PRACTICE DIRECTIVE NO. 1

has been cancelled Effective February 1, 1989

PRACTICE DIRECTIVE NO. 2

PRE-TRIAL CONFERENCE PRACTICE DIRECTIVE (CRIMINAL)

Effective January 1, 1989

In the Regina judicial centre pre-trial conferences are held for all criminal cases.

In the Saskatoon judicial centre pre-trial conferences are held only for jury criminal cases. A monthly meeting is held by the local registrar at which counsel meet and trial dates are set for jury and non-jury criminal cases. At a pre-trial conference for a jury case the dates may be confirmed or changed. As long as this system is not abused, it should not be necessary to hold pre-trial conferences for the criminal non-jury cases except where they are very complex or lengthy. This system works as long as the local registrar is notified if there will be a re-election or guilty plea, an accurate estimate is given of the number of days a trial is expected to take and the requirement of a motion before trial is indicated. As the local registrar double-books counsel must also notify him in advance that a trial will not be going on.

In other judicial centres pre-trial conferences must be held for all jury cases. Where there are very few cases set for trial, or where trial time has been wasted because too many cases do not go on, the local registrar will be asked to require pre-trial conferences of non-jury criminal cases.

The *Criminal Code* rules (C.C.C. s. 625.1) apply to both the jury and non-jury pre-trial conferences and are reproduced at page 417 of the Rules of Court. The judge who conducts a pre-trial conference will read the transcript and will not preside at the trial of the matter.

The Crown is required to file the indictment as soon as possible after committal and at the very latest within 10 days of the filing of the transcript. The pre-trial conference judge and counsel for the defence must have the indictment well in advance of the pre-trial conference. If witnesses have been added to those testifying at the preliminary, the Crown is expected to have summaries of their evidence made available to the defence before the pre-trial conference.

Where an accused is not represented, the pre-trial conference is limited to setting a date for trial and assuring that the accused will be represented (if he so desires), or that he makes an informed choice that he will go on without counsel.

It may be necessary to give an early date and in that case the local registrar should be requested to contact the Chief Justice for leave to double-book. If defence wishes a later date, a waiver of delay should be obtained and be noted on the court file.

In addition to the usual pre-trial conference in jury matters, the pre-trial conference judge in complex criminal jury cases, MAY direct the registrar to advise the trial judge assigned to the case that a “management conference” should be held.

NOTE:

(1) It is important that everyone realizes that everything said at a pre-trial conference is confidential, and will not be raised by either party at trial.

(2) There are two pre-trial conference reports. One is kept by the clerk and is not part of the file. It is confidential and indicates whether there may be a re-election or guilty plea, etc. The other is a longer form and is only filled out if the matter is definitely going to trial - it is for the information of the trial judge and is available to the counsel on the case, and sets out undertakings, admissions, advance warning of motions, etc.

This Practice Directive is issued on the authority of the Chief Justice of the Court of Queen's Bench.

F.C. Newis, Registrar

PRACTICE DIRECTIVE NO. 3

JURY SELECTION PRACTICE DIRECTIVE

Effective January 1, 1989

In Saskatchewan the practice has been to have the trial judge assigned to hear a particular case preside at the selection of the jury for that case.

We are now going to adopt the Alberta practice where a judge presiding on the date (called the arraignment date) on which the whole panel is present presides over the selection of juries for a number of trials, some of which will be presided over by other judges. On the arraignment date, the indictment is read to the accused and his plea is taken, the jury is chosen in the usual way, but the jurors are NOT sworn. In a civil case, the jurors' names are returned to the box and can be drawn for the next jury (Saskatchewan, *The Jury Act 1981*, s.s. 24(2)); in criminal cases they can only be returned after the trial and verdict (*Criminal Code* s.s. 643(1)) and therefore must be kept apart while the other juries are being chosen. As many juries can be selected as necessary (for the trials which have been pre-tried) provided there are a sufficient number of persons remaining on the panel to allow for all possible challenges.

The accused and their counsel must, of course, be present on the arraignment date; guilty pleas or re-elections will be taken on that date and, where necessary, bench warrants will be issued. All this will be done by the judge presiding on that date. In the Judicial Centres of Regina, Saskatoon and Prince Albert, the trial dates set at the pre-trial conference will be confirmed (and will only be changed by consent of the parties or for good cause by the presiding judge). However in the other centres, the trials will proceed one after the other in the order in which tentative dates were given (i.e. if a case falls the next case will go on in its place, etc.). Counsel in those centres must therefore summon their witnesses for the opening (the arraignment date), and keep them advised thereafter as to the actual date of trial.

