

# Antippa Lawyers

*since 1961*

## ADMINISTRATIVE COURT HEARINGS

### Foreword:

This brochure is a basic guide as to the process of courts and tribunals in Victoria.



## THE COURT ROOM

At Administrative hearings, the Court will be filled with many people and many lawyers. 100 people in the room is common. Your case could be number 40 in the list. Often, there is only standing-room. You may wait until well into the afternoon until it is your turn.

We may negotiate procedural matters with the other lawyers all day, whilst you are seated in a tiny meeting room for the whole day.

## HOW TO AVOID COURT?

1. When we serve your Court documents on the other person, the other person will know you are serious and will want to talk.
2. Each time we go to Court, we will talk to the other person or to his lawyer.
3. Mediation is the main opportunity for settlement. A good mediator will try hard to avoid Court.
4. Make a written offer, so that if it is not accepted, the other person will pay your legal costs.
5. The day of the final Court hearing getting closer, encourages parties to avoid court and to settle.
6. Remember: only 2% of cases go to a final hearing. Judges only want to hear cases which have difficult legal questions: not cases where the parties just do not agree to settle.

## ADMINISTRATIVE HEARINGS

There will be many administrative court hearings before the date of the final court hearing.

At an Administrative hearing, the judge will determine the format to conduct the final Court hearing. The judge will set the timetable of events. For example, the judge may want mediation (or a conciliation conference) to be attempted and on what date. We may ask the judge to schedule a final hearing on a particular date. The judge may determine what documents are to be filed and by when. An order for inspection of your documents and of the other person's documents may be made and when they can see your documents.

Discovery is asking the other party what documents it has, such as tax returns and financial statements. The Court will determine when this must be done.

At a different administrative hearing, the judge might ask how many witnesses will appear and for how many days will the final court hearing continue.

Because each of the parties are required to go to the Court for administrative hearings, there is often an opportunity for the lawyers to discuss the possibility of settlement with the other side.

A call-over is when the Court requires the parties to go to the Court to explain to the Court what is the progress of the matter, whether it will settle, what administrative orders may be required or whether the matter should be listed for a final hearing, when and for how long.

An administrative hearing may be required to request the Court to allow us to read and to photocopy documents obtained by the Court as a result of our subpoena.

In criminal law proceedings, these Administrative hearings may also be called 'mention', 'contest mention'. In Family law, these administrative hearings are also called 'first return date' or 'subsequent return dates'.

## SUMMONS

A Summons is a Court case inside a Court case. It will determine just one issue about the case, not the whole case. For instance, a summons can be issued where there is a belief that the Defence is invalid. So, if an inadequate defence has been filed, the judge may dismiss the defence and proceed to make a final order about the whole of the case.

In family law, a summons could be about obtaining an intervention order or selling a house. In a deceased estate, a summons could be about allowing access to read the Will.



## COURT ORDERS MUST BE OBEYED

If you have made an appointment with a tradesman or a professional and you are not able to keep the appointment because you become busy with other things or if you are sick, you can ring to try to cancel or change the appointment.

However, the Court does not work that way. If the Court orders you to do something, to attend at the Court on a certain date or to prepare an affidavit by a certain date, then you must comply strictly with that date and do exactly what the Court requires.

It is really important that you read all Orders of the Court and work with us to ensure that all documents are prepared and ready well before the due dates.

When an affidavit is prepared by a Barrister, it usually takes 2 weeks to prepare the affidavit. You may want to amend the affidavit before you sign it. Plenty of time should be allowed for this process.

If you do not strictly comply with Court dates and the Court time-table, the Court can order that you lose your case, that you pay the other sides' legal costs, fine you or put you in jail. The Court gets very upset when people do not do what the Court orders.

If you are trying to settle the case to try to avoid a final hearing, this is no excuse to just ignore the Court's orders to do things that the Court wants done.

## HOW MANY DATES?

There could be 10 Administrative hearings before you get to the final Court hearing. You may wait for 1 to 2 years before the final hearing.



## THE FINAL HEARING

The final hearing will usually be triple booked. The Court cannot hear all 3 matters simultaneously. The Court expects that most people will settle and that the Court will not be expected to hear the final case. However, if other cases are also not settled, we may need to ask for another date for the final hearing and wait another 6 months.

For small cases, a final hearing will continue for about one day for each witness, including expert witnesses.

## FURTHER READING

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