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The following Notification is, by command of His Excellency the Governor-General, published for general information.

RYAN EVANS
Governor-General's Secretary and
Clerk to the Privy Council.

JUDICIAL NOTICE

PRACTICE DIRECTION (No. 11) OF 2020

SUPREME COURT OF JAMAICA (CIVIL DIVISION INCLUDING THE COMMERCIAL DIVISION)
AND THE REVENUE COURT OF JAMAICA

This Practice Direction is issued by the Honourable Chief Justice and is intended to govern sittings in the Civil and Commercial Division of the Supreme Court of Judicature of Jamaica as well as the Revenue Court until further notice.

General

1. This Practice Direction comes into effect on Wednesday, September 16, 2020.
2. Where possible, the court will make every effort to facilitate evidence/submissions being given from a remote location.
3. Litigants are strongly encouraged to have as many applications as possible disposed of on paper.
4. Parties who wish to have any matter listed to announce a settlement are to contact the appropriate registry and arrangements will be made to accommodate the request. There is no need to file an application supported by an affidavit. An email sent to the relevant official registry address will be sufficient. The email addresses for the various registries are as listed below:

- (i) for the civil registry (HCV) — the email address is civilregistry@supremecourt.gov.jm;

- (ii) for the matrimonial division — the email address is matrimonial@supremecourt.gov.jm;
- (iii) for the probate division — the email address is probate@supremecourt.gov.jm;
- (iv) for the commercial division — the email address is commercialregistry@supremecourt.gov.jm;
- (v) for the Revenue Court — the email address is revenuecourt@supremecourt.gov.jm.

5. Where requested, the Registrar will make arrangements for the announcement of settlements.

6. All counsel and self-represented litigants must include in the footnote in all documents filed in the registries a current:

- (i) e-mail address;
- (ii) civic address; and
- (iii) telephone numbers (i.e. landline(s) and cellular phone(s)),

so that the court can communicate with the parties.

7. Where any of the parties are juridical persons or unincorporated bodies the contact information referred to in paragraph six (6) must include contact information of the legal departments, law firm, or counsel representing the party.

8. No part of any proceedings in open court or in chambers is to be recorded by the parties, their attorneys-at-law or anyone acting on their behalf without the written approval of the Chief Justice upon a written application being made to record the proceedings or any part thereof.

9. In none of the circumstances covered by these guidelines is the judge, or any of the parties, or their attorneys-at-law permitted to make any arrangements for hearing of any matter in open court or in chamber, or for the hearing of matters without such arrangements being made through and by an authorized officer.

10. There shall be no private communication between the judge and any of the parties or their attorneys-at-law in respect of any matter.

11. All communication between the judge and the parties and/or their attorneys-at-law in respect of any matter must be done through an authorized officer.

12. A short list is to be established containing cases what can be heard and completed in the event that available time arises at short notice.

Definitions

13. “Authorized Officer” means the Registrar of the Supreme Court, Deputy Registrar of any Division of the Supreme Court, Registrar of the Revenue Court, and any person including the Court Administrator in any registry authorized by the Registrar or Deputy Registrar of any Division of the Supreme Court, and the Revenue Court.

14. “Judge” in this Practice Direction means Judge of the Supreme Court, and Master-in-Chambers.

15. “Paper hearing” means a matter where the Judge determines the matter without oral submissions.

16. “Remote delivery” means a judge handing down a judgment to counsel and/or parties in open court from a separate location or handing down a judgment where neither the parties nor the judge is present in a physical courtroom or in a physical chamber but are able to see and/or hear each other.

17. “Remote hearing” means proceedings taking place by means of telephone conference call, video-conferencing or any other form of electronic communication.

18. “Remote location” means any place other than inside the court room or chambers where a trial or hearing is taking place.

19. “Short List” means the inventory of cases for hearing in open court created after:

- (a) an agreement by the litigants for the matter to be placed in the inventory on the basis that:
 - (i) all the parties have agreed to be available to conduct the trial at two (2) days’ notice; and
 - (ii) the trial, inclusive of final submissions, should not last longer than three (3) days.

20. A joint email or letter from the parties is sufficient to have a matter placed on the short list.

Sittings in Open Court

21. All cases scheduled for trial will be accommodated unless the court is unable to conduct the trial in accordance with health protocols issued by the Ministry of Health and Wellness.

22. Where the Judge conducting the case management conference believes the circumstances of the case so permit, he/she may invite the parties to consider having their matter placed on the Short List.

