.

#### **2. POWERS OF THE CASE MANAGEMENT JUDGE**

2.1 The Case Management Judge may compel the litigants to attend such pre-hearing conferences as are necessary to properly address the litigants or court's case-management concerns pursuant to section 625.1(1) of the Criminal Code.

2.2 A pre-hearing case management conference involving a self-represented litigant shall be done in open court and all proceedings shall be recorded. A pre-hearing case management conference involving Counsel shall be done in chambers and shall proceed informally unless otherwise ordered. Counsel may attend such a conference by telephone.

2.3 The Case Management Judge shall assist the litigants to identify the issues of law and evidence to be determined when evidence on the merits is presented.

2.4 The Case Management Judge shall encourage the litigants to make admissions and reach agreements on collateral issues.

2.5 The Case Management Judge shall resolve any contested applications to receive evidence by videoconferencing or telephone by way of a hearing in open court.

2.6 The Case Management Judge may establish schedules and impose deadlines in relation to the filing of anticipated pre-trial applications and any ancillary filings required to facilitate the hearing of any pre-trial applications or voir dres including written argument, case authorities or Memorandums.

2.7 The Case Management Judge shall assist the litigants to arrive at a realistic and accurate estimate of the time required for the hearing of any voir dres, pre-trial applications and trial proper.

2.8 The Case Management Judge shall set hearing dates and determine venues for pre-trial applications or voir dres to be heard in advance of the trial proper.

### **3. THE CASE MANAGEMENT REPORT**

3.1 At the conclusion of every case management conference, the Case Management Judge shall complete a Case Management Report in Schedule A.

3.2 The Case Management Report shall identify:

a. Any directions given to the litigants with respect to filing deadlines or other deadlines related to the doing of any act required to facilitate the efficient hearing of a pre-trial application or trial;

b. The names of witnesses to be heard on any pre-trial applications, voir dres and trial proper;

c. Any orders made or agreements reached with respect to the reception of evidence by videoconferencing or by telephone;

d. Any admissions made or agreements reached by the litigants with respect to the admissibility of evidence or issues of fact;

e. The estimated time required to complete any pre-trial applications or voir dres and the trial proper;

f. Any evidential or legal issues identified by the litigants that are to be dealt with by way of pre-trial application or voir dire and at trial;

g. Any orders made, directions given, or agreements reached as to the timing of any pre-trial applications or voir dres, the date(s) assigned for the hearing of any pre-trial applications/ voir dres, and venue for the hearing of these applications.

#### **4. NON-COMPLIANCE WITH CASE-MANAGEMENT DIRECTIONS**

4.1 Where by reason of a Case-Management direction, any filing, act or hearing is required to be done at or within a specified time, and the filing, act or hearing is not done as required, the Case Management Judge may, on application by either party, or on its own motion, and after hearing from the litigants:

- a. grant a further extension of the time required for the filing, the doing of an act or completion of hearing upon such conditions or terms as are just;
- b. cancel the scheduled hearing date or trial date until such time as the default has been rectified.

4.2 Where a hearing date or trial date has been cancelled as a consequence of non-compliance with a Case Management direction, the resulting delay if any between the cancelled hearing date or trial date and any future hearing or trial date, may, in the discretion of the Court, be attributable to the defaulting party.

4.3 If Counsel fail to attend a scheduled pre-hearing conference as directed by a Case Management Judge, the Case Management Judge may cancel any scheduled hearing date or trial date and return the matter to Court to fix a new date.

This practice directive comes into force on February 1, 2012.

Issued this 18th day of January 2012 upon the direction of the Judges of the Nunavut Court of Justice.

Mr. Justice R. Kilpatrick  
Mr. Justice E. Johnson  
Mr. Justice N. Sharkey  
Madam Justice S. Cooper