

**DUST DISEASES TRIBUNAL OF NEW SOUTH WALES**

**ADVICE TO PRACTITIONERS**

**(No. 2 of 2019)**

***This advice commences in operation on 12 March 2019***

**Weekly Directions List Electronic Court Protocol and Order Entry**

**Definitions**

1. In this Advice To Practitioners:

**Court Date** means the date on which the proceedings are next listed for directions or interlocutory hearing;

**Electronic Request** means a request via email to a judge for case management orders (including, but not limited to, timetables for the preparation of the matter for trial, referral to mediation, referral to contributions assessment, adjournment, referral to the List Judge, and scheduling a listing date);

**List Judge** means the Judicial Officer allocated to preside over the Weekly Directions List;

**Party** means a party to a proceeding, and includes a legal practitioner on the record who is representing the party in the proceeding and any delegate of the practitioner.

**PART A – CONSENT MATTERS**

**Purpose**

1. The purpose of this Part is to provide for Orders to be made in Chambers by consent, without the need for practitioners to appear in person before the Tribunal at the Weekly Directions list.

**Procedure**

1. Where proceedings are listed on the Court Date and all parties to the proceedings consent as to the terms of proposed Orders to be made on that Court Date, an Electronic Request may be made to the List Judge.
2. All Electronic Requests are to be directed to the List Judge email address of [ddt.listjudge@justice.nsw.gov.au](mailto:ddt.listjudge@justice.nsw.gov.au)
3. Prior to making any Electronic Request, parties or their legal representatives must have convened (whether in person, via telephone, or electronic communication) and reached consent as to the content of the Electronic Request and the terms of the proposed Orders.
4. An Electronic Request must include:
   1. The names of the parties;
   2. The DDT Case Number;
   3. The Court Date; and
   4. The purpose of the Court Date.
5. The terms of any proposed Orders sought by consent are to be attached to the Electronic Request in an electronic document in MS Word format.
6. Undertakings given in Electronic Requests are binding as if given in open court.
7. Parties or their legal representatives must submit their Electronic Request to the List Judge by no later than 4.00pm on the Wednesday preceding the Court Date. Any Electronic Request submitted after this time will not be considered by the List Judge.

**Consideration by the List Judge**

1. After receiving the Electronic Request, the List Judge may:
   1. Notify the parties via email that the Electronic Request has been granted; or
   2. Notify the parties via email that the Electronic Request has not been granted and that all parties are required to appear before the Tribunal on the forthcoming Court Date.
2. In considering the Electronic Request and proposed Orders, the List Judge may have regard, inter alia, to:
   1. the progress and background of the matter;
   2. whether there has been default in compliance with previous Orders or directions; and
   3. whether the matter has previously been adjourned by consent.
3. If the List Judge decides to grant the Electronic Request and/or make the proposed Orders by consent, the parties will not be required to appear before the Tribunal on the forthcoming Court Date.
4. If the List Judge decides not to grant the Electronic Request or make the proposed Orders, the parties are required to appear before the Tribunal on the Court Date.
5. If the parties do not receive a notification regarding the Electronic Request, they are required to appear before the Tribunal on the Court Date.

**PART B – Order Entry**

**Purpose**

1. The purpose of this Part is to facilitate the formal entry of Orders made by the Tribunal in circumstances where Part A does not apply.
2. Unless the Tribunal orders otherwise, a Judgment or Order is taken to be entered when it is recorded in the court’s computerised court record system (Rule 36.11(2) *Uniform Civil Procedure Rules 2005*). Several decisions of the NSW Court of Appeal have stated that the Orders should be recorded verbatim in the computer system. The Court of Appeal has stressed that it is not appropriate for a document such as a Consent Judgment or Short Minutes of Order to be placed in the court file, with the Orders being entered in words such as “Orders in accordance with Consent Judgment/Short Minutes of Order filed in court”.

**Procedure**

1. Where any party to a proceeding proposes to seek an Order or Orders in the proceedings, that party is to notify the List Judge in email correspondence directed to the List Judge email address of [ddt.listjudge@justice.nsw.gov.au](mailto:ddt.listjudge@justice.nsw.gov.au)
2. The email correspondence must include the names of the parties and the DDT Case Number.
3. The email correspondence must attach the terms of the proposed Order or Orders in an electronic document in MS Word format.
4. The email correspondence must be simultaneously forwarded to all other parties to the proceedings.
5. Wherever possible, the above email correspondence must be sent before the Tribunal is asked to make the Order or Orders. Where it is not possible to do so, the above email correspondence must be sent to the Tribunal as soon as possible after the matter is dealt with by the Tribunal or in the Registry.

Daniel Watson

Registrar

8 March 2019