

SUPREME COURT OF THE REPUBLIC OF VANUATU

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INTERIM PRACTICE NOTE No.01 OF 2016

V. Lunabek, Chief Justice – 01 February 2016

Allocation and Case Management

1. Introduction

- 1-1. This Practice Note is issued on an interim basis and will apply to all Civil Cases or matters in the Supreme Court. A final Practice Note on the same subjects will be issued toward the end of the year 2016.
- 1-2. This Practice Note sets out the fundamental principles concerning the framework of the Supreme Court, together with key principles of case management procedure. Subject to 1.1 above, all other Practice Notes and Administrative Notices are to be read within the framework established in this Practice Note.

2. National Court

- 2-1. The Supreme Court is a national court of the Republic of Vanuatu. Matters involving different areas of law are filed in the Supreme Court Registries. It is important to foster:
 - consistent national practice;
 - the best utilisation of resources, time and skills; and
 - the effective, orderly and expeditious discharge of the business of the Court.

3. National Practice

- 3-1. Once filed, a matter will be allocated to a Judge. If a matter is within the jurisdiction of the Master, the matter will be allocated to the Master, once filed. (see Interim Practice Note No.1 of 2015).

4. Allocation Principles and the Individual Docket System

Docket System

- 4-1. The essential element of the individual docket system is that a case is allocated to a docket of a particular Judge at or about the time of filing with the intention that it will remain with that Judge for case management and disposition.

Allocation Principles

- 4-2. Upon filing, the matter will then be allocated to a Judge on rotational basis except on some occasions by the intervention of the Chief Justice.

Urgent Applications

- 4-3. The Court will actively assist parties to bring on urgent applications which may require an urgent listing at the earliest appropriate time. The Court will facilitate the listing of a hearing before a Judge or before a Duty Judge.

5. Case Management

Overarching Purpose

- 5-1.1 The overarching purpose of civil practice and procedure and case management within the individual docket system is to facilitate the just resolution of disputes according to law as quickly, inexpensively and efficiently as possible (see s.29 (2) (a) (b) (c) Judicial Services and Courts Act (Cap 270)).
- 5-1.2 The parties and their lawyers are expected to co-operate with the Court and among themselves to assist in achieving the overarching purpose and, in particular, in identifying the real issues in dispute early and in dealing with those issues efficiently. There are no exceptions to this expectation because of the size or nature of the matter.
- 5-1.3 This co-operation requires (and the Court expects) that the parties and their lawyers think about the best way to run their cases conformably with the overarching purpose. The parties and their lawyers can expect that the Court will engage with them in a dialogue to achieve the overarching purpose. The Court Rules should never be viewed as inflexible.

Principles of Case Management

- 5-2 The key objective of case management is to reduce costs and delay so that there are:
- Fewer issues in contest
 - In relation to those issues, no greater factual investigation than justice requires.

- As few interlocutory application as necessary for the just and efficient disposition of matters.

Case Management Hearings

5-3.1 The case management hearing is integral to case management. The aim of the hearing is to identify issues at the earliest possible stage. At the case management hearing, consideration will be given, in particular, to the following:

- The appropriate course of efficient preparation of the matter and the steps truly required, including any need for discovery, the most appropriate method of preparation and presentation of evidence in the light of the issues truly in contest, and the most appropriate method of trial.
- The possibility of listing the matter for hearing: the Court will endeavor, where possible, within 6 months of the case management hearing, to set matters down for hearing with a hearing date as early as reasonably possible, bearing in mind at all times the legitimate interests of parties to the litigation.
- The available dispute resolution options, including mediation.

5-3.2 The case management hearing process may be specialised, but the considerations above apply in each case. Unless otherwise specified, the docket Judge will conduct a case management hearing within 2 – 6 weeks of the filing and serving of a proceeding, at a time sufficient to enable all parties to be in a position to engage fruitfully in the case management hearing.

5-3.3 The importance of the case management hearing is that, if conducted properly, it should, subject to genuine interlocutory applications that later arise, minimise or eliminate the need for further directions hearings. The Court expects the parties and practitioners to communicate with each other in a meaningful way about matters to be raised at the case management hearing at an appropriate time before that hearing takes place.

Parties' Conduct and Communication with Chambers

5-4.1 At all times, parties are expected to communicate courteously with each other and the Court.

5-4.2 In their communication with the Court, unless in the nature of an *ex parte* application, parties should only communicate with Chambers:

- where it is appropriate to do so and where what is being raised, cannot be done so by way of application to the Court; and
- with the prior knowledge or consent of all other parties to the proceeding (This is not satisfied by mere copying in of others to the communication).

Alternative Dispute Resolution

- 5-5.1 The Court will work actively with the parties and at all times encourage the exploration of an early resolution to the disputes between them through mediation. The parties are expected to participate in ADR process in good faith towards this end.
- 5-5.2 The Court will facilitate ADR, usually through Court-annexed mediation, or may facilitate a case management conference before a Master to explore ADR possibilities or the narrowing of issues in dispute.

Pre-Trial Case Management Hearing

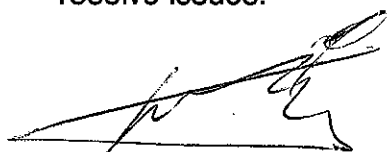
- 5-6 A pre-trial case management hearing will generally be held approximately 6 weeks prior to the scheduled trial date, with the lawyers involved in the case and, if appropriate, the parties attending. The pre-trial case management hearing is an opportunity for the parties and Court to deal with any outstanding matters or applications before the start of the trial.

6. Judgment

- 6-1 The Court aims to deliver judgment as soon as is reasonably practicable. In the ordinary course (and subject to the size and complexity of the matter) the Court will endeavor to deliver judgment within 3 months of the receipt of the final submissions. If a judgment is not forthcoming within 6 months, the Court will inform the parties of the anticipated time for delivery of judgment. (An internal Protocol will be developed in relation to current pending reserved judgments).

7. Costs

- 7-1 The Court recognises that the determination of the quantum of costs for a successful party should not be delayed. To this end the Court will:
- where appropriate, facilitate the making of lump-sum costs orders at the determination of, or as soon as possible after determination of, liability and quantum, with the assistance of Masters (as taxing officers, referees or mediators); or
 - where a lump-sum costs order is not made the Court will endeavor to deal with costs issues promptly upon the filing of bills of costs (within 30-60 days, depending upon their complexity) using where possible ADR process to resolve issues.



V. LUNABEK
Chief Justice

01 February 2016

