

## **PRACTICE DIRECTION - PRE-HEARING CONFERENCES and FOCUS HEARINGS (PC Rule 4)**

### **FOCUS HEARINGS (Code, s. 536.4)**

#### **Attendance at Focus Hearing**

Prior to attending at the focus hearing, the requesting party must have filed Form 4.1 (identifying witnesses and issues) in Court at the time the preliminary inquiry was set, or as the Court directed.

The Crown counsel and counsel for the accused, who are each to be fully briefed in respect of the issues to be discussed at the focus hearing, shall be present at the focus hearing, unless otherwise ordered by a judge, and in the case of an accused who is not represented by counsel, the accused shall be present.

Unless otherwise directed by the judge, counsel will be permitted to attend the focus hearing by telephone or videolink.

In exceptional circumstances, alternate and not assigned counsel may attend the focus hearing, provided s/he is briefed on the file and able to make representations and decisions on behalf of the Crown or the accused as applicable.

#### **Completion in Draft of Pre-Focus Hearing Report**

Prior to attending the focus hearing, Crown counsel and counsel for the accused should each prepare in draft a pre-hearing conference report in Form 4.1A to be presented to the focus hearing judge.

#### **General Nature of a Focus Hearing**

Unless otherwise ordered by the hearing judge, a focus hearing shall be on the record.

#### **Specific Inquiries to be Made**

A Judge conducting a focus hearing pursuant to s. 536.4 of the *Code* may inquire as to:

- a) the identification and simplification of such issues as remain to be contested at the preliminary inquiry;
- b) the identification of witnesses to be heard at the inquiry;
- c) the identification of any special needs and circumstances of witnesses;
- d) the possibility of obtaining admissions and agreements so as to facilitate an expeditious, fair and just determination of the proceedings;
- e) the estimated duration of the preliminary inquiry proceedings;
- f) the advisability of fixing the hearing date, in the event that a hearing date has not been set for any reason;
- g) any application to be made at the preliminary inquiry pursuant to s. 540(7) of the *Code*;
- h) any other matter that may assist in promoting a fair, just and expeditious hearing; and
- i) the possibility of resolving the matter before trial.

Any admissions of fact or agreements reached at a focus hearing shall be recorded in Form 4.1B by the Judge conducting the hearing, unless Form 4.1A suffices.

An application to be made at the preliminary inquiry pursuant to s. 540(7) of the *Code* shall be identified at the focus hearing, and if contested, shall be filed on Form 1 and heard on the record within the time period directed by the judge presiding at the focus hearing.

### **Focus Hearing Orders**

At the conclusion of a focus hearing, the focus hearing judge may:

- a) adjourn and continue the focus hearing to such further dates, times and places as the judge may direct;
- b) give counsel directions regarding further steps to be taken or information to be obtained and set dates for such directions to be met;

- c) if he or she deems it necessary, cancel, abridge or add to scheduled preliminary inquiry dates to ensure that the time set aside is appropriate and to facilitate compliance with the Practice Directions;
- d) order that certain preliminary motions be heard in advance of the preliminary inquiry date, and fix dates for the motion to be heard; and
- e) once all focus hearings are completed, prepare a focus hearing report, a copy of which shall be provided to the Crown counsel and counsel for the accused, or the accused if he or she is not represented by counsel.

### **PRE-TRIAL CONFERENCES [Code, s. 625.1]**

For all matters set for a trial of one day or more, a pre-trial conference shall be held at such time and date, and in such place and manner, as a judge of the Court may direct.

For all other trials, any counsel may request a judge of the Court to direct that a pre-trial conference be held.

#### **Attendance at Conference**

The Crown counsel and counsel for the accused, who are each to be fully briefed in respect of the issues to be discussed at the pre-trial conference, shall be present at the pre-trial conference, unless ordered by a judge, and in the case of an accused who is not represented by counsel, the accused shall be present.

Unless otherwise directed by the judge, counsel will be permitted to attend the pre-trial conference by telephone or videolink.

In exceptional circumstances, alternate and not assigned counsel may attend the pre-trial conference, provided s/he is briefed on the file and able to make representations and decisions on behalf of the Crown or the accused as applicable..

#### **Completion in Draft of Pre-Trial Report**

Prior to attending the pre-trial conference, Crown counsel and counsel for the accused should each prepare in draft a pre-trial conference report in Form 4.2 to be presented to the pre-trial conference judge.

## **General Nature of Pre-Trial Conference**

Unless otherwise ordered by the pre-trial conference judge, a pre-trial conference shall be on the record.

## **Specific Inquiries to be Made**

A pre-trial conference judge may inquire as to:

- a) the extent of disclosure made by the Crown counsel and any or further requests for disclosure by an accused or counsel for an accused;
- b) the nature and particulars of any applications to be made before or at the onset of the trial including an:
  - i. application to quash an Information
  - ii. application to change the venue or adjourn the hearing of the trial;
  - iii. application to challenge the sufficiency of the Information, to order particulars or to amend the Information or any count therein;
  - iv. application to sever the trial of any count(s) or accused from the trial(s) of another or others of them; and
  - v. application to determine the fitness of an accused to stand trial;
- c) the identification and simplification of such issues as remain to be contested at the trial;
- d) the identification of witnesses to be heard at the trial;
- e) the identification of any special needs and circumstances of witnesses;
- f) the possibility of obtaining admissions and agreements so as to facilitate an expeditious, fair and just determination of the proceedings;
- g) the estimated duration of the trial;

- h) any other matter that may assist in promoting a fair, just and expeditious hearing; and
- i) the possibility of resolving the matter before trial.

### **Pre-Trial Conference Orders**

At the conclusion of a pre-trial meeting, the pre-trial conference judge may:

- a) adjourn and order a continuation of the pre-trial conference and fix the date, time and place for the conference to be continued;
- b) give counsel directions regarding further steps to be taken or information to be obtained and set dates for such directions to be met;
- c) if he or she deems it necessary, cancel, abridge or add to scheduled trial dates to ensure that the time set aside is appropriate and to facilitate compliance with the Practice Directions;
- d) order that certain preliminary motions be heard in advance of the trial date, and fix dates for the motion to be heard in advance of the trial;
- e) if the matter concerns an application for *Charter* relief other than application to exclude evidence fix motion dates and trial dates; and
- f) once all pre-trial conference meetings are completed, prepare a pre-trial conference report, a copy of which shall be provided to the Crown counsel and counsel for the accused, or the accused if he or she is not represented by counsel.