23. Cases involving persons seventy years (70) years and older and cases involving minors must be given priority.

24. Where trials have been previously scheduled for hearing and counsel considers the date set to be distant based on the age of the parties (paragraph 23) or minors), or for some other compelling reason an earlier date is desirable, counsel may

request an earlier date by filing an application supported by an affidavit of urgency. Any change in dates will be dependent on the availability of resources (staff and technology) to accommodate the request.

25. Other than the witness who is giving evidence all persons present in the court room are required to wear face covering. The physical distancing requirement of a minimum of six (6) feet between each person in court must be observed. In that regard, the customary practice will be waived to allow for seating of all counsel to begin from the bench reserved for Queen's Counsel.

26. Where a witness is to give evidence from a remote location counsel must arrange for the swearing of the oath or making of the affirmation at the remote location and representatives of all parties must be present unless waived by the party. In addition, counsel must ensure that there is a facility by which the witness can view exhibits by any appropriate technology.

27. Where the witness is to give evidence from a remote location on the Court building, the process will be facilitated by any appropriate platform that can be accommodated by the court.

28. If any party or witness intends to testify from overseas by way of video link, then at least thirty (30) clear days' notice should be given to the other parties. However, failure to meet this notice period is not a bar to such evidence being given.

29. Notwithstanding this Practice Direction, attorneys-at-law may contact the Registrar concerning any urgent trial matters that they wish to be heard. An affidavit of urgency is to be filed.

30. Public access to observe proceedings in open court will continue to be restricted in accordance with the protocols of the Ministry of Health and Wellness.

Delivery of Judgments

Judge Present in Court

31. Where judgments are to be delivered in open court, an authorised person will make prior communication with the attorneys-at-law for the parties, or the parties themselves where they are self-represented so that they can be present when judgment is being delivered.

32. Physical distancing and other measures must be maintained in open court whenever the parties and/or their attorneys-at-law are present during the delivery of judgment.

33. In the event that any or all of the parties decline or are unable to attend in person, every effort should be made to have any or all of them present by remote hearing.

Judge not Present in Court (Remote Delivery)

34. Where the Judge is not able to be physically present in the court room, the Judge must be connected remotely to enable delivery of the judgment in a physical court room. The parties or their attorneys-at-law may be physically present in the court room.

35. Every effort must be made to have both video and audio broadcast in the court room.

36. In the event that video broadcast is not possible, then there must be an audio broadcast of the judgment in the designated court room in which the Judge would have been had the Judge been present in court.

37. Whether there is video and audio broadcast or audio broadcast alone, the technology used must enable two-way communication between the Judge and the parties.

38. If neither the parties nor their attorneys-at-law are able to be present or they decline to be present in the court in which the judgment is being delivered, then they must be connected in a manner that enables two-way communication between themselves and the Judge.

Chamber Hearings

39. In-person chamber hearings are prohibited unless they can occur in a manner consistent with health protocols issued by the Ministry of Health and Wellness.

40. Where the hearing in Chambers is being conducted remotely counsel is required to connect to the virtual hearing room at least 15 minutes before the scheduled time slot.

41. Where the litigants do not have access to the required technology, this should be indicated by counsel at the case management conference.

42. In final hearings of applications for restrictive covenants, counsel desirous of presenting the Duplicate Certificate of Title for consideration by the Masters-in-Chambers, must obtain a certified copy of the Duplicate Certificate of Title from the Office of the Registrar of Titles and lodge same at the civil registry no later than three (3) days before the hearing.

Chamber Hearings on Paper

43. Parties desirous of having their matters considered on paper should indicate this by placing in bold at the top of the application the following words: TO BE HEARD ON PAPER.

44. Matters meeting the following criteria are suitable for paper hearings:

- (i) the hearing can conveniently be dealt with on paper;
- (ii) all the material to be considered by the judicial officer is captured in the affidavit and/or other relevant documents;

- (iii) no oral evidence is necessary;
- (iv) no cross examination is necessary.

45. Practice Direction (No. 8) of 2020 dated the 2nd day of September, 2020 applies.

Revenue Court and Commercial Division

46. All interim proceedings in the Revenue Court and the Commercial Division are to be heard remotely unless the presiding Judge otherwise permits.

Hearings before the Master in Chambers

47. All matters before the Master in Chambers shall be by remote hearing unless the Master decides otherwise after hearing from the parties.

Dated this 15th day of September, 2020.

BRYAN SYKES, OJ, CD
Chief Justice.