

Submission to the Review of the Administration of Civil Justice

We have kept our submission brief as prolixity is a fundamental problem of the system.

1. Online systems

- All court filings should be online. This can be piloted in the Commercial List.
- Routine applications should be capable of being made and adjudicated online in a written procedure. Again, pilot in the Commercial List.

2. Delay

- The Courts Service should commit that any reserved judgment gets delivered in a specified period (suggest 20 working days for interlocutory, 40 for trial of issue). A publicly available list of Judges, their outstanding reserved judgments and the time taken to deliver their reserved judgments should be maintained (a no cost motivational tool). All stamp duty paid by litigants should be refunded if the deadlines are missed. This simple measure would emphasise the courts' own commitment to swift justice.
- The reading out of pleadings should be the exception. The court should rise to read pleadings and openings should be time limited by the court.
- Following openings, the court should give time budgets to the parties for each component of the case. These may be revisited but the court should have power to adjust costs orders for failure to keep to time budgets.
- Appeals from interlocutory motions should be subject to a triage review by a Judge so that minor matters can be listed and dealt with expeditiously.
- Consideration should be given to a review of the operation of the Court of Appeal. As it is currently operating, the Court of Appeal has not solved any issue of delay nor has it enhanced the administration of justice in any material way over and above the previous two tiered system.

3. Discovery

A party's and its solicitor's duty on discovery should be expanded to include the specific highlighting of material regarded as particularly *unhelpful* to their case and/or particularly *helpful* to the cases made by other parties.

4. Civil evidence

Provisions enabling documents to be put into evidence, perhaps mirroring sections 5, 6 and 30 of the Criminal Evidence Act 1992 (as amended) would likely result in significant savings of court time and costs.

5. Rights of audience

A company should be permitted to be represented by an officer designated by board resolution. The current rule is a restrictive practice.

6. Motions for directions

The motion for directions is often a very efficient instrument in corporate receiverships. At present, to obtain an equivalent effect in relation to receivers appointed over the assets of individuals, it is, in many instances, necessary to issue plenary proceedings and seek to frame the reliefs sought in terms acceptable in an application for injunctive relief.

We are of the view that it would be useful to permit receivers over the assets of individuals to issue originating motions for directions.

Mason Hayes & Curran

16 February 2017

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