NEW ZEALAND INSURANCE LAW ASSOCATION CONFERENCE

Associate Judge Lester
Christchurch High Court
21 October 2026

SLIDE 1: OVERVIEW / FOUR KEY POINTS

Not altering commencement pathways in Parts 5, 18 and 19.

So, four key points:

1. **Enhanced initial disclosure** instead of discovery as of right.
2. **Specified dispositive interlocutories** up front.
3. **Fact evidence before further disclosure** which may be ordered at Judicial Issues Conference.
4. **New requirement for standardised draft chronologies**, which contribute to composition of common bundle which will provide much of the factual context.

SLIDE 2: FACTUAL WITNESS STATEMENTS (HCR 7.4)

1. ***Plaintiff*** to serve ***factual witness statements 25 working days*** from defendant's last pleading (that is, based on enhanced initial disclosure documents, not discovery).

2. ***Defendant*** to serve ***factual witness statements 45 working days*** from plaintiff's evidence.

3. Plaintiff to serve any ***evidence relating to affirmative defences / counterclaims*** within a further ***25 working days***.

4. Revised requirements for factual witness statements (**HCR 9.7**), underscoring that witnesses must:
   (i) confine their evidence to personal knowledge;
   (ii) not recite or summarise documents; and
   (iii) not reference documents unless the witness has relevant evidence give relating to them.

SLIDE 3: STANDARDISED CHRONOLOGIES (HCRs 9.2, 9.5 and 9.9)

- Draft chronologies then finalised, filed and served by a date directed at the JIC: (**HCR 9.2**).
- Common bundle then compiled based on index of documents to be relied upon, which include any documents referred to in the final version of a party's chronology.
- Merged chronology filed and served 15 working days later (or by a date directed at the JIC) indicating, for instance, through colour-coding, which entries are agreed and which are disputed (and by whom): (**HCR 9.9**).
- Documents properly included in the common bundle automatically received into evidence and presumed to be admissible unless a specific admissibility objection is upheld: (**HCR 9.5**)**.**
- Such objections gently discouraged by pragmatic and costs factors: (**HCR 9.5A**).

SLIDE 4: OVERRIDING OBJECTIVE (HCR 1.2)

1. The overriding objective of these rules is to secure the just resolution of any proceeding or interlocutory application by proportionate means, including by securing its speedy and inexpensive determination.

2. When deciding how subclause (1) applies in any case, the Court may consider the following:
   (a) how best to both fairly and expeditiously identify and resolve the issues in dispute;
   (b) how best to deal with the proceeding in ways that are, and at a cost that is, proportionate to the nature of the dispute and the issues in dispute;
   (c) the need to allocate the court's resources fairly across the court's caseload.

SLIDE 5: GENERAL DUTY TO CO-OPERATE (HCR 1.2A)

1. The parties and their solicitors and counsel have a duty to co-operate with the other parties and their solicitors and counsel in accordance with the overriding objective in rule 1.2.

2. The duty includes lawyers and counsel representing the parties having direct discussions with each other or, in the case of a self-represented litigant, with the litigant, to attempt to agree on how the proceeding will be conducted.

3. For specific duties to co-operate under these rules, *see* the following:
   (a) rule 7.5 (preparing or and participating in Judicial Issues Conference):
   (b) rule 8.2 (disclosure):
   (c) rule 8.4A (further disclosure):
   (d) rule 9.4 (preparing common bundle):
   (e) rule 11.22 (sale of property).

SLIDE 6: JUDICIAL ISSUES CONFERENCES (JICs)

- At the heart of the reforms to the High Court Rules.
- Aim: to change the current maximalist litigation culture and facilitate early resolution.
- Means: an early and robust judicial deep drive into real issues and requirements for trial.
- Will be chaired by Associate Judges and Justices.

SLIDE 7: THE KAUPAPA OF A JIC7

- To Narrow and define the true issues.
- To identify the parties' positions on those issues.
- To thereby correct the false assumptions that lead cases to settle late or go to trial.

SLIDE 8: JIC: ONLY IN AN ORDINARY PROCEEDING (PART 5, HIGH COURT RULES)

- So not:

  - judicial review / appeals;
  - originating applications;
  - summary judgments;
  - bankruptcy and liquidations.