This procedure has been adopted so that we don't have to bring judges in from other judicial centres for the arraignment date to choose their jury, and this procedure will enable us to pick a number of juries, one after the other on the same day, so that the panel does not have to keep coming back. In the larger centres, the panel will have to be instructed to come back in two or three weeks time or whenever it is necessary to pick a further number of juries. In the smaller centres it will be possible to pick all the juries required for particular sittings on the one date. Thereafter only the people chosen for jury duty for a particular case will have to appear on the date which will be confirmed on the arraignment day and of which they will be advised at that time. This should save inconvenience to the jury, the local registrar and costs.

This Practice Directive is issued on the authority of the Chief Justice of the Court of Queen's Bench.

F.C. Newis, Registrar

PRACTICE DIRECTIVE NO. 4

PRE-TRIAL CONFERENCE PRACTICE DIRECTIVE (CIVIL)

Effective February 1, 1991

1 (a) Counsel must make a genuine attempt to settle a proceeding prior to a pre-trial conference. A pre-trial conference is not to replace normal negotiations between counsel.

(b) The attached "Joint Request For Pre-Trial Conference" form must be completed and signed by all counsel at the time a request is made under Subrule 191(2)(a).

2 The new Subrule 191(1) provides: "Unless otherwise ordered, no proceedings shall be set down for trial unless a pre-trial conference is held". When counsel request a pre-trial and meet the requirements of the new Subrule 191(2) which includes an estimated time for trial of one day or less, I have ordered all local registrars to refuse a pre-trial date, and to then assign a trial date, unless:

(a) the local registrar is satisfied from his discussion with counsel that there is a strong likelihood of a settlement being reached should a pre-trial be held; or

(b) the local registrar feels there is some other special reason a pre-trial should be held.

Except in these special circumstances, the cost to litigants of a one-day trial is not significantly greater than the cost of a pre-trial and therefore a pre-trial is usually not warranted.

3 The goals of a pre-trial conference are:

(a) to allow the parties to participate in the problem-solving process;

(b) to allow the parties to receive the view of a trial judge as to the issues (both facts and law) in dispute, as far as the material before the pre-trial judge allows;

(c) to allow settlement options to be presented which would not necessarily be available at trial;

(d) to seek settlement of the dispute so as to improve the efficiency of the court system and to save time and costs for all parties and witnesses.

4 If counsel wishes to dispense with the appearance of a party or a representative of a corporation, counsel shall send a written request, with reasons, to the local registrar. The local registrar shall present the request to the pre-trial judge, who may:

(a) refuse or grant the request without requirement of hearing from all counsel to the proceeding; or

(b) grant the request with conditions, including a requirement that the party or representative must be available by conference telephone, or immediately available for telephone communication; or

(c) order the request to proceed by way of motion.

5 If during a pre-trial conference the judge decides a telephone conference call should be made, the cost of the call shall be borne as the judge may order.

6 If a settlement is reached at a pre-trial conference, the judge may have it reduced to writing and signed by the parties and counsel and/or grant a consent order.

7 In proceedings involving matrimonial property or maintenance for a spouse or children, a judge may order the filing of full and complete information concerning a client's previous income. This includes income tax returns for at least the last three years and, if the client has an interest in a private corporation, financial statements of such corporation for at least the last three years.

8 Counsel must be aware of the new subrule 191(16)(b) respecting costs, and the possibility of costs being awarded against a party or counsel who fails to attend a pre-trial conference, or who fails to comply with the requirements of Subrules 191(2) and (3).

9 The face page of each trial brief shall clearly state the party on whose behalf it is filed.

F.C. Newis, Registrar

N.B.: Practice Directive No. 1 issued February 1, 1989 is hereby cancelled.

Q.B. FILE # OF A.D.

IN THE COURT OF QUEEN'S BENCH

JUDICIAL CENTRE OF

BETWEEN: ____

Petitioner or/Plaintiff

AND

____

Respondent or/Defendant

JOINT REQUEST FOR PRE-TRIAL CONFERENCE

The Solicitors By Their Signatures Hereto:

(i) Certify that they are ready for pre-trial conference, and thereafter for trial, and that they have taken all steps required by Subrules 191(1) and (2), and any other steps they deem necessary prior to pre-trial conference and trial.

(ii) Confirm that settlement efforts have been made.

(iii)(a) Counsel for all parties estimate the **TOTAL** required time for pre-trial conference to be ______________
(*in hours*)

(b) Counsel for the plaintiff (petitioner) estimate the time required to present their case at trial to be ______________
(*in court days*)

(c) Counsel for the defendant (respondent) estimate the time required to present their case at trial to be ______________
(*in court days*)

(d) Counsel for all parties estimate the **TOTAL** required time for trial to be ________
(*in court days*)

(e) Counsel for the plaintiff (petitioner) is available to conduct the pre-trial conference on the following dates: ____

____

(f) Counsel for the defendant (respondent) is available to conduct the pre-trial conference on the following dates: ____

____

(g) Based on the complexity of the file, counsel estimate the reading time for the pre-trial judge to prepare for the pre-trial is ______________________________________

(h) Have the applicable mediation requirements of s.42 of *The Queen's Bench Act, 1998* been complied with? ____

OR: This action is exempt from these sections because _____________________________

____

(iv)(a) Counsel for the plaintiff (petitioner) estimate they will call _____ witnesses at trial.

