

# RESOURCES FOR PRACTITIONERS



FEDERAL CIRCUIT  
COURT OF AUSTRALIA

## COMMUNICATING WITH JUDGES' CHAMBERS

### NOTICE TO LITIGANTS AND LEGAL PRACTITIONERS

The Federal Circuit Court operates a docket system. It is timely – particularly given the many litigants who appear for themselves – to remind all parties and practitioners of a number of issues relevant to communications with the chambers of the Judge who has the conduct of a matter.

The Federal Circuit Court encourages common sense management of cases within dockets. As a result, it is recognised that formal and procedural matters can be dealt with by informal processes with significant savings in court time and expense to the parties. For that reason, we accept that consent orders, consent adjournments and the like can be the subject of joint e-mail communication with our Associates. To that end generic chambers email addresses should be used.

However, all parties and practitioners should otherwise understand the basis upon which contact with Judges (via their Associates) about substantive matters should – or should not – occur. All such communication must be undertaken with care to ensure that the impartiality and integrity of the Court is not undermined (see *R v Fisher* [2009] VSCA 100; *R v Phillips* [2009] QCA 57 and *John Holland Rail Pty Ltd v Comcare* [2011] FCAFC 34).

It is never appropriate for any party, or any legal practitioner, to attempt to contact a Judge directly about a matter for which the Judge is responsible.

It is not usually appropriate for any party (or any legal practitioner) to contact an Associate of a Judge about a matter unless all parties are in agreement that this is appropriate and for good reason. If agreement cannot be reached and the issue cannot otherwise be resolved then the Associate may be contacted to arrange for the matter to be listed for directions provided that all parties are advised of the request.

Should it become necessary to contact a Judge (through an Associate) about any substantive issue relating to a matter, it is expected that:

- The party and/or practitioner seeking to contact the Associate will first contact each other party or practitioner involved in the case. Any necessary communication will thereafter be joint and in writing.
- In the event that genuine urgency, or other good reason, is said to prevent a joint written communication occurring, the person seeking to contact an Associate should first seek, in writing, consent from each other party/practitioner to contact being made and provide full details of the reason for, and nature of, the intended communication.

- 
- In cases of genuine urgency or in the event that consent is not forthcoming within a reasonable period of time, contact with an Associate should be made, in writing, and contemporaneously, a copy of that communication forwarded to each other party/practitioner.
  - A party should not seek to have oral communication with an Associate about any substantive issue unless there are extraordinary circumstances.
  - In all cases (unless there are clearly exceptional circumstances) communication from an Associate to parties and/or practitioners about a matter should occur in writing and be sent contemporaneously to all parties/practitioners.

Associates will continue to contact practitioners and parties for the purpose of compliance checks or to check the status of a matter or in accordance with directions of the Court. In such cases, all parties will be contacted and Associates are not permitted to give legal advice.