



PRACTICE DIRECTION NO. 2 OF 2014

COMMUNICATIONS BETWEEN COUNSEL AND THE COURT ETC.

Communications with the trial Judge

1. There have been recent instances of counsel attempting to communicate directly with the Judge, particularly by e-mail. This is not permissible, may compromise the integrity of the proceedings concerned and should cease.
2. The general rule is that all out of court communications between counsel and the Court, whether written or oral, should take place with or through the Registrar, Listing Officer or Clerk of Court.
3. It has also become common place to find correspondence between the attorneys included in the court bundles. Normal party and party correspondence should not be included in bundles submitted to the court. There are occasional exceptions, such as where properly exhibited in an affidavit as evidence on a matter in issue, where necessary to support an application for a wasted costs order or where inclusion is expressly directed by the court.

Correspondence with the Registry

4. Normal party and party correspondence should not be copied to the Registry. The only correspondence which should be directed to the Registry is that which covers a filing, seeks a date or seeks some other form of action from the Registry.
5. Save as regards applications which are properly made on an *ex parte* basis without notice to any other party, no party should communicate with the Court without notice to all parties affected. In particular, save in such circumstances, all correspondence with the Court should be copied to the other parties.

***Ex parte* Applications**

6. Counsel should note that an *ex parte* application is not the normal or ordinary means of applying for an injunction and the jurisdiction of the court to entertain an *ex parte* application for an injunction is predicated upon urgency. Thus GCR. 29 r. 1(2) provides:

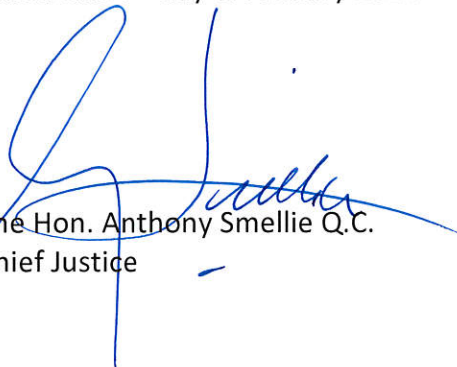
“(2) Where the case is one of urgency such application may be made *ex parte* on affidavit but, except as aforesaid, such applications must be made by motion or summons.”

7. Counsel should also note that even where an *ex parte* application is justified on grounds of urgency, the application should ordinarily be made *ex parte* on notice **unless** the giving of notice is likely to defeat the application by reason of delay or may precipitate the action the application is designed to prevent: see the Supreme Court Practice 1999 Ed. at 29/1A/21 and 29/1A/25. Where prior notice of an *ex parte* application is not given, the supporting affidavit should ordinarily explain why.

Implementation of Orders

8. Counsel are reminded that in the case of Orders requiring action from the Registry (e.g. the setting of a date, or an order requiring the removal of a matter from the list) the attorney or firm having carriage of the Order should write to the Registry asking that the order be implemented.

Dated this 6th day of January 2014



The Hon. Anthony Smellie Q.C.
Chief Justice