

**AGREEMENT BETWEEN VARIOUS PURSUER'S AND DEFENDERS' AGENTS IN
RELATION TO PROGRESSION OF PERSONAL INJURY CASES**

Introduction

This agreement is made between the Parties with the intention of allowing cases to progress and settle, as appropriate, in the manner in which they would likely have done had it not been for the challenges created by the current Coronavirus crisis to allow cases to progress in the usual way. The agents who are party to the Agreement are listed in Appendix A.

- All Parties hereto recognise that these are extraordinary measures for extraordinary times. The progression of cases is vital for the interests of the injured persons whose cases depend on it and the wellbeing of our employees . It is intended to ease the burden upon the Scottish Courts when they restart. All agree to approach this agreement purposively with a view to making these arrangements work. An escalation process will be set up involving a nominated partner in each participating firm to whom any disagreements or differences can be referred. The following are agreed by the signatories hereto.
- In cases already signetted or warranted by the Court of Session , the All Scotland Personal Injury Court or other Sheriff Court Chapter 36 Personal Injury actions, but where those cases have been sisted by the Court *ex proprio motu* in light of the current Coronavirus pandemic and where Pursuer's agents send an email to the Defenders' agents stating that they wish to progress that case on behalf of their clients the Defenders' agents will have 14 days from the date of that email to confirm their agreement on behalf of the Defenders to such progress. That consent is to be sent by email to the respective Pursuer's agents.
- Upon receipt of that confirmation email from the Defenders' agents the Pursuer's agents will issue a "shadow" timetable to the Defenders' agents within 7 days of receipt of the Defenders' email. That timetable will be in as close as possible a format to and will provide for dates in accordance with what would likely have been the dates set out in a Court issued timetable, excluding any notional Proof date. An outline is set out in Appendix B.

- In cases where Pursuer's agents have been unable to have an action signetted or warranted for service in a way in which they would otherwise have been able to do so but for the Coronavirus pandemic and the Courts' refusal to signet/warrant such actions the Pursuer's agents will be entitled to send a Summons or initial Writ in the format which would otherwise have been accepted for signet/warrant by the Courts to the appropriate Defenders' agents, by email, indicating that they wish that action to proceed by way of subsequent issue of a "shadow" timetable. The Defenders' agents will have a period of 14 days to indicate whether they are agreeable to proceeding in that way and in the event that they are so agreeable to confirm that by email to the Pursuer's agents and to forward defences to them within a further 14 days of such agreement. In such a case matters will proceed in accordance with paragraph 3 above in respect of the issuing of a "shadow" timetable in the form of Appendix B.
- In all cases where a "shadow" timetable is issued, Parties to the action will proceed in compliance with the dates set out there and Parties will be obliged to provide all other Parties to the case with copies of records, reports and other documentation available to them and referred to in the Inventory of Productions accompanying the Statement of Valuation of Claim which they prepare in compliance with the "shadow" timetable. In the spirit of this agreement and in accordance with court direction, relevant medical records and reports available to Pursuer's agents and to be relied upon should be intimated to Defenders agents as early as possible, to facilitate early settlement and avoid the need, if possible, to vary the shadow timetable or sist the shadow timetable for medical reports to be obtained. In the same manner the defenders' agents will use their best endeavours to provide the documents ordinarily called for in the Specification of Documents granted at warrant/signet particularly where already obtained prior to the Coronavirus restrictions. The pursuers' agents recognise that during the Coronavirus restrictions, whether for reasons of site closure or furlough, defenders may not be able to provide these to their agents where not already obtained. Where there is a restriction on the ability of defenders to obtain the right to serve a third party notice, the defenders may give notice of their intention to do so within the same time limits for proceeding with a motion for a Third Party Notice and shall have the right to seek a formal order of court and variation of any subsequent timetable

issued by the court after the resumption of normal court business including the adoption by the court of any unexpired portion of the shadow timetable.

- In the event that Defenders' agents do not provide confirmation within the period referred to in paragraphs 2 or 4 above that they are in agreement with a case proceeding by way of the issue of a "shadow" timetable, it will be open to the Pursuer's agents to refer the matter to the applicable escalation contact within the Defenders' agents as per Appendix C.
- In the event that a case is proceeding by way of the issue of a "shadow" timetable under this Agreement, in the event that either Parties agents consider that the opposing agents are not acting in accordance with the intention of this Agreement, it will be open to them upon giving 5 days' notice of their intention to do so, to refer the matter to the appropriate escalation contact in the opposing agents organisation. If after that referral, consensus cannot be reached, the case will be withdrawn from this Agreement.
- In the event that a case in respect of which a "shadow" timetable has been issued settles by way of an agreement between the agents on behalf of their respective clients with an agreement in respect of either Party being entitled to have their expenses paid by the opposing Party it is agreed that the paying Party will meet the opposing Party's account of expenses in the same way and on the same basis with regard to work carried out by solicitors and which would have applied had the case been otherwise litigated.
- Where Parties have followed the above procedure and "shadow" timetable, and settlement has not been reached, or the matter sisted, upon resumption of normal court business, the Parties will enrol a joint motion to vary any court timetable issued to the extent that those steps that have been taken are removed from the formal timetable, and the court timetable restricted to those steps not yet achieved.

Appendix A - Listed Agents

SOLICITOR A

SOLICITOR B

Appendix B Specimen Timetable for new cases

Proposed Shadow Timetable	
Steps referred to under rule 36.G1(1A)	Period of time within which action must be carried out*
Application for a third party notice under rule 20.1(rule 36.G1(1A)(a)) failing which indication of the intention to do so after the resumption of normal court business	Not later than 28 days after defences have been lodged-where the court is able to grant such a motion
Pursuer serving a specification of documents in standard form under rule 36.D1 (rule 36.G1(1A)(b))	Not later than 28 days after defences have been lodged
Parties adjusting their pleadings (rule 36.G1(1A)(c))	Not later than 8 weeks after defences have been lodged
Pursuer lodging a statement of valuation of claim in process (rule 36.G1(1A)(d))	Not later than 8 weeks after defences have been lodged
Pursuer lodging a record (rule 36.G1(1A)(e))	Not later than 10 weeks after defences have been lodged
Defender (and any third party to the action) lodging a statement of valuation of claim in process (rule 36.G1(1A)(f))	Not later than 12 weeks after defences have been lodged
Parties lodging in process a list of witnesses together with any productions upon which they wish to rely (rule 36.G1(1A)(g))	Not later than 8 weeks after lodging of Record.
Pursuer lodging in process the minute of the pre-proof conference (rule 36.G1(1A)(h))	As soon as parties agree is suitable; ordinarily at some reasonable point after the defenders' valuation or at the latest, after lists of witnesses.
*NOTE: Where there is more than one defender in an action, references in the above table to defences having been lodged should be read as references to the first lodging of defences. Lodging for the purposes of this agreement will include intimation by email.	

Appendix C – Escalation Contacts

SOLICITOR A – Ms A

SOLICITOR B – Mr B