(b) Counsel for the defendant (respondent) estimate they will call _______ witnesses at trial.

DATED at ____ , Saskatchewan, this _______ day

of __________________________ , 2 _____ .

____
Counsel for the plaintiff (petitioner)

Phone Number: ____________________________

DATED at ____ , Saskatchewan, this _______ day

of __________________________ , 2 _____ .

____
Counsel for the defendant (respondent)

Phone Number: ____________________________

PRACTICE DIRECTIVE NO. 5

PRE-TRIAL CONFERENCE PRACTICE DIRECTIVE (FAMILY)

Effective May 1, 2009

1 In future, the attached Joint Request for Pre-Trial Conference form must be completed, signed by all counsel, and filed before the Local Registrar will assign a pre-trial conference date. There will be no more bifurcated pre-trials where parties seek to have a pre-trial on one aspect of the matters in issue and leave the balance in abeyance. A pre-trial will address all issues. The exception to this requirement is pre-trials ordered for a specific purpose from Chambers.

2 Where one of the parties neglects or refuses to join in a joint request for a pre-trial conference recourse may be had to Rule 191(9) or 191(9)(a). Where no reason is offered for the neglect or refusal Rule 191(9)(a) is the appropriate rule. In addition to the information required by Rule 191(2) for such an application should be added the information contained in Article 5(b) and Article 6 of the Joint Request Form.

3 Rule 191(2)(a)(ii) requires the lawyers to confirm that efforts at settlement have been made. The attached form requires the dates settlement was discussed be identified. In the absence of dates being identified, a pre-trial date will not be assigned.

4 The goals of a pre-trial conference are:

(a) to allow the parties to participate in the problem solving process;

(b) to allow settlement options to be presented which would not necessarily be available at trial;

(c) to allow the parties to receive the benefit of a trial judge's views on issues that remain unresolved;

(d) if settlement is not achieved to narrow the issues that remain to be litigated, and arrive at all reasonable agreements that will minimize time at trial;

(e) to take any other steps which will improve the efficiency of the trial and save time and costs for parties and witnesses.

5 Parties to family law proceedings are required to be present personally at the pre-trial conference unless otherwise ordered by the pre-trial judge on prior application by telephone through the local registrar.

6 At the pre-trial conference, the pre-trial conference judge may make any orders outlined in Rule 191(16), including orders as to costs.

M. A. Baldwin, Registrar

Q.B. No. _____ of A.D. 20 ________

IN THE QUEEN'S BENCH

JUDICIAL CENTRE OF ________________________________

BETWEEN:

____

PETITIONER

– and –

____

RESPONDENT

JOINT REQUEST FOR A FAMILY LAW PRE-TRIAL CONFERENCE

The solicitors, by their signatures hereto:

1. Certify that they are ready for pre-trial conference, and thereafter for trial.

2. Confirm that settlement efforts have been made. The dates on which settlement discussions occurred are:

   ____

   ____

3. (a) Counsel for the petitioner is available to conduct the pre-trial conference on the following dates:

   ____

   ____

   (b) Counsel for the respondent is available to conduct the pre-trial conference on the following dates:

   ____

   ____

   (c) Based on the complexity of the file, counsel estimate the reading time for the pre-trial judge to prepare for the pre-trial is ___________________________________

   (d) Counsel for all parties estimate the TOTAL required time for pre-trial conference to be ____________ (in hours).

4. (a) Counsel for the petitioner estimate the time required to present their case at trial to be ___________________ (in court days).

   (b) Counsel for the respondent estimate the time required to present their case at trial to be _________________ (in court days).

   (c) Counsel for all parties estimate the TOTAL required time for trial to be _________ (in court days).

   (d) Counsel for the petitioner estimate they will call _______________ witnesses at trial.

   (e) Counsel for the respondent estimate they will call _____________ witnesses at trial.

5. If the value of assets and liabilities are in issue:

   (a) The parties have prepared and exchanged a comprehensive list of assets and liabilities alleged by each party together with each party's valuation of the same. Part I of the list should reflect assets, liabilities and values agreed to. Part II of the list should reflect those items in dispute.

   (b) Where valuation is in dispute, independent evidence of value has been obtained and exchanged for all assets other than household furnishings and personal possessions.

6. If child support or spousal support is in issue:

   (a) Each party has filed all such financial information as required by the Rules and the *Federal Child Support Guidelines* including s. 21 of the *Guidelines*.

