

**TRIAL PREPARATION CHECKLIST
RULES BASED TASKS / PRACTICAL TASKS**

A. TASKS BASED ON RULES

TASK / RULE	PERSON RESPONSIBLE	DEADLINE DATE	B/F DATE	DATE COMPLETED
<p>Listing for Trial</p> <ul style="list-style-type: none"> • Set action down for trial after close of pleadings (Rule 48.01) <p>Trial Record</p> <ul style="list-style-type: none"> • Serve and file trial record (Rule 48.02) <p>Duty to Inform Registrar of Settlement</p> <ul style="list-style-type: none"> • Whether action has been placed on trial list or not, every party shall promptly inform the registrar in writing of settlement of the action (Rule 48.12) 				
<p>Offers to Settle</p> <ul style="list-style-type: none"> • Offers to settle – Rule 49 • Timing of offer (Rule 49.03) – Offer can be made at any time, but where the offer to settle is made less than 7 days before the hearing commences, the costs consequences referred to in Rule 49.10 do not apply • Costs consequences of failure to accept offer (Rule 49.10) 				
<p>Non-Expert Witnesses</p> <ul style="list-style-type: none"> • Summonses may be issued in blank (Rule 53.04(2)) • Summonses to be served personally, together with conduct money calculated in accordance with Tariff A (Rule 53.04(4)) • Calling adverse party as witness – serve at least 10 days before trial (Rule 53.07) • Witnesses outside Ontario – prepare interprovincial subpoena under <i>Interprovincial Summonses Act</i> (Rule 53.05) 				
<p>Expert Witnesses</p> <ul style="list-style-type: none"> • 60 days after action set down for trial, parties to agree on a schedule for service of expert reports (Rule 53.03(2.2)) • Serve expert reports in accordance with <i>Rules and Evidence Act</i> 				

TASK / RULE	PERSON RESPONSIBLE	DEADLINE DATE	B/F DATE	DATE COMPLETED
<ul style="list-style-type: none"> • Original report – 90 days before pre-trial (Rule 53.03(1)) • Responding report – 60 days before pre-trial (Rule 53.03(2)) • supplemental reports – 30 days before trial (Rule 53.03(3)(b)) 				
<p>Pre-Trial Notices</p> <p>1. Requests to Admit (Rule) 51.02)</p> <ul style="list-style-type: none"> • Request to Admit Facts • Request to Admit Authenticity of Documents • Response to Request to Admit within 20 days after Request is served <p>2. Evidence Act Notices</p> <ul style="list-style-type: none"> • Notice of Intention to utilize book or documents – not less than 7 days before trial (<i>Canada Evidence Act</i>, s. 28) • Notice of Intention to use Business Records – 7 days before trial (<i>Canada Evidence Act</i>, s. 30) • Notice of Intention to Adduce Business Records – 7 days before trial (<i>Ontario Evidence Act</i>, s. 35) • Notice of Intention to prove a copy of a written instrument – 10 days before trial (<i>Ontario Evidence Act</i>, s. 55) • Notice demanding that a party adduce the original of a document referred to in <i>Evidence Act</i>, s. 55 – 4 days after date mentioned for inspection of document (<i>Ontario Evidence Act</i>, s. 55) • Notice of intention to waive privilege – 90 days’ notice in writing before the commencement of trial of a party’s intention to abandon the claim of privilege in respect of a document (Rule 30.09) 				

TASK / RULE	PERSON RESPONSIBLE	DEADLINE DATE	B/F DATE	DATE COMPLETED
Electronics in the Courtroom <ul style="list-style-type: none"> Protocol on the Use of Electronic Devices in the Courtroom, (<i>Evidence Act</i>, s. 136) 				

B. PRACTICAL TASKS

TASK	PERSON RESPONSIBLE	DEADLINE DATE	B/F DATE	DATE COMPLETED
Review and organize file				
Prepare draft theory of case				
Prepare Memorandum of Proof				
Legal Research <ul style="list-style-type: none"> Update legal research on the issues Brief of Authorities Statement of Law 				
Transcripts <ul style="list-style-type: none"> All transcripts obtained and proper number of copies on hand, including original signed by court reporter Transcript summaries prepared Notify of any corrections to evidence or updates to evidence Read-ins brief: transcript excerpts 				
Undertakings <ul style="list-style-type: none"> Ensure all undertakings answered Prepare schedules of undertaking responses of all parties 				
Non-Expert Witnesses <ul style="list-style-type: none"> Identify Witnesses and make list with contact numbers Determine availability for trial Obtain Summonses and serve on every witnesses, together with conduct money Determine appropriate procedure to compel attendance of out-of-province witnesses 				

