

## Auckland Family Court Judicial Conference Guidelines

1. These guidelines have been prepared in consultation with the judiciary and counsel in response to ensure Property (Relationships) Act 1976 (PRA) proceedings are “determined as fairly, inexpensively, simply and speedily as is consistent with justice” – rr 174 & 175 Family Court Rules 2002 (FCR).
2. It is intended that PRA files are judicially case managed after the respondent has filed a notice of defence, or if the respondent has taken no steps after the applicant has filed an affidavit of service.
3. The first conference will be a 15 minute teleconference. The presiding Judge will expect that informative narrative affidavits and affidavits of assets and liabilities will have been filed and initial disclosure will be provided. Orders and directions may be sought and made.
4. The second conference will be a 30 minute judicial conference in terms of directions set out in Appendix A. The presiding Judge will expect that:
  - (a) counsel and unrepresented parties are familiar with r 175D.
  - (b) initial disclosure will have been provided.
  - (c) counsel and unrepresented parties have discussed and endeavoured to agree on:
    - (i) appropriate discovery orders
    - (ii) the likely issues to be determined including agreed issues and facts
    - (iii) whether additional parties should be joined or notice given to interested parties in terms of s 37
    - (iv) whether any interlocutory applications have been, or will be, filed and how they can be heard and disposed of, including at the judicial conference, if appropriate, in terms of r 175D(2)(h)
    - (v) what orders and/or directions are required to advance the proceedings with brief reasons
5. If required, the third conference will be a 45 minute judicial issues conference in terms of orders and directions set out in Appendix B. The presiding Judge will expect that:
  - (a) Counsel and the parties attend the judicial conference
  - (b) Counsel and unrepresented parties are familiar with the file and rr 175D, 175E, 176 & 177
  - (c) Counsel and unrepresented parties have discussed and endeavoured to agree on:
    - (i) the nature, extent and value of property
    - (ii) outstanding issues, agreed issues and facts
    - ~~(iii) what disclosure or discovery remains outstanding and how this can be addressed~~
    - (iv) whether any valuations are to be undertaken and what arrangements are required
    - (v) whether there are any other outstanding matters preliminary to a hearing or settlement conference and how these can be addressed including the need for further interlocutory applications
    - (vi) the desirability of a settlement conference and/or hearing arrangements

6. The presiding Judge will expect that counsel and unrepresented parties file and serve memoranda on time or risk an award of costs and/or a judicial conference being vacated and/or the presiding Judge making orders or directions on their own terms in accordance with rr 175 & 176 where appropriate.

## APPENDIX A

### Second Judicial Conference Directions

1. A 30 minute judicial conference is directed.
2. Counsel must file and serve on the other side succinct memoranda at least three clear working days before the judicial conference, addressing the following matters:
  - (a) provide a brief outline of the nature and extent of property;
  - (b) make submissions about the scope, terms, brief reasons, and timetabling directions for any discovery;
  - (c) identify whether there have been, or will be, interlocutory applications and make submissions about how they can be heard and disposed of, including at the judicial conference if appropriate;
  - (d) make submissions about what orders and/or directions are required to advance the proceedings to settlement conference and/or hearing, and provide brief reasons.

## APPENDIX B

### Third Judicial Conference Directions

1. A 45 minute judicial issues conference is directed.
  
2. Counsel and unrepresented parties must file and serve on the other side succinct memoranda at least three clear working days before the judicial issues conference, addressing the following matters:
  - (a) a concise schedule of assets and liabilities;
  
  - (b) identify outstanding issues requiring determination, with brief reasons;
  
  - (c) identify agreed facts/issues;
  
  - (d) whether or not the file is suitable for a settlement conference and why;
  
  - (e) whether or not there are any outstanding disclosure/discovery issues and how they can be addressed;
  
  - (f) identify whether there are, or will be, interlocutory applications and make submissions about how they can be heard and disposed of, including at the judicial issues conference if appropriate;
  
  - (g) identify what orders and/or directions are required to advance the proceedings to settlement conference and/or hearing, including hearing arrangements, witnesses and estimated hearing time.

## APPENDIX C

### Memoranda Prerequisite to Settlement Conference

A settlement conference has been allocated in this proceeding. As a precondition to the conference proceeding, the parties are to file jointly a memorandum (or, failing agreement, file and serve memoranda) not less than **three working days** before the settlement conference, providing the information requested and setting out (and properly answering) each of the questions below. Should any party fail to comply, the conference may be cancelled and the defaulting party be at risk of costs.

#### Information

- (1) The parties must ensure that all information is before the Court that will be necessary to ensure a negotiated outcome can be achieved. This will include not only evidence from the parties but independent and expert evidence/reports.
- (2) Generally, this will be provided by way of affidavit. However, the parties should exchange in advance, and bring to the conference, any additional such material that will facilitate settlement.

#### Questions

- (1) What is the value of each item of property in dispute or claim made by the parties? A schedule of assets and liabilities is to be produced.
- (2) What are the issues in this litigation?
- (3) Which one (or more) of these issues is most significantly affecting your inability to settle?
- (4) Why?
- (5) Have you and the other party/parties engaged in settlement negotiations? Please describe the nature of those negotiations.
- (6) What offers of settlement have been exchanged?
- (7) Upon what criteria was your settlement offer based (if one was made) or on what do you rely to support your present position (e.g. case law, valuations, expert's report or findings, etc)?
- (8) What else would you believe that the settlement conference Judge should know about this matter that would enable the Judge to work more productively with all parties participating in the conference?

#### Confidentiality

Settlement conferences and papers filed in connection with them are treated as "without prejudice" and privileged, save as to the recording of whether a settlement was reached or not. Thus, memoranda of the kind required above are not part of the record and, unless the parties agree otherwise, will be destroyed, returned to counsel/parties, removed from the file or sealed up (e.g. if conference adjourned) at the conclusion of the conference.