   (b) Each party undertakes to comply with Rule 620(3) at least ten (10) days before the pre-trial conference and shall file their most recent tax return, notice of assessment and payroll statement or other documentation showing year to date earnings.

DATED at __________________, Saskatchewan, this ___ day of _____________ , 20 ____ .

____
Counsel for the petitioner
Phone number: ________________________

DATED at __________________, Saskatchewan, this ___ day of _____________ , 20 ____ .

____
Counsel for the respondent
Phone number: ________________________

PRACTICE DIRECTIVE NO. 6

E-DISCOVERY GUIDELINES

Effective September 1, 2009

Introduction

While electronic documents are included in the definition of "document" contained in Rule 211 of *The Queen's Bench Rules*, Part Twenty of *The Queen's Bench Rules* relating to discovery and inspection of documents does not contemplate an electronic discovery ("e-discovery") process. E-discovery refers to the preservation, retrieval, disclosure and production of documents from electronic sources and sometimes in electronic form.

Electronic documents differ from paper documents in a number of ways. Electronic documents now outnumber, are easier to duplicate and are more difficult to dispose of than paper documents. Electronic documents are attached to tracking information (meta-data) and may be updated automatically, unlike paper documents. In order to access an electronic document, a computer program (which may become obsolete) is required. While paper documents can be maintained in one filing cabinet or banker's box, electronic documents can reside in numerous locations such as desktop hard drives, laptops, servers, handheld digital devices and on storage media like CDs and backup tapes.

Parties in actions which involve e-discovery should consult and have regard to the document titled "The Sedona Canada Principles Addressing Electronic Discovery." The Sedona Canada Working Group, composed of lawyers, judges and technologists, spent sixteen months carefully studying issues relating to e-discovery in Canada and, from that careful study, developed and produced this comprehensive document which can be found at: http://www.lexum.org/e-discovery/SedonaCanadaPrinciples01-08.pdf.

The following Guidelines, which incorporate the Sedona Canada Principles, are not intended to replace the existing requirements set out in Part Twenty of *The Queen's Bench Rules* which, except where they specifically conflict with the Guidelines, will continue to provide the legal foundation for the discovery and inspection of documents in Saskatchewan. However, one concept that has emerged from the study of e-discovery in Canada to date is that traditional rules relating to relevance of documents cannot be uniformly applied to e-discovery. For this reason, the Guidelines incorporate a new standard for e-discovery disclosure which might be described as proportionate direct relevance.

The objective of the Guidelines is to guide lawyers, parties and the judiciary in the e-discovery process. It is hoped that the Guidelines will provide an appropriate framework to address *how* to conduct e-discovery, based on norms that the bench and bar can adopt and develop over time as a matter of practice. At this stage, mandating how e-discovery is conducted through the enactment of detailed rules could be counter-productive. In due course, as experience is gained in this area in Saskatchewan and in other jurisdictions in Canada, rules specific to e-discovery will be developed.

GUIDELINES

<u>Scope</u>

Principle 1: In general, and subject to the following principles, electronic documents that are relevant to any matter in question in the action must be disclosed in accordance with Rule 212 of *The Queen's Bench Rules*.

Commentary:

Electronic documents are included in the definition of "document" contained in Rule 211 of *The Queen's Bench Rules* and must therefore be disclosed in accordance with Rule 212 of *The Queen's Bench Rules*.

Principle 2: The obligations of the parties with respect to discovery and inspection of electronic documents, including the cost associated with locating electronic documents, should be proportionate to the importance and complexity of the issues, and to the amount involved, in the action.

Commentary:

The concept of proportionality is a central tenet of The Sedona Canada Principles Addressing Electronic Discovery which has been introduced into the rules of procedure of most superior courts in Canada and has been described as a reaction to delays and costs impeding access to justice.

The application of this principle depends, in the first instance, on the parties who should confer about the concept of proportionality and attempt to agree upon its application to an action. If the parties are unable to agree, and a party can demonstrate that the likely probative value of a document is outweighed by the cost associated with locating the document, the party should not be obliged to locate the document at issue.

Principle 3: In most cases, the primary location in which to search for electronic documents should be the parties' active data and any other information that was stored in a manner that anticipated future business use, and that still permits efficient searching and retrieval.

Commentary:

The scope of searches required for relevant electronic documents must be reasonable. It is neither reasonable nor feasible to require that litigants immediately or always canvass all potential sources of electronic documents in the course of locating, preserving and producing them in the discovery process.

For most litigation, the relevant electronic documents will be those which are available to or viewed by computer users and those which are exchanged between parties in the ordinary course of business (active data). This principle also includes archival data (electronic documents organized and maintained for long-term storage and record keeping purposes) that is still readily accessible.

