

# LawPRO Webzine



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## Prepping for a "show cause" hearing? LAWPRO needs to know

Have a file that's going nowhere? If you find yourself preparing for a status hearing, your file may be heading in the direction of a claim.

Under Rule 48.14 of the *Rules of Civil Procedure*, if an action for which a defence has been filed has not been set down for trial within 24 months of the filing of the first defence, the Registrar will send a notice to the parties that the action is at risk of being administratively dismissed for delay.

If you receive one of these notices, you have three choices: set the action down for trial; get the defendant to consent to a timetable for moving the action along (once filed with the court this becomes the basis of a written "status hearing"); or request an oral status hearing.

If you are facing these choices and find yourself having to appear for a status hearing at which the defendant is likely to require you to show cause for the delay, there is the potential for a claim. We recommend that you contact LAWPRO for advice on what to include in your submissions.

Why? Because if you're appearing in person, you presumably couldn't convince the defendant(s) to consent to a timetable for moving your action along. At an opposed status hearing (informally known as a show-cause hearing), the onus is on the plaintiff to convince the court that the action should be preserved. To do this, the plaintiff must establish BOTH of the following:

1. That there's a satisfactory reason for the delay: for example, you are awaiting the results of an assessment or other investigative step (as long as you took the step in reasonable time); or the delay is at least partly the defendant's fault;

AND

2. The defendant's case has not been prejudiced by the delay.

Because an opposed status hearing gives the court the opportunity to consider arguments from both sides about whether or not a case should proceed, setting aside dismissals that result from these hearings is challenging and costly. Don't wait until your disappointed client turns his or her sights on you. [Contact LAWPRO](#) for advice on how to prepare for your hearing.

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### About LAWPRO Webzine:

LAWPRO Webzine is distributed to LAWPRO insureds and other contacts (on request) to keep them up to date on the LAWPRO insurance program, risk management information and other news.

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The logo for LAWPRO, featuring the word "LAWPRO" in a bold, sans-serif font. The letter "O" is stylized with a yellow and blue circular graphic element.