



Magistrates' Court
Victoria

Practice Direction

No. 13 of 2004

Pre-issue Mediation

Background

The Magistrates' Court is concerned to limit as far as practicable the cost and delay involved in the resolution of civil disputes. The Court wishes to encourage the parties to potential litigation to engage in mediation of their dispute before proceedings are commenced and will fast track any case which is not successfully resolved by the mediation. Where there has been a pre-issue mediation by an acceptable mediator¹ which has not resulted in the resolution of the dispute and upon the issue of a proceeding the following directions will apply.

Directions

1. Upon the written notification by a party that a pre-issue mediation has occurred which has not resulted in a resolution of the dispute the Court will do the following:
 - (a) not refer the proceeding to a pre-hearing conference or a further mediation unless all of the parties request the Court to do so;
 - (b) at the request of the parties, list the proceeding for a final hearing at the earliest available date for a case of the length of duration estimated by them;
 - (c) on the day of listing, ensure that the proceeding is reached by giving it priority over all other proceedings listed for trial that day apart from proceedings which are part heard.

2. The notice in clause (1) must contain the following advice:
 - (a) The name of the mediator, who must have been an acceptable mediator, and the date on which the mediation was held;
 - (b) that no interlocutory steps are sought to be taken by any party or any interlocutory steps which are sought to be taken will be completed within the next 60 days;

¹ The expression "acceptable mediator" has the same meaning as that expression has in the Magistrates' Court Civil Procedure Rules 1999: see R 22A.02. However, the Court's registrars and deputy registrars will be unavailable to conduct pre-issue mediations.

- (c) the number of witnesses proposed to be called by each party;
 - (d) a realistic estimate of the duration of the proposed hearing;
 - (e) any date or dates during which the parties or their witnesses will be unavailable for a hearing.
3. The notice should be provided to the Deputy Registrar in charge of civil proceedings at the court in which the proceedings are issued within 21 days of the giving of the notice of defence.
 4. This Practice Direction operates from 1 January 2005.

IAN L GRAY
Chief Magistrate

21st December 2004