# TRIAL MANAGEMENT – REPORT TO TRIAL JUDGE

**RULE 76 – SIMPLIFIED PROCEDURE ACTION**

ONTARIO SUPERIOR COURT OF JUSTICE

**Pre-Trial Judge/Master**:       **Court File No**.:

**Date of Pre-Trial**:       **Date of Mediation**:

**B E T W E E N**:

      v.

 *Plaintiff(s) Defendant(s)*

**Other Parties**:

**Companion/Related Court Files**:
*(including third party actions)*

**Nature of Claim**:
*(e.g., MVA – liability and damages)*

**Counsel / Party Contact Information**:

***Plaintiff(s) Counsel***:       *tel*:       *fax*:

*(or party if self-represented)* *email*:

***Defendant’s Counsel***:       *tel*:       *fax*:

*(or party if self-represented)* *email*:

***Defendant’s Counsel***:       *tel*:       *fax*:

*(or party if self-represented)* *email*:

***Defendant’s Counsel***:       *tel*:       *fax*:

*(or party if self-represented)* *email*:

**Assigned Trial Date**:       **Trial Length**: *Booked*:

 *Calculated*:
 *(from Part 2)*

**Trial Type**:

# [ ]  *Jury* [ ]  *Non-Jury* [ ]  *Bilingual*

*(jury notice served prior to Jan-1/20)*

**Trial Management Plan - Rule 76.10(2)**:

**Submitted** **[ ]  Yes** **[ ]  No If “no”, reason?**

**Approved** **[ ]  Yes** **[ ]  No If “no”, comments?**

*(Trial management plan approved per Rule 76.10(5)(d) should be appended as Appendix A.)*

# CERTIFICATE OF COUNSEL / PARTIES

Total number of pages (including all appendices) in this report:

**By signing below, I certify that I understand and confirm the contents of this report. I further acknowledge the obligation to be ready to proceed on the date and for the number of days fixed for the trial and that adjournments of trial dates will only be granted in extraordinary circumstances.**

**For counsel**: I undertake to explain to my client(s) the contents of this report and the obligation to be ready for trial on the date and for the number of days fixed for trial.

**For any self-represented party**: I acknowledge that I have been provided with a copy of *Instructions to Self-Represented Litigants*.

Party:

 Signature of party or counsel

Party:

 Signature of party or counsel

Party:

 Signature of party or counsel

Party:

 Signature of party or counsel

**Date**:

 **Signature of Judge / Master**

# PART 1 – ACTION STATUS / READINESS FOR TRIAL

**(Refer to Parts 3 & 4 for specific orders/directions)**

|  |
| --- |
| **Section 1 – Witnesses** |
| 1.1 **Witness list** (with time estimates) attached or outlined in Part 2? [ ]  Yes [ ]  No | **Describe any issue regarding witness availability**:*(out of town / out of country witnesses, etc.)*      |
| 1.2 Confirmed trial availability? [ ]  Yes [ ]  No |
| 1.3 Translator(s) required? [ ]  Yes [ ]  No |
| 1.4 Language(s):       |
| 1.5 Counsel/party has arranged? [ ]  Yes [ ]  No |
| 1.6 All expert affidavits delivered? [ ]  Yes [ ]  No | **Describe any issue(s) and/or dispute(s) regarding admissibility of expert opinion evidence**:*(see Part 4 for service deadlines for outstanding expert affidavits)*      |
| 1.7 Form 53 served for all experts? [ ]  Yes [ ]  No |
| 1.8 Expertise conceded? [ ]  Yes [ ]  No |
| 1.9 *Voir dire* required? [ ]  Yes [ ]  No |
| 1.10 More than 3 experts? [ ]  Yes [ ]  No |
| *If yes, is there consent?* [ ]  Yes [ ]  No |
| 1.11 Rule 20.05(2)(k) meeting(s)? [ ]  Yes [ ]  No |
| 1.12 Other witness issues? [ ]  Yes [ ]  No*(e.g. child witnesses, accommodation of any disability, security requirements)* | **Describe issue(s) and/or requirement(s)**:      |
| **Section 2 – Documents *(Refer to Parts 3 & 4 for specific orders/directions)*** |
| 2.1 Productions complete? [ ]  Yes [ ]  No | **Comments**:      |
| 2.2 Affidavits of documents filed? [ ]  Yes [ ]  No |
| 2.3 *Evidence Act* notices served? [ ]  Yes [ ] No |
| 2.4 Estimated # documents at trial:       |
| 2.5 Joint document book? [ ]  Yes [ ]  No*(mandatory unless exceptional circumstances)* |
| *If “no” provide explanation in “Comments”**If “yes”, # of (paginated) copies required:*       |
| 2.6 Agreement as to authenticity? [ ]  Yes [ ]  No |
| **Section 3 – Outstanding Matters Prior to Trial *(Refer to Parts 3 & 4 for specific orders/directions)*** |
| 3.1 Pleadings in order? [ ]  Yes [ ]  No | **Comments**:      |
| 3.2 Discoveries complete? [ ]  Yes [ ]  No |
| *If no, by when?*       |
| 3.3 Undertakings fulfilled? [ ]  Yes [ ]  No |
| 3.4 Outstanding motions? [ ]  Yes [ ]  No |
| 3.5 Other issues? [ ]  Yes [ ]  No |
| **Section 4 – Additional Trial Considerations *(Refer to Parts 3 & 4 for specific orders/directions)*** |
| 4.1 Discovery transcripts available? [ ]  Yes [ ]  No |  |
| 4.2 Courtroom requirements? [ ]  Yes [ ]  No*(e.g., large courtroom, AV, video-conferencing, technical needs, real time reporting, etc.)* | **Specify / Comments**:      |
| 4.3 Electronic trial (whole or part)? [ ]  Yes [ ]  No*(e.g., documents, factums)* | **Specify / Comments**:      |
| 4.4 Other issues/considerations? [ ]  Yes [ ]  No | **Specify / Comments**:      |
| 4.5 **Tools** for the assistance of the trial judge:e.g. ⮚ chronology ⮚ cast of characters ⮚ glossary of terms ⮚ compendium ⮚ corporate chart, family tree ⮚ demonstrative evidence (e.g. diagrams, maps photos) ⮚ written argument and/or summary of applicable law | **Comments** (if any):      |
| **Section 5 – Narrowing Issues *(Refer to Parts 3 & 4 for specific orders/directions)*** |
| 5.1 Have any facts been agreed? [ ]  Yes [ ]  No | **Main Facts in Dispute**:      |
| 5.2 Are the parties willing to prepare an agreed statement of facts? [ ]  Yes [ ]  No |
| 5.3 Are the parties prepared or intending to exchange requests to admit? [ ]  Yes [ ]  No |
| 5.4 Any issues agreed upon? [ ]  Yes [ ]  No | **List of Issues Agreed Upon**:      |
| 5.5 Admission of liability? [ ]  Yes [ ]  No |
| 5.6 Agreement as to damages? [ ]  Yes [ ]  No |
| 5.7 Agreement re disputed issues? [ ]  Yes [ ]  No | **List of Issues Remaining in Dispute**:      |

