

SUPREME COURT OF YUKON

PRACTICE DIRECTION # 50

Incapacity of Judge

Incapacity of judge before judgment given

1. Where an application ought to be made to, or any jurisdiction exercised by, the judge by whom a proceeding has been tried or partly tried, or heard or partly heard, then if that judge dies or ceases to be a judge of the court during or after the trial or hearing, or if for any other reason it is impossible or inconvenient for that judge to act in the proceeding, the Senior Judge of the court may either by a special or by a general order nominate some other judge to whom the application may be made or by whom the jurisdiction may be exercised.
2. Without restricting the generality of the foregoing, the Senior Judge may order that the proceeding be retried or reheard and, in case the original trial or hearing was upon evidence given orally, may direct that the retrial or rehearing shall be upon an official transcript of that evidence, or upon such transcript and evidence given orally and evidence given by affidavit, or upon new evidence or otherwise, as in his or her opinion the circumstances of the case require, and may dispose of the costs of the original trial or hearing and of the costs of furnishing any copies of the transcript of the evidence, or may refer the question of costs to the judge presiding at the retrial or rehearing.
3. No directions for a retrial or rehearing which include a direction for the use of the transcript of the evidence shall limit or restrict the power of the judge presiding at the retrial or rehearing to permit in his or her discretion the recalling of any witness called at the original trial or hearing, or to receive other or additional evidence.

Veale J.
July 28, 2009