



Our Ref.: SC 101/16/28 PT 7

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Mr. IP Shing Hing  
The President  
The Law Society of Hong Kong  
3/F Wing On House  
71 Des Voeux Road Central  
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Dear Sir,

**Re: Master Chambers Hearing**

The Masters of both the High Court and the District Court in one of their regular meetings have generally discussed the question of how to save the litigants' costs and the Court's time. They have expressed their views in the following areas.

**3-Minute Chambers Hearing**

Every morning the High Court Masters have to deal with approximately fifty to sixty applications. More than half of them are related to time summonses, the results of which are almost predictable: Masters usually allow the extension applied for, on some occasions grant the applications in the form of an unless order, and very rarely dismiss them. As the applicants are seeking the indulgence of the Court, costs are usually awarded to the respondents. To avoid unnecessary taxation, costs are assessed immediately, and usually without having the benefit of hearing submission from either party, at a rate of \$800.00 for attendance by solicitors, \$500.00 by trainees and \$400.00 by legal executives. Such practice has been criticized: it seems to encourage the respondents to withhold their consent until the last minute at the doorway of the courtroom in order to gain the costs to be awarded to them.

The gross sum assessment of the costs in those applications was originally designed to penalize the defaulters by making them pay the costs forthwith. We hope by doing so parties may be more vigilant in observing the time stipulated by the rules. It does not seem to produce the desired results.

It is trite to say that costs are a matter of discretion of the Court and the respective rates of \$800.00, \$500.00 and \$400.00 are only suggested rates for assessment. In appropriate circumstances the rates can be varied. It should not be assumed that the costs order will be granted automatically at the aforesaid rates. The Court has to look at the circumstances of each case before a costs order is imposed. We take the view that parties should be more co-operative and communicate with each other before an application is made. They should try to come to a sensible solution by way of a consent summons or consent order without attending court. If any party acts unreasonably or deliberately withholds its consent resulting in application, such matter should be reported to the Court at the hearing and I am sure that the Court after considering it will make an appropriate order as to costs.

#### Summons for Directions in High Court

Summons for Directions in High Court are usually made in certain standard form. The only variables are the number of days to be given for various directions. Our experience shows that the summonses are seldom contested. Many practitioners attend court just to give their consent and to obtain the date for appearance before the Listing Clerk at Room LG108B for fixing an appointment before the Listing Master to hear the application to set down. If parties can agree to a date for the attendance, the Court will endorse it provided that it is reasonable. Normally, the date for attending before Listing Clerk is fixed by Masters hearing the summons with reference to the longest period for performance of certain act in the order plus four to six extra weeks, giving the allowance for contingencies. We do not see why summons for directions in most of the cases cannot be disposed of by way of consent summons. It is not right that litigants' money be spent unnecessarily or Court's time be wasted on such hearing. I would ask practitioners to note that for cases where the

parties should have the directions made by consent summons or consent order but nevertheless choose to attend the hearing unnecessarily, the Court may consider making no order as to costs or asking the solicitors to bear their own costs.

#### Call-over hearings and the like

Similar thoughts have been given to the call-over hearings of different types e.g. Order 14 applications, taxation etc. when the opposing party contests. Parties can easily agree their directions for Court approval. This also applies to many other applications in the 3-minute list like requests for further and better particulars, applications for security for costs and applications to set aside default judgment etc., where the respondent party contests and the first hearing is no more than a direction hearing. Solicitors are surely aware of the usual directions for filing of affidavit evidence in support, the affidavit in opposition and the affidavit in reply within certain period of time, which can easily be agreed between the parties without court attendance.

I wish to emphasize that parties should act reasonably and sensibly. Practitioners should try to co-operate with each other. Adversarial system does not mean every step should be challenged and contested for no good reason. The Court is determined to sanction by way of costs orders against any party who acts unreasonably.

We expect parties to communicate with each other before an application is made to Court. Court hearing should be avoided, if possible. If an application is inevitable, before the hearing the parties should narrow down the issues and try to understand the case of the other side. It will facilitate the hearing. Please be reminded once again that the Court will not automatically grant costs orders against the party asking for the Court's indulgence. It will look at all circumstances of the case including the manner and the way the proceeding is conducted. As far as possible, parties should enter into agreement by exchange of correspondence or by way of consent summons. It will help to minimize costs and reduce the workload of the Court.

We understand the difficulty of obtaining consent or agreement from a party not legally represented. Under those circumstances, an application may be necessary.

I hope that you will bring it to the attention of your members by publishing this letter in your weekly circular. This letter is an expression of the general view of the Masters. It will not affect their right or discretion in making their decisions in individual cases.

Yours faithfully,

A handwritten signature in black ink, appearing to read "C. Chan", with a stylized flourish at the end.

(Christopher C. Chan)  
Registrar