# PART 2 – WITNESSES & CALCULATION OF TRIAL LENGTH

**Jury Trial?** (pre-January 1, 2020 jury notice only) [ ]  Yes (trial length may exceed 5 days, if required)

 [ ]  No (trial length **may not** exceed 5 days: Rule 76.10(5))

[ ]  See approved Trial Management Plan (Appendix A) for witnesses. Trial length calculations are below.
*(Check if witnesses are listed in Trial Management plan and not reproduced below. If so, still insert time calculations)*

**Plaintiff(s) Witnesses**

|  |  |  |
| --- | --- | --- |
|  |  | **Time Estimates (in minutes)** |
| **Witness Name** | **Relationship to trial issues** | **Chief** | **Cross** | **Re-Exam** | **Total Time** |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
| **(A) – Total time for plaintiff(s)** |       |

**Defendant(s) Witnesses**

|  |  |  |
| --- | --- | --- |
|  |  | **Time Estimates (in minutes)** |
| **Witness Name** | **Relationship to trial issues** | **Chief** | **Cross** | **Re-Exam** | **Total Time** |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
|       |       |       |       |       |       |
| **(B) – Total time for defendant(s)** |       |

**Trial Duration Calculations**

|  |  |
| --- | --- |
| (A) Total time for plaintiff(s) *(from above)* |       |
| (B) Total time for defendants(s) *(from above)* |       |
| (C) Time required for opening statements and closing arguments for all parties |       |
| (D) Time required for jury selection and charge *(****only*** *applicable to actions with jury notices served prior to January 1, 2020)* |       |
| (E) Additional trial time required for other steps *(e.g., read-ins, voir dires, threshold or other motions or other issues)* |       |
| **TOTAL CALCULATED TRIAL LENGTH** (A+B+C+D+E) *(please transpose to page 1)* |       |

# PART 3 – ORDERS/DIRECTIONS APPLICABLE TO ALL TRIALS

The following orders are made regarding completion of steps required before trial:

*(Strike out #1 for actions with a jury notice served prior to January 1, 2020)*

1. Evidence in chief by affidavit shall be served in accordance with the following:
2. Plaintiff(s) sworn/affirmed affidavits of evidence shall be served by      .
3. Defendant(s) (and, if applicable, plaintiff(s) by counterclaim) sworn/affirmed affidavits of evidence shall be served by      .
4. Plaintiff(s) sworn/affirmed reply affidavits (and, if applicable, responding affidavits to counterclaim evidence) shall be served by      .
5. If applicable, defendant(s) sworn/affirmed reply affidavits of evidence (limited solely to reply to responding evidence regarding the counterclaim), if any, shall be served by      .
6. All affidavits must comply with the rules of trial evidence (such as the rule against hearsay, opinion evidence from a non-expert witness, etc.).
7. Absent leave of the court, no affidavits for a particular witness shall exceed       pages in length, excluding exhibits, for primary evidence-in-chief and       pages in length, excluding exhibits, for reply evidence.
8. Exhibits to affidavits shall refer to the joint document book, rather than append the same version of documents contained in the joint document book. Only documents not included in the joint document book should be made separate exhibits to affidavits.