TASK	PERSON RESPONSIBLE	DEADLINE DATE	B/F DATE	DATE COMPLETED
<ul style="list-style-type: none"> • Provide witnesses with copies of transcript to review their evidence • Interview or re-interview witnesses • Determine if undertaking was given to provide list of witnesses before trial • Prepare Witness statements 				
<p>Experts</p> <ul style="list-style-type: none"> • Meet experts and provide documents • Instruction letter to expert • Serve expert reports in accordance with <i>Rules and Evidence Act</i> • Obtain and serve CVs of experts 				
<p>Productions</p> <ul style="list-style-type: none"> • Ensure productions are complete • Check with client for any new documents that need to be produced • Supplementary Affidavit of Documents, if necessary • Prepare sub-files for original documents to be used at trial (Note: label the Production Number / Docid number on front of folder) • Determine if productions are required from non-parties (Motion under Rule 30.10) 				
<p>Document Briefs and Trial Briefs</p> <ul style="list-style-type: none"> • Joint Documents Brief • Pleadings brief • Damages brief • Liability brief • Compendium • Undertakings answers 				
<p>Counsel's Trial Book</p> <ul style="list-style-type: none"> • Contact numbers for client, individuals working on the file, including IT, opposing counsel • Witness list • Opening and closing statements • Examination-in-chief and cross-examination questions • Pleadings • Affidavits of documents • Reporting letters • Pre-trial conference memoranda • Requests to Admit and responses • Agreed Statement of Facts 				

TASK	PERSON RESPONSIBLE	DEADLINE DATE	B/F DATE	DATE COMPLETED
<ul style="list-style-type: none"> • Notices of Intention • Offer to Settle • Summary of transcripts • Relevant portions of transcripts • Undertakings • Expert reports • List of documents that will be introduced as exhibits • Witness statements • Chronology of relevant events • Memorandum of law • Indices for various document briefs 				
<p>Counsel Preparation for trial</p> <ul style="list-style-type: none"> • Opening statement • Opening written submission of law and anticipated evidence • Examination-in-chief • Cross-examinations • Argument on anticipated evidentiary and other procedural issues • Anticipated trial motions • Closing statement • Closing written submission of evidence and law 				
<p>Paperless trial</p> <ul style="list-style-type: none"> • Trial Protocol agreed by the parties upon prior to trial • Co-ordinate sharing electronic trial database with all parties – determine if one party will manage the trial database throughout for all parties, to ensure consistency amongst the parties and the Judge • Use reliable program to share electronic files with opposing parties (ie. ShareFile, Box.com) • Co-ordinate with courtroom manager regarding use of electronic courtroom, ie, wifi if available, screens, special cords / adapters to hook-up to electronics and screens in the courtroom, extension cords, power bars • Prior to trial, co-ordinate with parties regarding electronic set-up in courtroom • Conduct dry run(s) in courtroom with all parties present to ensure equipment, laptops, screens are operational and functional (bring IT personnel from law firm to assist) 				

TASK	PERSON RESPONSIBLE	DEADLINE DATE	B/F DATE	DATE COMPLETED
<ul style="list-style-type: none"> • Prepare hyperlinked opening and closing statements (hyperlinked with documentary evidence, transcripts, law etc.) • Co-ordinate with Judge – laptop or iPad used during trial (commonly used program for documents saved to iPad is Goodreader) – usually Judge’s iPad is updated by a designated law firm on the trial (practically speaking, in a large litigation file, it is one of the large firms on the file – they have the resources and IT support to co-ordinate efforts between the parties and the Judge) • Co-ordinate daily uploads to Judge and parties of documents to be referred to at trial, ie. upload to secure file site in the Cloud (set out in Trial Protocol) • Confirm how exhibits will be marked at trial • Co-ordinate with court reporter regarding electronic transcripts, real time reporting, daily rough draft transcripts, delivery of final transcripts; court reporter will provide link for live feed each day at trial 				
<p>Break-out room at the Court during Trial</p> <ul style="list-style-type: none"> • Book break-out room at court for team • Arrange for snacks / daily lunch • Arrange for shelving for briefs, binders etc. if trial is not paperless • supply of pads of paper, pens, post-it notes in break-out room • Chargers for cell phones • Wifi access if available / wifi hub 				

Prepared by:

Deanna Watters, Law Clerk

Paliare Roland Rosenberg Rothstein LLP 155 Wellington Street West, 35th Floor, Toronto, ON M5V 3H1