Principle 4: A party should not be required to search for, review or produce documents that are deleted or hidden, or residual data such as fragmented or overwritten files, absent agreement or an order based on demonstrated need and relevance. In certain actions, a party may satisfy its obligations relating to discovery and inspection of electronic documents by using electronic tools and processes, such as data sampling, searching, or the use of selection criteria, to identify the documents that are most likely to contain relevant data or information.

Commentary:

Only exceptional cases will turn on deleted or discarded electronic documents. As such, residual or replicant data need not be preserved or produced absent agreement or an order of the Court. In an action where deleted or residual electronic documents may be relevant, the parties should communicate this information to one another early in the process to avoid unnecessary preservation, inadvertent deletion and/or claims of spoliation.

Large computer systems contain vast amounts of information, much of which is likely to be irrelevant. In some actions, it may therefore be impractical or too expensive to review all of the information for relevance. In such circumstances, it is reasonable for parties to use targeted electronic techniques to search within electronic document sources, in collecting the materials that will be subject to detailed review for relevance. The objective should be to identify a subset or subsets of the available electronic documents for detailed review, that are most likely to be relevant.

The application of this principle depends, in the first instance, on the parties who should confer about and attempt to agree upon about the use of targeted electronic search techniques, including search criteria to be used to extract relevant electronic documents.

Preservation

Principle 5: As soon as litigation is contemplated or threatened, parties should immediately take reasonable and good faith steps to preserve relevant electronic documents.

- **Parties should discuss the need to preserve meta-data as early as possible. A party should be entitled to assume that its meta-data is not relevant unless it knows that its meta-data is relevant.**
- **Parties should discuss the need to preserve an electronic document in electronic form as early as possible. A party should be entitled to assume that it is sufficient for it to preserve a print copy of an electronic document unless it knows that the other party requires the preservation of a specific electronic document in electronic form.**

Commentary:

The obligation to preserve relevant electronic documents applies to both parties as soon as litigation is contemplated or threatened, however, the obligation is not unlimited. The scope of what is to be preserved and the steps considered reasonable may vary widely depending upon the nature of the claims and documents at issue. A reasonable inquiry based on good faith to identify and preserve active and archival data should be sufficient.

"Meta-data" is electronic information that is recorded by the system about a particular document, concerning its format, and how, when, and by whom it was created, saved, accessed, or modified. Parties should confer about and attempt to agree upon the need to preserve meta-data as early as possible.

In most actions, meta-data will not be relevant. For this reason, a party should be entitled to assume that its meta-data is not relevant (and need not be preserved) unless it knows that its meta-data is relevant.

Parties should confer about and attempt to agree upon the need to preserve electronic documents in electronic form as early as possible.

In most actions, preservation of electronic documents in paper format or scanned format should be sufficient and preservation of electronic copies of actual files, other than through normal business practices, should not be required. For this reason, a party should be entitled to assume that it is sufficient for it to preserve a print or scanned copy of an electronic document unless it knows that the other party requires the preservation of a specific electronic document in electronic form.

Principle 6: **Because of the nature of electronic documents, parties should consider whether third parties may be in possession of relevant electronic documents and may wish to consider placing any such third parties on notice with respect to preserving electronic documents as early in the process as possible, as electronic documents may be lost in the ordinary course of business.**

Commentary:

Where a party anticipates that a specific electronic document does or may exist in the possession of a third party that is relevant to an action and that is liable to be deleted or modified in the ordinary course of business, the party may wish to consider notifying the third party of that fact and requesting that appropriate steps be taken to preserve the electronic document.

Production

Principle 7: **Where an electronic document has been preserved in electronic form, it may be producible in electronic form where this would (i) provide more complete relevant information, (ii) facilitate access to the information in the document, by means of electronic techniques to review, search, or otherwise use the document in the litigation process, (iii) minimize the costs to the producing party, or (iv) preserve the integrity and security of the data.**

Commentary:

As noted in the commentary following principle 5 above, there is generally no requirement to preserve electronic documents in electronic form. Having said this, where an electronic document has been preserved in electronic form, it may also be producible in electronic form under the circumstances described in this principle.

Parties should confer about and attempt to agree upon issues relating to production of electronic documents.

Costs

Principle 8: **In general, the interim costs of preservation, retrieval, review, and production of electronic documents will be borne by the party producing them. The other party will be required to incur the interim cost of making a copy, for its own use, of the resulting productions. In special circumstances, it may be appropriate for the parties to agree and/or for the Court to order a different allocation of costs on an interim basis.**

Commentary:

This principle accords with the existing practice followed in Saskatchewan in relation to the costs associated with the disclosure and production of documents. The special circumstances referred to in this principle could include situations where a party requests disclosure that involves extraordinary cost for the other party such as disclosure requiring forensic searches, disclosure requiring extensive backup restoration work or disclosure requiring the creation of subsets of data that do not exist in the normal business environment.

