

Fact Sheet:

Civil Case Management

under rule 77 of the *Rules of Civil Procedure*

NOTE: This document contains general information about civil court processes. It does not cover every situation. This document does not explain the law. It does not tell you what you should do and why you should do it. For legal advice, talk to a lawyer.

For more information see the *Rules of Civil Procedure* and the guides and flowcharts on Civil Case Management in the Superior Court of Justice which are available on the [Ministry of the Attorney General](#) website.

Civil Case Management: Rule 77

under rule 77 of the *Rules of Civil Procedure*

What is case management?

Case management is a system designed to reduce unnecessary delay and cost, facilitate early and fair settlements, and bring cases promptly to a just conclusion.

Under case management, the court imposes time limits for steps in the litigation process.

The process provides opportunities for the parties to settle, narrow or consolidate issues in order to streamline proceedings and focus trial resources where they are most needed. It also involves the early and active intervention by the court to promote the resolution of disputes or to bring cases to trial in a timely manner.

How does rule 77 work?

[Rule 77](#) of the *Rules of Civil Procedure* sets a system of case management in three regions. It applies to civil actions and applications commenced in Toronto, Ottawa and Windsor.

A civil case in these three regions can be assigned into case management by an order of a judge or case management master. The judiciary may assign an action into case management if the parties agree to case management or if a judge or case management master decides that the case is suitable for case management (see: [rule 77.05](#)).

Under rule 77 judges and case management masters can preside over case conferences, hear motions, extend or abridge a time required by an Order or the rules, set a timetable and to make orders, impose terms and give directions and award costs as necessary (see: [rule 77.04](#)).

Does rule 77 apply to every case in Toronto, Windsor and Ottawa?

No. There are certain cases which are exempt from case management under rule 77. Rule 77 does not apply to family law actions, class proceedings, estates, bankruptcy and insolvency proceedings, mortgage actions (rule 64), construction lien proceedings (except trust claims), Toronto Commercial List matters, or simplified rules ([rule 76](#)) proceedings.

When is a case assigned into case management?

A case can be assigned into case management at any time if the parties agree to case management and a judge or case management master decides it is appropriate.

A case can also be assigned into case management after the filing of the first defence if a party requests it and a judge or case management master decides it is appropriate or if a judge or case management master on his or her own initiative assigns the case into case management.

To determine whether to assign a proceeding for case management, a judge or case management master will consider specific criteria (see: [rule 77.05\(4\)](#)).

Will all the steps in the case be heard by one judge?

All the steps in a case managed proceeding might be heard by one particular judge. A Regional Senior Judge or other authorized judge can assign a particular judge to hear all the steps in the proceeding.

A judge who is directed to hear all the steps in the proceeding will not be the trial judge or the judge who hears the application unless all parties agree.

A judge who is directed to hear all the steps in a proceeding can refer a motion to a case management master in certain circumstances.

Will there be mandatory mediation?

Yes. All actions in Toronto, Windsor and Ottawa, whether they are case managed or not, are subject to mandatory mediation under [rule 24.1](#). The only actions that are not subject to mandatory mediation are those specifically exempt by rule 24.1 or by a court Order.

Mandatory mediation gives parties a chance to discuss the issues in dispute. A trained mediator helps the parties explore settlement options. Mediation may help the parties to achieve a settlement and avoid the trial process.

Parties must attend a mandatory mediation session within 180 days of the filing of the first defence. The court may extend this deadline by a court Order or, the parties can agree to extend the deadline. If the parties agree to postpone the mediation to a later date, they must file a written consent with the mediation co-ordinator within 180 days of filing of the first defence (see: [rule 24.1.09\(3\)](#)). If the case settled, or a mediator has been selected and a mediation date set, the parties must notify the court of this within 180 days of the filing of the first defence ([rule 24.1.09\(6\)](#)). Where the parties do not comply with these rules, a mediator will be assigned by the court (see: [rules 24.1.09\(6\)\(6.1\)](#)).

Will there be a pre-trial?

A pre-trial must be scheduled by the parties within 180 days of the matter being set down for trial. An action is set down for trial by filing a trial record (see: [rule 48.02](#)).

To schedule a pre-trial, parties must ensure that the date is acceptable to all parties. If the pre-trial is not scheduled within 180 days of the set down for trial, the court will schedule the pre-trial. This process is the same for ordinary procedure cases (see: [rule 50.02](#)).

Can the action be automatically dismissed?

Yes. The action will be dismissed automatically by the court Registrar if certain steps are not taken within the time required by the *Rules of Civil Procedure*.

For example, a court Registrar can dismiss an action if no defence has been filed and the proceeding has not been disposed of by final order or judgment within 180 days of the date the Statement of Claim was issued (see: [rule 48.15](#)). This is the same process as in ordinary procedure matters.

Another example of where an action will be automatically dismissed is where a Statement of Defence has been filed and within 2 years of the filing of this Statement of Defence, the action is not placed on a trial list or terminated (see: [rule 48.14](#)).

Will there be motions?

Yes. Parties can bring a motion in case managed actions. The motion may be heard by a judge assigned to the case, or may be heard by a case management master in certain circumstances.

A motion may be made with or without supporting material or a motion record.

Parties can attend a motion in person, in writing by fax, or by telephone or video conference if the facilities are available at the court.

The costs of the motion will be determined at the conclusion of the motion by the judge or case management master.

Will there be a case conference?

A judge or case management master may hold a case conference if a party asks for one or if the judge or case management master decides there should be a case conference.

A case conference helps parties to identify the issues or move the case forward. It can also help parties to explore ways to resolve issues and to create or amend a case timetable.

A party can bring a motion at a case conference for:

- a procedural order
- asking for a pre-trial conference
- directions
- an Order for interlocutory relief
- an Order to convene a hearing

What if the case is not in Toronto, Ottawa or Windsor?

Outside of Toronto, Ottawa and Windsor, a proceeding might be case managed under [rule 37.15](#). This rule allows a judge to be assigned to hear all motions in a proceeding, or a master to whom a motion is referred.

The judge or master may make procedural orders and give directions that are necessary to promote the fastest and least expensive determination of the case.

What if the case is in Toronto, Ottawa or Windsor but is not assigned to case management?

If the case is not assigned to case management under rule 77, the ordinary procedure under the *Rules of Civil Procedure* will apply.

The motions in a proceeding might still be assigned to be heard by a particular judge under [rule 37.15](#).

For more information, visit the Ministry of the Attorney General web site at: <http://www.attorneygeneral.jus.gov.on.ca/english/courts>.