

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

Masters' Practice Note No 2 of 2009

Applications pursuant to Order 38 rule 1B for leave to call additional expert witnesses.

The approach to Order 38, rule 1B applications before the masters has been revised to reflect: (a) the overriding objective set out at Order 1, rule 1A of the Rules of the Supreme Court; (b) the Pre Action Protocol for Personal Injuries Litigation; and (c) the general approach to the calling of expert witnesses in personal injuries actions now adopted by trial judges. The purpose of this Practice Note is to alert practitioners to matters which henceforth are likely to arise at the hearing of such applications.

1. In future, in all applications pursuant to Order 38, rule 1B for leave to call more than two medical experts or more than one non-medical expert, the party applying, either by summons with grounding affidavit or orally at a master's review hearing, should be in a position to satisfy the court of the following matters:-
 - (i) the identity and specific discipline of each expert it is proposed to call;
 - (ii) the reasons necessitating that each expert give oral evidence;
 - (iii) the steps taken to agree the evidence of each expert;
 - (iv) the nature of the issue in dispute which prevents such agreement;
 - (v) what consideration has been given to discussions between experts to clarify and reduce the issues in dispute.
2. In complex cases involving a multiplicity of issues and experts the court in giving leave to call additional experts may also direct the preparation of a Scott Schedule.

Dated: 26 March 2009

C J McCORRY
Master (Queen's Bench and Appeals)