Confer

Principle 9: **Parties should confer as soon as practicable and on an ongoing basis and, in any event, prior to examinations for discovery, regarding the location, preservation, review and production of electronic documents (including measures to protect privilege and confidentiality and other objections to production of electronic documents) and should seek to agree on the substance of each party's rights and obligations with respect to e-discovery, and on procedures required to give effect to those rights and obligations. Where parties are unable to agree on issues surrounding the use of technology for the preparation and management of civil litigation in the Court, they should be governed by the default standard specified in the Canadian Judicial Council's National Generic Protocol on the Use of Technology in Civil Litigation.**

Commentary:

Conferring early is one of the keys to effective e-discovery for all parties. By identifying and attempting to resolve disputes about e-discovery issues at an early stage in an action, parties can avoid costly collateral litigation relating to these disputes.

In recognition of the central importance of this principle, the obligation to confer is referenced throughout the commentaries to the other principles set out above. Parties should confer and attempt to agree on all substantive and procedural issues relating to e-discovery, including but not limited to (i) the concept of proportionality and its application to an action, (ii) the relevance of and the need to preserve deleted or residual electronic documents and meta-data and the need to preserve and/or produce specific electronic documents in electronic form, (iii) the use of targeted electronic search techniques, (iv) issues relating to production of electronic documents including the format for document numbering and production, and (v) any proposed change to the normal allocation of costs.

Parties should confer and attempt to agree on issues surrounding the use of technology for the preparation and management of civil litigation in the Court. Where parties are unable to agree, they should be governed by the default standard specified in the Canadian Judicial Council's National Generic Protocol on the Use of Technology in Civil Litigation which can be found at:

http://www.cjc-ccm.gc.ca/cmslibgeneralJTAC%20National%20Generic%20Proto(1).pdf, subject to amendments by order of the Court or by further agreement of the parties.

Any agreement reached should be reduced to writing for future reference when necessary.

Principle 10: Where parties are unable to agree on the substance of each party's rights and obligations with respect to e-discovery and on procedures required to give effect to those rights and obligations, the parties may file with the local registrar a joint request that a post-pleadings conference as contemplated by Rule 191(11A) of *The Queen's Bench Rules* be conducted to address these issues.

Commentary:

The parties' obligation to confer on issues relating to e-discovery is a real obligation. Parties are expected to actually confer and to genuinely attempt to agree on substantive and procedural issues relating to e-discovery before completing a joint request for a post-pleadings conference as described in this principle.

As noted in Rule 191(11A), unless otherwise ordered or as may be agreed by the parties in writing, all of the rules relating to pre-trial conferences shall apply, *mutadis mutandis* to post-pleadings conferences. Specifically, where one party refuses to join in a joint request for a post-pleadings conference, the party wishing to obtain a post pleadings conference may take the steps described in Rule 191(9) and/or Rule 191(9A) to have a post-pleadings conference ordered and/or scheduled.

Wherever possible, a post-pleadings conference should be scheduled for a date not more than 30 days after the joint request is filed. If a post-pleadings conference is conducted, the Judge who conducts the post-pleadings conference will generally become the case management Judge who will preside over pre-trial motions relating to the action.

Default Protocol on the Use of Technology in Civil Litigation

The Guidelines are intended to apply to actions which involve e-discovery in Saskatchewan but do not address the use of electronic evidence. Parties should confer and attempt to agree on issues surrounding the use of technology for the preparation and management of civil litigation in the Court.

Where parties are unable to agree, they should be governed by the default standard specified in the Canadian Judicial Council's National Generic Protocol on the Use of Technology in Civil Litigation which can be found at: http://www.cjc-ccm.gc.ca/cmslib/general/JTAC%20National%20Generic%20Proto(1).pdf, subject to amendments by order of the Court or by further agreement of the parties.

M. A. Baldwin, Registrar

PRACTICE DIRECTIVE NO. 7

FILING COPIES OF AUTHORITIES

Effective September 1, 2010

1. This Practice Directive relates to authorities, such as case reports, statutes and articles from legal journals, that are filed by counsel and parties.

2. Cases filed must always include the headnote. The case should contain only as much of the text as is necessary to provide a full understanding of the passages relied on. This might require that the entire case be provided, but often only excerpts will be necessary.

3. The passages in the authorities that are relied on should be marked by way of highlighting, underlining or similar technique.

4. Where case reports from electronic databases are used, at least a neutral citation (e.g. SKQB) must be included.

5. Authorities may be printed on both sides of the page.

6. Following conclusion of argument and the handing down of the fiat or judgment, local registrars may remove from the file and return all photocopies of authorities, to the counsel filing same, but counsels' briefs will remain on the file. Where settlement is reached at a pre-trial, briefs of argument and photocopies of authorities shall be returned to the counsel filing same.

