



## SUPREME COURT OF BRITISH COLUMBIA

**Effective Date:** 2017/06/06

**Number:** CPD - 2

**Title:**

### Practice Direction

### Scheduling Conflicts between Provincial Court and the Supreme Court

#### Summary

With the increased pressure on completing trials without undue delay created in the wake of the Supreme Court of Canada's decision in *R. v. Jordan*, it has become necessary to set out some guidelines to govern scheduling conflicts which arise between the Provincial Court and the Supreme Court.

#### Direction

1. The status of the Court (i.e., Supreme Court or Provincial Court) does not determine whether and when one trial should take scheduling preference over the other trial, rather it is the characteristics of the trials at issue which will govern.

#### Adjournment Applications

2. When counsel are confronted with the need to seek an adjournment of a case in one court to accommodate a case in the other court, counsel should be prepared to address the following considerations:

### *Nature of the Proceeding*

- a. the nature of the cases in both courts, including:
  - i. the charge(s) in each court;
  - ii. the custodial status of the accused in each court;
  - iii. the existence of co-accused on the matters in each court and their custodial status;
  - iv. whether the case is a continuation in either court; and
  - v. whether the case is to be tried by a jury.

### *Age of Case*

- b. The age of the cases in both courts, including:
  - i. the date the information was sworn;
  - ii. when each case was first set for trial;
  - iii. whether an adjournment creates a possible breach of the time requirements set out in Jordan;
  - iv. potential prejudice to a fair hearing as a result of the adjournment;
  - v. the existence of prior adjournments on each case; and
  - vi. the availability of alternate dates for each case.

### *Requirements of Cases*

- c. The requirements of the cases in both courts, including:
  - i. vulnerable witnesses (e.g., children (including protection matters in the Provincial Court), sex offence victims, domestic assault victims);
  - ii. out of town witnesses;
  - iii. expert witnesses;
  - iv. the availability of the witnesses in the future if the trial is to be moved; and
  - v. any other factors which impact the urgency of the matter to the parties in both cases.

### **Jury Trials**

3. Where there is a continuing jury trial in the Supreme Court, the above considerations do not apply and the presiding Justice may order the ongoing jury trial to take precedence over any other trial set in the Provincial Court, or any Judge alone trial set in the Supreme Court.

**Austin F. Cullen**  
**Associate Chief Justice**