

COURT OF APPEAL

PRACTICE DIRECTION NO. 4 OF 2018

Requirement for Counsel to be briefed

1. Legal Practitioners who cannot themselves attend the Court of Appeal for chambers business must brief another Counsel to appear for them. Presently, Counsel appearing on instructions are usually inadequately briefed.
2. The blame rests with both the briefing principal for lateness and inadequate briefing and counsel appearing for not seeking further instructions. None of this assists the Court in attempting to make necessary interlocutory orders, fix hearing dates, and move on the appeal.
3. From 1 July 2018 onwards, the presiding justice of appeal will expect Counsel to be properly briefed when an appeal is listed for mention, and that Counsel will not appear in an application unless properly briefed. "*Properly briefed*" means that Counsel is the holder of written instructions which as a minimum include:
 1. The names of the parties in the entitlement or heading of the appeal.
 2. The appeal number.
 3. The date and time for appearance.
 4. The party for whom Counsel is briefed to appear, and in what capacity.
 5. The names of the Solicitors for the other parties.
 6. The nature of the relevant application before the Court, which summons or motions and its date.
 7. What happened on the last Court date and what was ordered, either in the court below or in the Court of Appeal.
 8. What it is that Counsel is instructed to seek.

9. A broad outline of the decision and reasons in the court below.

4. Counsel briefed should report back to the legal practitioner who briefed him or her by letter with the result, orders, observations and dates of judgment.

5. If proper minimum briefing and reporting is done, appeals which are mentioned time and time again, will not need to be so often mentioned. Case management is essential in any court and it is particularly necessary in the Court of Appeal.

6. The Court will decline to hear from Counsel who do not hold proper instructions and an order for costs wasted will be made against the instructing principal and the instructed counsel.

Dated at Suva this 20th day of June, 2018.



W. D. Calanchini
PRESIDENT, COURT OF APPEAL