M. A. Baldwin, Registrar

PRACTICE DIRECTIVE NO. 8

SIMPLIFIED PROEDURE

Effective January 1, 1998

1 At least five days before the date fixed for summary trial there shall be filed:

(a) a certificate of readiness;

(b) a copy of all affidavits to be used at the summary trial;

(c) a table of contents describing each document, including each exhibit, by its nature and date and, in the case of an exhibit, by exhibit number or letter.

2 At a summary trial the procedure shall, **unless the trial judge otherwise orders**, be as follows:

(a) the applicant shall adduce evidence by affidavit;

(b) a party who is adverse in interest may cross-examine the deponent of any affidavit;

(c) the applicant may re-examine, for not more than 15 minutes, any deponent who is cross-examined;

(d) upon completion of the cross-examination and re-examination of the applicant's deponents, the respondent may adduce evidence by affidavit;

(e) a party who is adverse in interest may cross-examine the deponent of any affidavit utilized by a respondent;

(f) the respondent may re-examine, for not more than 15 minutes, any deponent who is cross-examined;

(g) when any cross-examinations and re-examinations of the respondent's deponents are concluded, the applicant may, with leave of the trial judge, adduce reply evidence;

(h) all cross-examinations by any party shall not exceed 90 minutes;

(i) all re-examinations by any party shall not exceed 45 minutes;

(j) the oral arguments of each party shall not exceed 30 minutes.

Jan L. Kernaghan, Registrar,
Court of Queen's Bench and Provincial Court.

PRACTICE DIRECTIVE NO. 9

has been cancelled Effective January 1, 2001
Saskatchewan Gazette 9 Feb 2001

PRACTICE DIRECTIVE NO. 10

has been cancelled Effective January 1, 2001
Saskatchewan Gazette 9 Feb 2001

PRACTICE DIRECTIVE NO. 11

has been cancelled Effective January 1, 2003
Saskatchewan Gazette 13 Dec 2002

PRACTICE DIRECTIVE NO. 12

PAYMENT OUT OF GARNISHEE MONIES

Effective: January 1, 2000

The Attachment of Debts Act, section 14 re: payment out of monies paid into court.

1 When an application is made pursuant to subsection 14(2) of *The Attachment of Debts Act*, R.S.S., c. A-32, the affidavit in support of such application shall state the current balance owing on the judgment and shall set out the calculation of that balance together with its effective date.

2 Where more than one garnishee has been issued and money has been paid into court, the application to pay monies out of court shall state the name or names of the garnishee or garnishees who have paid money into court and the amount of money paid into court by that garnishee or by each garnishee, as the case may be, in addition to the information required under paragraph (1) above.

Jan. L. Kernaghan, Registrar,
Court of Queen’s Bench and Provincial Court.

PRACTICE DIRECTIVE NO. 13

Effective: January 1, 2001

The Special Family Law Practice Direction and Practice Directives 9 and 10 are cancelled. The provisions of these practice directives have been incorporated into the Rules of Court.

This Practice Directive is issued on the authority of the Chief Justice of the Court of Queen's Bench.

Jan. L. Kernaghan, Registrar,
Court of Queen’s Bench and Provincial Court.

PRACTICE DIRECTIVE NO. 14

MANDATORY PARENTING EDUCATION PROGRAMS

(Effective October 17, 2001)

1 This Practice Directive applies to family law proceedings commenced in judicial centres designated pursuant to subsection 7.1(1) of *The Queen's Bench Regulations*.

2 Every person commencing a family law proceeding in which custody, access or child support is in issue, other than proceedings pursuant to *The Reciprocal Enforcement of Maintenance Orders Act, 1996*, shall serve upon the respondent, at the same time as the document commencing the proceeding is served, a Notice to Attend a Parenting Education Program, which notice shall be in the attached form.

This Practice Directive is issued on the authority of the Chief Justice of the Court of Queen's Bench for Saskatchewan.

Jan L. Kernaghan, Registrar,
Court of Queen's Bench and Provincial Court.

NOTICE TO ATTEND A PARENTING EDUCATION PROGRAM

To: The Respondent (or Petitioner), ______________________________
(*Name*)

YOU ARE REQUIRED to attend a parenting education program, unless:

(a) you file with the court a certificate of attendance proving that you have attended a parenting education program or an equivalent program within the preceding two years; or

(b) you obtain an exemption pursuant to subsection 44.1(9) of *The Queen's Bench Act, 1998*; or

(c) you and all other parties to this proceeding certify in writing that a written agreement has been entered into settling all issues respecting custody, access and child support.

IF YOU FAIL to attend a parenting education program when required to do so the court may, on application:

(a) strike out your pleading or other documents;

(b) refuse to allow you to make submissions on an application or at trial; or

(c) order you to attend a parenting education program within any time specified by the court.

