

PRACTICE NOTE 6 District Court Defamation List

Commencement

1. This Practice Note commences on 9 February 2015 and replaces Practice Note 6 issued on 9 August 2005.

Purpose

2. This Practice Note explains the operation of the Defamation List in the District Court of New South Wales.

Operation

3. This Practice Note applies to all new and existing proceedings for defamation and injurious falsehood filed in the Sydney Registry.
4. Defamation and injurious falsehood proceedings filed in registries other than Sydney will be dealt with according to the usual practice of the relevant registry.
5. A judge, or the Registrar of any registry besides the Sydney Registry, may, of his or her own accord, or upon application by any party to the proceedings, transfer any defamation or injurious falsehood claim to Sydney for inclusion in the Defamation List for case management.

Defamation List

6. Proceedings filed in the Sydney Registry that include a defamation claim should contain the words "Defamation List" and be entered in the Defamation List.
7. The Defamation List will be conducted fortnightly on dates allocated at the

commencement of the court term.

8. The Defamation List will be conducted with the aim of achieving the just, quick and cheap resolution of the real issues in the proceedings and promoting the objects of the *Defamation Act* 2005 (NSW).
9. Applications for interim injunctions in proceedings already filed should be made to the judge conducting the Defamation List or, if that judge is not available, to the List Judge.

Pleadings

10. Any pleadings filed in proceedings in the Defamation List will be allocated a return date by the Registry.
11. If the Statement of Claim has not been served within the one-month period provided for by UCPR r 6.2, an application for extension of time to serve the Statement of Claim must be sought, and evidence of attempts at service provided.
12. At the first listing in the Defamation List, the parties will be expected to:
 - (a) Advise the Court of objections to the form of the Statement of Claim, applications for extension of the limitation period or other issues requiring resolution before a Defence may be filed;
 - (b) Provide a timetable for the timely conduct of interlocutory steps; and
 - (c) Advise the Court of steps the parties propose to take in relation to mediation, including any likely future request for court mediation.
13. No application for any interlocutory step (including any application for judgment or to strike out proceedings) will be entertained unless the party

seeking the order has given reasonable notice in writing to the opposing party (or parties) and to the Court. Any application for interlocutory rulings should include a concise description of the issues and a list of authorities.

14. Notices of Motion are not required for interlocutory arguments unless otherwise ordered.
15. When all interlocutory steps are completed the judge conducting the Defamation List will allocate a hearing date provided the estimate for the hearing is less than five days. Where the estimate for the hearing is five days or more the proceedings will be referred to the List Judge or the Judicial Registrar for a hearing date. Hearing dates, when allocated, will not be vacated other than in exceptional circumstances.
16. When a hearing date is sought, both parties must inform the Court of the following:
 - (a) An estimate of the trial length and the number of witnesses;
 - (b) Whether there will be an application for evidence to be given by telephone or audio-visual means;
 - (c) Whether there will be an application for expert evidence to be given concurrently;
 - (d) Confirmation that all outstanding interlocutory proceedings have been completed;
 - (e) Where the proceedings are to be heard by a jury, that notice has been served on the opponent and the jury retention fee has been and will continue to be paid; and
 - (f) The names of counsel briefed, if applicable.

17. A hearing date will not be allocated unless the Court is satisfied that the matter is ready for hearing.
18. Where proceedings are listed for hearing, any applications for further rulings should be made to the judge conducting the Defamation List or to the List Judge.

Show cause hearings and Sections 56 - 62 *Civil Procedure Act 2005 (NSW)*

19. A party who fails to comply with this Practice Note or a direction of the Court may be called upon to show cause why the proceedings should not be dismissed under s 61 of the *Civil Procedure Act 2005*.
20. In determining any matter in the Defamation List, including a show cause hearing, the Court may have regard to the principle of proportionality stated in s 60 of the *Civil Procedure Act 2005*.

Costs

21. The attention of practitioners is drawn to s 40 of the *Defamation Act 2005* and UCPR r 42.7(2).

The Hon. Justice D Price AM
Chief Judge
District Court of New South Wales
9 February 2015