



SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
Rules of the Supreme Court, 1986

PRACTICE NOTE
P.N. No. 2020-02

DATE ISSUED: May 25, 2020

RULE(S) AFFECTED: 39.07; 39.10; and 39B.03

EFFECTIVE DATE: Upon publication

The following Practice Note is published pursuant to Rule 4.04 of the *Rules of the Supreme Court, 1986*.

**SETTLEMENT CONFERENCES:
APPEARANCE BY VIDEO-CONFERENCE AND FILING BRIEFS**

Background and Purpose

1. Pursuant to rule 39B.03(1) of the *Rules of the Supreme Court, 1986*, parties are required to file a settlement conference brief 10 days prior to the settlement conference in a civil matter. This allows the judge to become fully familiarized with the matter before them. It also allows the other parties adequate time to prepare for the conference. Late filing of settlement conference briefs diminishes the value of the settlement conference for all parties.
2. On a related note, the briefs filed by parties are often unduly lengthy and include points that are not relevant to the settlement of the matter.
3. Addressing these two issues is particularly pressing given our current circumstances. Because of the public health crisis caused by COVID-19, settlement conferences will, for the foreseeable future, be held by teleconference or videoconference, as is permitted pursuant to rule 39.07. While this will allow the Court to proceed with such appearances, participation by teleconference and videoconference can create added communication challenges. As a result, the timely filing of focused written materials by counsel and self-represented parties will be of additional importance to ensuring the effectiveness of such conferences.
4. In light of the foregoing, the Court issues the following Practice Note to provide further guidance regarding the filing and contents of settlement conference briefs in civil proceedings.

Practice Note

5. Parties must file their settlement conference briefs 10 days prior to the date set for the settlement conference, as required by rule 39B.03(1). Parties are reminded that where they fail to file documents required for a settlement conference before the deadline set for filing in the Rules, the settlement conference judge may make an order as to costs that is considered just pursuant to rule 39.10 or may postpone the settlement conference.
6. The settlement conference brief required under rule 39B.03(1) should include the following:
 - (a) in fifteen pages or less (unless there are exceptional circumstances) a brief synopsis of:
 - i. the issues to be resolved;
 - ii. the relevant facts;
 - iii. all non-expert witness evidence and other relevant documents;
 - iv. relevant and necessary legislation and case law relied upon, with important portions of legislation and cases reproduced or highlighted (and hyperlinks to the legislation and case included, where submissions are e-filed); and
 - v. the party's current position in terms of settlement;
 - (b) all expert reports; and
 - (c) all other relevant and necessary documents.
7. The objective is to inform the judge in a concise fashion of the essentials of the case. Especially important facts should be highlighted.
8. All hardcopies of settlement conference materials sent to the Court must be in a sealed envelope marked with the case number, the title of the proceeding, the date and time of the settlement conference, and the name of the settlement conference judge if one has been assigned. Settlement conference materials may be e-filed where this is permissible under the Court's Notice to the Profession and General Public issued on April 28, 2020 and updated on May 4, 2020.

Authorized by:

Raymond P. Whalen
CHIEF JUSTICE

Ethel Chaulk
REGISTRAR