To attend the course you must register at least two days in advance by telephone toll-free 1-877-964-5501 or 964-4410 in Saskatoon. There is no fee for registration. Parties do not attend the course together.

Dated at ______________ , Saskatchewan, this _______ day of ______________ , 2_________ .

____
Party or Party's Lawyer

PRACTICE DIRECTIVE No. 15

CANCELLATION OF PRACTICE DIRECTIVES

(Effective: January 1, 2003)

Practice Directive 11 is cancelled. The provisions of this amendment have been superceded by amendments to the *Rules of Court*.

This Practice Directive is issued on the authority of the Chief Justice of the Court of Queen's Bench.

Jan L. Kernaghan, Registrar,
Court of Queen's Bench and Provincial Court.

PRACTICE DIRECTIVE No. 16

BANKRUPTCY AND INSOLVENCY

(Effective: September 1, 2003)

1 There will be a panel of judges dedicated to dealing with matters of bankruptcy, insolvency, receivership or proceedings under *The Companies Creditors Arrangement Act.*

2 To bring a petition or application before one of the judges on the panel, a party shall contact the Local Registrar to obtain a return date for the application. The Local Registrar will fix a date after consultation with the member of the panel selected by the Chief Justice.

3 If a petition or application is not initially brought before a member of the panel, a respondent may have the matter transferred to a member of the panel by filing a request for transfer with the Local Registrar within 24 hours of receiving notice of the petition or application. The request for transfer shall be served on all other parties to the proceeding before it is filed with the Local Registrar. Upon receiving the request for transfer, the Local Registrar will fix a date after consultation with the member of the panel selected by the Chief Justice.

This practice Directive is issued on the authority of the Chief Justice of the Court of Queen's Bench.

Jan L. Kernaghan, Registrar,
Court of Queen's Bench and Provincial Court.

PRACTICE DIRECTIVE No. 17

PRACTICE DIRECTIVE ON OBJECTIONS TO AFFIDAVIT EVIDENCE IN FAMILY LAW MATTERS

(Effective: April 1, 2008)

1 Objections to affidavits shall be raised by filing a notice of objection in the form attached hereto.

2 A copy of the affidavit objected to is to be attached to the notice of objection with those portions to which objection is taken highlighted or otherwise identified, such as by underscoring, and a notation in the margin as to the Rule upon which objection is taken and the grounds for the objection (example: hearsay, argument, opinion, irrelevant, etc.).

3 A notice of objection shall be served and filed:

(i) when objecting to the affidavit(s) filed in support of the substantive motion: at least seven days before the return date;

(ii) when objecting to the affidavit(s) filed in response to the substantive motion: at least one clear day before the return date;

(iii) when objecting to a reply affidavit: by noon the day before the return date.

4 A response to the notice of objection shall be filed in the form attached hereto.

5 The response to the notice of objection shall be served and filed as follows:

(i) in reply to the objection to the affidavit(s) filed in support of the substantive motion: at least two clear days prior to the return date;

(ii) in reply to the objection to the affidavit(s) filed in response to the substantive motion: 12:00 noon of the day before the return date;

(iii) in reply to the objection to the reply affidavit: at the hearing on the return date.

6 There will be no argument in chambers on the objection unless the chamber judge requests further comment.

This Practice Directive is issued on the authority of the Chief Justice of the Court of Queen's Bench.

New. Gaz. Mar. 14, 2008.

NOTICE OF OBJECTION TO AFFIDAVIT EVIDENCE

TAKE NOTICE that an application is hereby made to the presiding judge in chambers at the court house in ____________________, Saskatchewan at _______ o'clock in the __________ noon on the _________ day of ____________________ , 20 ________ on behalf of the petitioner (or respondent, as the case may be) objecting to the following affidavit evidence:

[(a) The affidavit of ____________________, a copy of which is attached hereto with the material objected to identified;]

ON THE FOLLOWING GROUNDS:

[(a) As noted on the attached copy of the affidavit(s)]

DATED at the City of ____________________, in the Province of Saskatchewan, this __________ day of ____________________ , 20 ____________ .

____

TO:

This document was delivered (etc. as in Form 589)

RESPONSE TO NOTICE OF OBJECTION

THE PETITIONER (or Respondent as the case may be) ACKNOWLEDGES the following affidavit material is to be struck or disregarded, as the case may be:

[(a) Identify the affidavit and the specific provisions]

AND TAKES ISSUE with the remaining material objected to ON THE FOLLOWING GROUNDS:

[(a) Identify the affidavit, the passage in question and the reason.]

DATED at the City of ____________________, in the Province of Saskatchewan, this __________ day of ____________________ , 20 ____________ .

____

TO:

This document was delivered (etc. as in Form 589)

New. Gaz. Mar. 14, 2008.