

Newsletter



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Avocats • Lawyers

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Reminder to insurers: on January 1, 2016, the new CCP will affect your file management – here is why

The new *Code of Civil Procedure* which will come into force on January 1, 2016 might substantially change your habits and obligations. The following are the major changes:

- The parties will have an obligation to consider alternate dispute resolution (ADR) methods before submitting their disputes to the courts.
- After a judicial demand is instituted and served, the appearance and the delay to appear no longer exist. The defendant has 15 days to serve its answer advising of its intention to either settle the matter, ask for a transfer of jurisdiction or establish a case protocol.
- Within 45 days of service of the Summons, the parties will have to agree on a detailed case protocol which must include, amongst others:
 - * Preliminary exceptions;
 - * Consideration given to ADR;
 - * Examinations: length, necessity
- and number to be carried out;
- * Expertises;
- * Foreseeable legal costs, including expert costs;
- * A timetable for the completion of same;
- * Delays for the communication of evidence;
- * The necessity of obtaining an extension of the time limit for trial readiness.
- The case protocol will have to be accepted by the Court, in default of which the parties will be summoned to a case management conference.
- The management powers of judges are significantly increased.
- The parties still have the obligation to put their files in order within six months.
- The role and the obligations of the expert will be strictly defined.

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- A budget for the cost of experts will have to be included in the case protocol and thus be known within 45 days of service of the Demand.
- Parties who fail to comply with the case protocol could be condemned to legal costs notwithstanding the outcome of the case.

As such, it will be necessary to know early on, following service of the lawsuit, the issues in dispute, the necessity of examinations, the identity of the witnesses, the means of proof, expert reports, etc. This means that insurers will have to act promptly and involve their attorneys at very early stages of a claim; even prior to the institution of a judicial demand.

Complete investigations will have to be carried out without delay to ensure appropriate strategic decisions.

This Code will enter into force on January 1, 2016 and will apply to all matters, even existing ones, except for the delays already set out in the timetables. All other case management measures will apply to all cases.

If you wish to obtain more information on the new *Code of Civil Procedure*, we invite you to communicate with **Mr. Patrick Henry**.