*(****Note****: Strike out and initial if parties are excused from tendering joint document book)*

1. All affidavits shall be paginated with a unique page number given to each page of the affidavit and any exhibits. If there is no joint document book, or there are additional exhibits not contained in the joint document book, each exhibit should be separately tabbed.
2. The parties shall coordinate and, to the extent possible, prepare a joint document book, which shall endeavour to include all parties’ documents to be relied upon at trial and, at a minimum, the undisputed versions of documents for which multiple versions exist in the parties’ productions. The joint document book shall be indexed and tabbed, with each page paginated with a unique page number. The parties shall exchange and file the joint document book by      .

*(****Note****: Strike out and initial if parties are excused from tendering joint document book)*

1. Examination of witnesses shall not exceed the times confirmed in the approved trial management plan (see Part 2 – Witnesses & Calculation of Trial Length), unless leave is granted at trial to conduct additional examination. The trial judge may vary approved trial times, but total trial duration cannot exceed five days in all non-jury trials: Rule 76.12(2).
2. If a party intends to rely on either case law or legislation in legal submissions at trial, then a bound and tabbed book of authorities shall be prepared and served on all other parties by      . Key paragraphs or portions of cases should be highlighted or marked in the margins.
3. All trial materials shall be filed with the court at least 10 days prior than the date set for trial in this report. Parties shall endeavour to consolidate materials into briefs for ease of reference at trial.
4. The plaintiff(s) shall file a Trial Record, including all documents required by Rule 76.11(4), including a copy this report containing the approved trial management plan, no later than 10 days before the date set for trial in this report.

# PART 4 – OTHER ORDERS/DIRECTIONS

The following additional orders are made / directions given regarding steps required before trial:

*(Check or mark all orders made)*

[ ]  All expert affidavits prepared in accordance with Rule 76.09.1 that have not already been served shall be served by      .

[ ]  Supplementary expert affidavits shall be served in accordance with the following:

1. Plaintiff(s) supplementary expert affidavit(s) shall be served by      .
2. Defendant(s) supplementary expert affidavit(s) shall be served by      .

[ ]  The parties shall narrow the issues for trial by each serving requests to admit regarding truth of facts and/or authenticity of documents (Rule 51.02) by      .

[ ]  The parties shall coordinate and, to the extent possible, complete and file an agreed statement of facts by      .

[ ]  The parties shall each exchange lists of their position on what issues must be determined by the trial judge by      .
All such lists shall be provided to the trial judge at the commencement of trial.

[ ]  Each party may prepare its own document book containing all documents on which that party intends to rely at trial, but which are not already included in any joint document book. Documents attached as exhibits to affidavits filed as evidence in chief need not be duplicated in a party’s document book. Document books shall be indexed and tabbed, with each page of the document book paginated with a unique page number. Any such document book shall be served by      .

[ ]  The parties shall each prepare lists of jury questions in advance of trial. All such lists shall be provided to the trial judge at the commencement of trial.
*(applicable only to actions in which a jury notice was served prior to January 1, 2020)*

[ ]  Authenticity and admissibility of each document in a document book or appended as an exhibit to an affidavit shall be deemed admitted pursuant to Rules 51.01, 51.02 and 51.03, and shall be admissible at trial, unless:

1. authenticity or admissibility has already been challenged in a response to request to admit; or
2. a party objecting to authenticity or admissibility serves a written letter of objection by       , which letter shall identify the specific documents to which objection is taken and the specific reason for objection in each case.

[ ]  Trial materials shall be filed in accordance with the following provisions:

[ ]  a) All trial materials filed in paper with the court shall be printed double-sided, and failure to do so may be considered in assessment of disbursement cost claims absent reasonable explanation for not doing so.

[ ]  b) In addition to paper copies, electronic copies of all trial materials shall be filed with the court on USB in either pdf or Word-compatible format, with all affidavits and witness statements filed in Word-compatible versions.

[ ]  c) In addition to paper copies, electronic copies of the following materials shall be filed with the court on USB in either pdf or Word-compatible format:

[ ]  i) all affidavits and witness statements (filed in Word-compatible version)

[ ]  ii)

[ ]  10.

# APPENDIX A – APPROVED TRIAL MANAGEMENT PLAN

*Pursuant to Rule 76.10(5)(d), the pre-trial conference judge or master shall approve the parties’ proposed trial management plan, with any changes to the order or time of presentation, or any other changes, that the pre-trial conference judge or case management master may specify, subject to the requirement that the duration of the trial not exceed five days.*

[ ]  Trial management plan is approved as attached, subject to any amendments as noted
*(attach a copy of the trial management plan, including any revisions made during pre-trial)*