



The Supreme Court of the Northwest Territories

PRACTICE DIRECTION

OBTAINING SPECIAL CHAMBERS DATE

Members of the Bar, and also Registry staff, have sought clarification of the procedure for obtaining a Special Chambers date.

Part 31 of the Rules deals with motions and applications. Any interlocutory application to the Court shall be made by filing a Notice of Motion, which lists the affidavits to be used in support of the application, and the Notice of Motion and affidavits are required to be served on the opposing party a minimum of 5 days before the return date of the Notice of Motion. Any affidavits to be relied upon by the responding party are required to be served on the applicant party at least 3 days before the return date of the Notice of Motion.

The vast majority of such interlocutory applications (requiring less than 30 minutes) are then adjudicated upon in regular Chambers with other interlocutory applications.

When counsel estimate that a contested application will take longer than 30 minutes, counsel are required to obtain a Special Chambers date from the Clerk. At this point in time, it is expected that the Notice of Motion will have already been filed and served and affidavits in support and in opposition have been filed and served.

Counsel shall make a written request to the Clerk for a Special Chambers date (pursuant to Rule 387), indicating:

- a) the specific Notice of Motion(s) which is/are to be heard in Special Chambers;
- b) that the parties will have completed their exchange of affidavits and will complete any cross-examinations;
- c) the list of dates when both counsel are available to argue the Notice of Motion;
- d) the estimated time for hearing counsel's submissions.

It is preferable if both counsel make a joint request in writing for a Special Chambers date; however counsel may submit the above information in separate written communications to the Clerk, i.e., separate, but at the same time.

Upon receipt of this information, the Clerk shall set the application down for a specific calendar date in Special Chambers, and advise counsel. Thereafter, no new or additional Notice of Motion may be added to the Special Chambers docket without leave of the Court or agreement of counsel.

Counsel shall comply with Rule 391 regarding the timely filing of pre-hearing briefs.

If counsel are aware and agree from the outset that a certain interlocutory application will require a Special Chambers date (e.g. because of the complexity of the application and/or the knowledge that it will be contested), it is permissible to word the Notice of Motion to read “ ... on a Special Chambers date to be set by the Clerk pursuant to Rule 387 ...” - rather than having the Notice of Motion initially returnable on a regular Chambers date and then requesting that it be adjourned to a Special Chambers date to be set.

The foregoing does not preclude a party making application in regular Chambers for the setting of a Special Chambers date.

Dated this 14th day of December 2005.

J.E. Richard, J.S.C.

J.Z. Vertes, J.S.C.

V.A. Schuler, J.S.C.