Case Management Conference Notice

The Court follows **Civil Procedure Rules** ["CPR"] *"with the overriding objective of enabling the court to deal with cases justly and at proportionate cost"* (CPR 1.1). The Parties and their representatives are *"required to help the court further the overriding objective"* (CPR 1.3). The Court *"must further the overriding objective by actively managing cases"* (CPR 1.4) and *"encouraging the parties to co-operate with each other in the conduct of the proceedings".*

The Mercantile Courts have a Ministry of Justice webpage:
http://www.justice.gov.uk/courts/rcj-rolls-building/mercantile-court

This provides information, guidance and downloadable forms for all court users to access via the internet and to enable them fulfil their obligations to the court under CPR 1.3.

The Case Management Conference ["CMC"] is a crucial event in every case when the judge will *"actively"* manage the case in conference with the parties & their representative giving directions at its conclusion covering all the steps to be taken by the parties through to trial within budgets for each phase of work agreed between the parties or approved by the court at the CMC.

Practice Direction 59 paragraph 7.7 requires the provision to the court not less than 7 days before the Case Management Conference of a file for use by the judge. Using the downloadable Forms section in the Mercantile Courts website, this should be an indexed & paginated file including:

1. Contact names, postal addresses, telephone numbers and e-mail addresses of advocates, solicitors & parties representatives.
2. Claim form;
3. Statements of case (excluding schedules of more than 15 pages);
4. Orders already made;
5. Case management information sheets ["CMIS"]
   http://hmctscourtfinder.justice.gov.uk/courtfinder/forms/case-management-info-eng.doc
6. Disclosure Reports (Form N263)
   http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n263-eng.pdf
7. Electronic Disclosure Questionnaires (Form N264)
   http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2429
8. Draft List of issues to be tried;
9. Draft composite proposed Directions (also sent in by e-mail as an attachment in Word format to the mercantile court e-mail address);
   http://hmctscourtfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2367
10. Costs Budgets using Form H http://www.justice.gov.uk/courts/procedure-rules/civil/pdf/update/precedent-h.pdf (also sent in by e-mail as an attachment in revisable electronic format to the mercantile court e-mail address) following Guidance Notes on Precedent H http://www.justice.gov.uk/courts/procedure-rules/civil/pdf/update/new-precedent-h-guidance.pdf

Important Notes:

- The parties are reminded that any date set by the court for doing any act may not be varied by the parties if the variation would make it necessary to vary the date fixed for case management conference, review, filing of a pre trial review checklist or the trial or trial period (CPR Part 29.5). Any proposed variation which might have this effect should accordingly be notified to the court which, provided that all parties consent to the variation, may deal with the proposal on paper.

- Where a judge's Case Management File has been retained by the court, this bundle may be supplemented and given a new Index in order to provide the file for the hearing. It is the responsibility of the parties to maintain the file throughout the case and keep it up to date.

- Where any other party intends to apply for a direction of which it is helpful to give specific notice beyond that to be provided on the Case Management Information Sheet, that party shall give written notice to the Court and to the other parties with its Information Sheet.

- Representatives attending the Conference must be properly familiar with the case and able to deal with all matters, including the budgets of both sides, which may arise. If Counsel has been instructed in the case but will not be attending the Conference, the Solicitor should discuss the case with Counsel for the purpose of the conference.

- Costs Budgets: If a party fails to file a budget in prescribed form 7 days before the date fixed for the first Case Management Conference, it shall be treated as having filed a budget comprising only the applicable court fees (CPR 3.14). Budgets may be agreed between the parties and the court will duly record that but, if not, the court will only approve those that are 'proportionate': CPR 3.18 and CPR 44.3(2)(a)and (5).

- If a party fails to file its budget in prescribed form within 28 days after service of the Defence, it shall be treated as having filed a budget comprising only the applicable court fees (CPR 3.14). Budgets may be agreed between the parties and the court will duly record that but, if not, the court will only approve those that are 'proportionate: CPR 3.18 and CPR 44.3(2)(a)and (5).

- In straightforward cases, the parties may submit agreed Directions not less than 7 days in advance of the Conference for the approval of the Judge. The Judge may then make the Directions proposed, or make them with variations, or may require the Case Management Conference to proceed. The parties must assume that the Conference will proceed until informed by the Court that it is not required.

- If the time estimate appears to be insufficient, the Court should be informed immediately.

WARNING

Failure to comply with the above directions, any orders, rules or practice directions is liable to result in Sanctions.

Relief from Sanctions is limited where 'to all the circumstances of the case, so as to enable it to deal justly with the applications, including the need- (a) for litigation to be conducted efficiently and at proportionate cost; and (b) to enforce compliance with rules, practice directions and orders.' (CPR 3.9).

The Court will be using a Checklist, as below, in order to ensure compliance.

His Honour Judge Simon Brown QC
Specialist Mercantile Judge
Birmingham Civil Justice Centre

Clerk: Helen Foster birmingham.mercantile@hmcts.gsi.gov.uk

Tel: (0121) 681 3035 Website: http://www.justice.gov.uk/courts/rcj-rolls-building/mercantile-court

Case No.

v.

PRE CMC CHECKLIST

Judge's Case Management file (must be filed by Claimant 7 days before CMC)
• Contact names, postal addresses, telephone numbers and e-mail addresses of advocates, solicitors & parties representatives.
• Claim form;
• Statements of case (excluding schedules of more than 15 pages);
• Orders already made;
• Case management information sheets ["CMIS"]
• Disclosure Reports & Electronic Disclosure Questionnaires
• List of issues to be tried;
• Draft composite proposed Directions (also e-mail as Word attachment);
• Costs Budgets
Budgets **http://www.justice.gov.uk/courts/procedure-rules/civil/pdf/update/precedent-h.pdf**
• Budgets filed by date specified in AQ Notice (26.3(1)) or 7 days before CMC (3.13)?
• Budgets in Form H and PD compliant (PD.3E)?
• Dated & signed with a statement of truth (PD.3E)?
• Costs of preparation of budgets within allowance (PD3E2.2)?
• Budgets agreed or contested (3.15(2)(a) & PD.3E2.3)?
○ If contested, any grounds and response to them filed?
• CMC and/or Costs Management hearing at court, telephone or paper?
• Comments on costs incurred?(PD.3E2.4)
• Further information required?
• Does any Budget require revision (PD.3E7)? If so;
○ Amended Budget: agreement or grounds and responses filed?
Disclosure
• Disclosure Report (N263) filed not less than 14 days prior to CMC (31.5(3)?
○ Describing what documents exist, or may exist, that may be, relevant (31.5(3)(a)
○ Describing the location of the documents (31.5(3)(b)
○ Describing how electronic documents are stored (31.5(3)(c)
○ Estimate of costs of disclosure (31(5)(3)(d)
○ Form of disclosure sought under 31.5(7) &(8): (31.5(3)(e)
○ e-Disclosure Questionnaires (N264) filed with Report? (31(5(4))
• Confirmation by parties of disclosure discussion filed? (31(5)(5)
○ Disclosure sought by Claimant
○ Disclosure sought by Defendant
○ Disclosure sought by Third Party
Witness Statements
• Limit (32.2) :
○ Issues (a)?
○ Number (b)?
○ Length (c)?
Experts
• Limit (35.4):
○ Types?
○ Number?
○ Issues?
• Estimates (35.4)?
• CEED?
ADR
• Suitable?
• Steps taken to settle?
• Parties' proposals?
• Order required?
• Window?