

## The Administration of Civil Justice

Generally civil actions in the circuit court run smoothly and efficiently however there are categories of cases where some form of case management would serve to streamline the cases, promote settlement and/or reduce hearing times in court.

These include **equity cases** involving boundary disputes or other land-related issues which can be contentious and complex. In such cases much time can be spent in court dealing with maps and other relevant documentation such as title deeds. Case management directions in such cases could require the parties' engineers or experts to meet, for documents and maps to be agreed, or where that is not possible to highlight the areas/issues in dispute with joint proposals for rectification and costings where appropriate.

Ideally there should be facilities to project maps/drawings on to a screen visible to all in court as much time can be wasted in ensuring that the witness, the lawyers and the judge are all looking at the same site/wall/area on documents handed around ( of which there are invariably insufficient or insufficiently clear copies).

The other category of case where case management would be of considerable assistance in saving costs and court time is **building contract disputes** which invariably involve detailed and lengthy costings invoices and other relevant documentation which require to be trawled through at length. Case management resulting in measures to streamline these cases could include directions for the engineers/architects or other experts to meet in advance and identify the matters/figures agreed and those in dispute, with proposals agreed or otherwise for rectification and /or costings.

The other category of cases which might be considered for case management are **S117 applications under the Succession Act 1965**. In contrast to the categories mentioned above where the county registrars are both ideally placed and skilled to conduct case management, these cases would best benefit from judicial case management, involving a fixed period before a judge, with all relevant parties present, to review the issues in the case and identify the witnesses who it is intended to call. These cases are highly contentious and often divisive inevitably involving family members disputing a will although often the issues are complex and can be about relationships and misunderstandings rather than entitlements. This particular category of case can benefit from

mediation however the opportunity to refer the case to mediation on the date of a hearing is untimely and uneconomic. A judicial case review would enable a judge to refer the matter to mediation if appropriate. At worst such a review could clarify the real issues in the case and highlight any unrealistic expectations that the parties may hold as to legal entitlements and the likely outcome of the proceedings. Any mechanism which can be introduced to achieve a resolution of these type of cases would be a welcome step given the long term fracture of family relationships which can result from these cases.

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