**ONTARIO COURT OF JUSTICE**

Newmarket Court Protocol V – Pre-Trial Conferences

As a result of recent discussions among court users, the following protocol will govern pre-trial conferences in the Ontario Court of Justice in Newmarket until further notice.

*Full-day Format for Pre-Trial Conferences starting February 2, 2016*

Starting on **February 2, 2016,** pre-trial conferences will no longer be held on weekdays between 9 a.m. and 10 a.m. Instead, they will be scheduled according to the full-day format (copy attached) on Tuesdays through Fridays inclusive in Courtroom 106 commencing at 9 a.m.

The new system is consistent with the Court’s Pre-Trial Best Practices (copy attached), which provide guidance about the application of OCJ Rule 4.2 relating to judicial pre-trial conferences. As noted in this document, judicial pre-trials will address: resolution options (including withdrawals or guilty pleas); accurate estimates of trial time; and procedural and evidentiary issues that promote the proper use of trial time.”

These Pre-trial Best Practices have been circulated to the Crown and Assistant Crown Attorneys and have been posted on the Criminal Lawyers’ Association website.

*Outline of Full-Day Format*

1. *Cases to be pre-tried*

The following cases should be scheduled for a judicial pre-trial: any case estimated to require 4 hours or more (in other words, one day or more); any case where the accused is unrepresented; any case or category of cases as directed by the Regional Senior Judge.

1. *Number of pre-trials to be scheduled*

A maximum of eleven (11) pre-trials will be set each day at 20 minute intervals. This means that up to eight (8) regular counsel pre-trials can be scheduled between 9 a.m. and 2.15 p.m. If the pre-trial of a case is anticipated to take more than 20 minutes, a second slot of 20 minutes will be booked. Large project-style cases will continue to be scheduled separately through the Trial Coordinator.

Up to three (3) self-represented pre-trials can be scheduled between 2.35 and 4 p.m. (Self-represented defendants will continue to be assisted by duty counsel.)

1. *Morning and Afternoon Breaks and Lunch*

The morning break is scheduled between 11 and 11.20 a.m.; the afternoon break is scheduled between 3.20 and 3.40 p.m.; and the lunch break is scheduled between 1 and 2.15 p.m.

1. *Administration Time*

In addition, there are two time slots between 10 and 10.20 a.m. and between12 noon to 1 p.m. to allow for some flexibility in the schedule and for adjourning cases or taking guilty pleas, etc.

1. *Pre-Trial Judges*

To maximize consistency, efficiency and effectiveness, teams of two judges selected by the Local Administrative Judge will preside in pre-trial court on alternate days for a period of two months. The objective is to have all cases move through the pre-trial phase under the supervision of the same judge. On the day the judge is not in pre-trial court, he or she will preside in Triage/Plea court #202.

1. *Pre-Trial Venue*

Cases for pre-trial will be remanded to the appointed time slot in courtroom #106. Pre-trials will be conducted in Room #1000 next to courtroom #106. This arrangement is designed to promote open and frank discussion and the effectiveness of the pre-trial conference.

1. *Materials*

Pursuant to Criminal Rule 4.2(4) the Crown will provide the pre-trial judge, at a minimum, with a copy of the synopsis and copies of the criminal and local records three days before the scheduled pre-trial. This material should be provided electronically to the Trial Coordinator so it can be made available to the pre-trial judge. If the defence wishes to provide material to the pre-trial judge, it shall be provided to the Trial Coordinator at least three days before the pre-trial if possible.

1. *Attendance*

Counsel or defendants who do not appear at the scheduled time for their pre-trial will be held to account and will, at a minimum, have their pre-trials rescheduled.

1. *Preparation*

Preparedness by all participants for a pre-trial is expected so that each pre-trial is meaningful and moves the case forward towards trial or resolution.

“Absent exceptional circumstances, the parties are expected to have reviewed the file and met to discuss the case before the judicial pre-trial conference” (Rule 4.2(2)).

Pursuant to Rule 4.2(3), counsel are required at the pre-trial to have authority to make decisions on:

(a)disclosure;

(b)applications, including *Charter* applications, that the parties will bring at trial;

(c)the number of witnesses each party intends to call at the trial;

(d)admissions;

(e)legal issues that the parties anticipate may arise during the proceeding (e.g. whether the Crown is tendering a statement);

(f) a realistic estimate of the time needed to complete the proceeding; and

(g) resolution of the matter, if appropriate.

Crown Attorneys must know the file and be ready to take positions that bind the trial Crown on these matters. Similarly, defence counsel are expected to attended pre-trials prepared and ready to take binding positions.

1. *Role of the Pre-trial Conference Judge*

The pre-trial judge will follow and enforce the judicial pre-trial procedures prescribed by Rule 4.2. With paragraph 8 of the Best Practices in mind, he or she will direct the pre-trial to ensure that it is productive.

1. *Record of the Pre-trial Conference*

Pre-trial discussions will be recorded electronically so that other judges can be made aware of what took place at the pre-trial if need be.

1. *Court Starting Times*

Courts in Newmarket will start at one of two times: 9 a.m. or 9.30 a.m.

Pre-trial court (courtroom #106) will start at 9 a.m. Administrative Court (courtroom #201) and Triage and Plea Court (courtroom #202) will continue to start at 9 a.m.

All other courts, including the trial courts, will start at 9.30 a.m.

P. Tetley

Local Administrative Judge

January 20, 2016