

PRACTICE DIRECTION NO 5 OF 2021: OPEN COURT HEARINGS IN CIVIL CASES
SUPREME COURT OF JUDICATURE OF JAMAICA

This Practice Direction is issued by the Honourable Chief Justice and is intended to govern sittings in the Civil and Commercial Division of the Supreme Court of Judicature of Jamaica as well as the Revenue Court until further notice.

GENERAL

1. This Practice Direction comes into effect on Thursday, January 7, 2021 and applies to all hearings open court in civil matters regardless of the division in which the matter is filed or listed.
2. Practice Direction (NO 11) of 2020 is revoked.
3. Parties who wish to have any matter listed to indicate a settlement in open court should send an email entitled with the name and number of the matter followed by an indication that the matter has been settled. There is no need to file an application supported by an affidavit. An email sent to the relevant official registry address with the draft order as an attachment or captured in the body of the email will be sufficient. A hearing will only be necessary in the event that the Judge does not approve of the draft order and/or wishes to hear further from the parties. The email addresses for the various registries are as listed below:

(i) for the civil registry (HCV) – the email address is
civilregistry@supremecourt.gov.jm;

(ii) for the matrimonial division –the email address is
matrimonial@supremecourt.gov.jm;

(iii) for the probate division – the email address is probate@supremecourt.gov.jm;

(iv) for the commercial division –the email address is commercialregistry@supremecourt.gov.jm;

(v) for the Revenue Court – the email address is revenuecourt@supremecourt.gov.jm.

4. All counsel and self-represented litigants must include in the footnote in all documents filed in the registries a current:

(i) e-mail address;

(ii) civic address; and

(iii) telephone numbers (i.e. landline(s) and cellular phone(s)),

so that the court can communicate with the parties.

5. Where any of the parties are juridical persons or unincorporated bodies the contact information referred to in paragraph four (4) must include contact information of the legal departments, law firm, or counsel representing the party.

6. No part of the proceedings in open court is to be recorded by the parties, their attorneys-at-law or anyone acting on their behalf without the approval of the presiding Judge and a note to that effect shall be made on the minute sheet and the formal order.

7. In none of the circumstances covered by these guidelines is the Judge, or any of the parties, or their attorneys-at-law permitted to make any arrangements for hearing of any matter in open court, or for the hearing of matters without such arrangements being made through and by an authorized officer.
8. There shall be no private communication between the Judge and any of the parties or their attorneys-at-law in respect of any matter.
9. All communication between the Judge and the parties and/or their attorneys-at-law in respect of any matter must be done through an authorized officer.
10. Cases where the litigants are seventy years (70) and older and cases involving minors must be given priority.
11. Practice Direction (NO 8) of 2020 dated the 2nd day of September 2020 applies.

Definitions

12. “Authorized Officer” means the Registrar of the Supreme Court, Deputy Registrar of any Division of the Supreme Court, Registrar of the Revenue Court, and any person including the Court Administrator in any registry authorized by the Registrar or Deputy Registrar of any Division of the Supreme Court, and the Revenue Court.
13. “Judge” in this Practice Direction means Judge of the Supreme Court.
14. “Paper hearing” means a matter where the Judge determines the matter without oral submissions.

15.“Remote delivery” means a judge handing down a judgment to counsel and/or parties in open court from a separate location or handing down a judgment where neither the parties nor the judge is present in a physical courtroom but are able to see and/or hear each other.

16.“Remote hearing” means proceedings taking place by means of telephone conference call, video-conferencing or any other form of electronic communication.

17.“Remote location” means any place other than inside the courtroom where a trial or hearing is taking place.

Sittings in Open Court

18. All cases scheduled for trial will be accommodated unless the court is unable to conduct the trial in accordance with the Health Guidelines Governing Access To All the Court of Jamaica’ dated May 27, 2020.

19.Cases involving persons seventy years (70) years old and older and cases involving minors must be given priority.

20.Where a witness is to give evidence from a remote location counsel must arrange for the swearing of the oath or making of the affirmation at the remote location and representatives of all parties must be present unless other suitable arrangements can be made or the parties waive this condition. In addition, counsel must ensure that there is a facility by which the witness can view exhibits by any appropriate technology.

21.Where the witness is to give evidence from a remote location on the court building, the process will be facilitated by any appropriate platform that can be accommodated by the court.

22. If any party or witness intends to testify from overseas by way of video link, then at least thirty (30) clear days' notice should be given to the other parties.

However, failure to meet this notice period is not a bar to such evidence being given.

23. Public access to observe proceedings in open court will continue to be restricted in accordance with the protocols of the Ministry of Health and Wellness.

Delivery of judgments

Judge present in court

24. Where judgments are to be delivered in open court, an authorized person will have prior communication with the attorneys-at-law for the parties, or the parties themselves where they are self-represented so that they can be present when judgment is being delivered.

25. Physical distancing and other measures must be maintained in open court whenever the parties and/or their attorneys-at-law are present during the delivery of judgment.

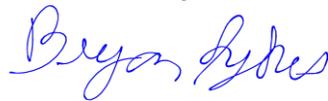
26. In the event that any or all of the parties decline or are unable to attend in person, every effort should be made to have any or all of them present by remote hearing.

Judge not present in court (remote delivery)

27. Where the Judge is not able to be physically present in the courtroom, the Judge must be connected remotely to enable delivery of the judgment in a physical courtroom. The parties or their attorneys-at-law may be physically present in the courtroom.

- 28.**Every effort must be made to have both video and audio broadcast in the courtroom.
- 29.**In the event that video broadcast is not possible, then there must be an audio broadcast of the judgment in the designated courtroom in which the Judge would have been had the Judge been present in court.
- 30.**Whether there is video and audio broadcast or audio broadcast alone, the technology used must enable two-way communication between the Judge and the parties.
- 31.**If neither the parties nor their attorneys-at law are able to be present or they decline to be present in the court in which the judgment is being delivered, then they are to be connected in a manner that enables two-way communication between themselves and the Judge.

Dated this 5TH day of January 2021



Bryan Sykes OJ, CD

Chief Justice