- High Court Practice Note – Proceeding Timeline.

SLIDE 9: JIC: WHAT TO EXPECT

- Counsel may be tested as to the quality of pleadings:
  - missing elements;
  - verbose /skeletal;
  - repetitive causes of action;
  - “cute” or unnecessary denials.
- Get counsel talking, emphasise the duty to co-operate: rule 1.2A.
- Identify the true contest.
- Resolution of straightforward non-disclosure interlocutory applications.
- Robust discussion about what has been done and what will be done about settlement.
- Remember parties are to attend!

SLIDE 10: MANDATORY AGENDA FOR JIC: r 7.5A

- While agenda is set out, intent is that counsel will address issues at a high level to avoid JIC documents becoming a “tick box” exercise.
- Issues:
  - amendment to pleadings?
  - further witness statements”
- Settlement and Alternative Dispute Resolution (ADR): rule 7.5A will require settlement to be confronted.
- Disclosure.
- Timetabling: including draft timetable for trial – see next slide.
- Tikanga.
- Expert evidence: topics, timetabling, experts’ conference, joint report.
- Trial directions (if possible).
- Leave to file supplementary evidence.

General High Court civil proceedings – draft timetable for trial (rr7.5B(1)(a)(iii) and 7.5B(4))

The plaintiff is to seek input from the defendant when preparing the draft timetable. This timetable is preliminary and for discussion at the Judicial Issues Conference.

	Plaintiff – in court		Judge reading time
	Defendant – in court		Overflow time
	Expert witnesses (in this example, both parties, grouped by topic)		

Note: for the time periods where witnesses are giving evidence, this includes any supplementary evidence in chief, cross-examination and re-examination.

Week	Date	Time	Monday	Tuesday	Wednesday	Thursday	Friday
1	17 - 21 July	10.00 - 11.30	Plaintiff Opening	Plaintiff Opening	Witness A: in court	Witness A: in court	Witness B: in court
		11.45 - 1.00					
		2.15 - 3.30				Witness B: in court	
		3.45 - 5.00		Judge reading time: Witnesses A, B (1h 30m)			
2	24 - 28 July	10.00 - 11.30	First and Second Defendants' Opening	First and Second Defendants' Opening	Witness C: in court	Witness C: in court	Witness D: in court
		11.45 - 1.00		Third Defendant's Opening			
		2.15 - 3.30				Witness D: in court	
		3.45 - 5.00		Judge reading time: Witnesses C, D (1h 30m)			
3	31 July - 4 August	10.00 - 11.30	Judge reading time: Expert Witnesses 1,2,3 (1h 30m)	Experts 1, 2, 3: in court	Experts 1, 2, 3: in court	Judge reading time: Expert Witnesses 4, 5 (1h 30m)	Experts 4, 5: in court
		11.45 - 1.00	Experts 1, 2, 3: in court			Experts 4, 5: in court	
		2.15 - 3.30					
		3.45 - 5.00					
4	14 - 18 August	10.00 - 11.30	First and Second Defendants' Closing	First and Second Defendants' Closing	Third Defendant's Closing	Plaintiff's Closing	Plaintiff's Closing
		11.45 - 1.00					
		2.15 - 3.30			Plaintiff's Closing		Overflow time
		3.45 - 5.00					

EXAMPLE

SLIDE 12: THE JIC – HOW TO GET THE MOST OUT OF IT

- **Lay the groundwork:**
  - raise early requests for focused further disclosure or particulars etc, with supporting reasons;
  - follow up with ***discussions*** with opposing counsel (not by email) if request declined;
  - will shift onus at the JIC to opposing party declining to meet request or the exchange will identify the issue to be resolved by the Court in respect of that request.

- **Prepare clients:**
  - make sure from outset of litigation clients understand duty to co-operate;
  - discuss settlement and possibility of ADR (Alternative Dispute Resolution);
  - make client aware they will need to explain what they have done or intend to do to resolve the dispute.

- **Understand opposing case**:
- expect to be called upon to explain position on key issues, that is, in a nutshell, what is the fundamental proposition as to why you win.

- **Opportunity for advocacy**:
  - can, in substance, address opposing party without filter of their counsel.