

# ANNEX 3

## Consolidated Civil Provincial Practice Direction

---

### Contents

---

.....	1
Part I: All Civil Proceedings .....	3
A. Filing Materials Electronically .....	3
<i>Help with Electronic Filing and Fee Payment: Ministry of the Attorney General</i> .....	4
B. Standard Document Naming Protocol .....	4
C. Paying Court Fees.....	5
D. Materials Relied Upon Must Be Referenced during Hearing.....	5
E. Parties' Responsibility to Provide Accurate Estimates of Hearing Time .....	5
F. Compendium Required.....	6
G. Facts and Books of Authorities.....	6
H. Orders .....	7
I. Motions.....	7
a. Short and Long Motion Times in Each Region.....	7
b. Facts for Motions .....	8
c. Motions to Transfer a Civil Proceeding under Rule 13.1.02 of the <i>Rules of Civil Procedure</i> .....	8
J. Proceedings under Rule 76 (Simplified Procedure).....	9
Part II: Civil Proceedings Using CaseLines .....	9
A. Uploading Electronic Documents for Use at Hearings.....	9
B. Release of Orders and Endorsements .....	11
C. Help with CaseLines.....	12
Part III: Proceedings under the <i>Class Proceedings Act, 1992</i> .....	12
A. Adoption of the Canadian Bar Association's 2018 Protocol for Multi-jurisdictional Class Actions .....	12
B. Dedicated Class Proceedings Judges .....	13

Part IV: Applications for Estates Certificates (probate) .....	14
Part V: Guidelines to Determine Mode of Proceeding in Civil .....	16
A. Overarching principles.....	16
B. Definitions of terms.....	17
C. Presumptive guidelines to determine mode of proceeding in civil matters .....	17
Part VI: Provisions Applicable to all Superior Court of Justice Proceedings .....	19
A. Virtual Hearings.....	19
<i>Preparing for your virtual hearing</i> .....	19
<i>Virtual hearing etiquette to improve quality of court recording and transcript</i> .....	19
<i>Public and Media Access to SCJ Virtual Hearings</i> .....	19
<i>Recording and Other Illegal Conduct during a Virtual Hearing</i> .....	20
B. Gowning for Counsel.....	20
C. Communicating with Court, Staff and Trial Coordinators.....	20
D. Ensuring the Integrity of Scheduled Trials, Hearings and Appeals.....	21
E. Accessing Court Transcripts.....	22
F. Release of Digital Court Recordings .....	22
G. Electronic Devices in the Courtroom .....	25
H. Publication Bans .....	27
I. Manner of Address for Associate Judges .....	27
J. Reserved Decisions.....	27

Effective June 1, 2023

This Practice Direction governs civil (non-Divisional Court and non-Small Claims Court) proceedings in the Ontario Superior Court of Justice, province-wide *unless stated otherwise* below. It replaces all previous Consolidated Provincial Practice Directions and Provincial Notices to the Profession, Parties, Public, and Media.

Counsel and parties are advised to refer to the applicable region-specific Practice Directions which are also available on the Superior Court of Justice website at: [www.ontariocourts.ca/scj](http://www.ontariocourts.ca/scj).

Region-specific Notices to the Profession are also still in effect. See the Superior Court website at: [www.ontariocourts.ca/scj](http://www.ontariocourts.ca/scj).

For **Divisional Court** proceedings, please refer to the Consolidated Practice Direction for Divisional Court Proceedings.

For **family proceedings**, please refer to the Consolidated Practice Direction – Family.

For **Small Claims Court** proceedings: Part VI of this Practice Direction applies in Small Claims Court. For more information about Small Claims Court proceedings, please refer to the relevant part of the Superior Court of Justice website.

## Part I: All Civil Proceedings

### A. Filing Materials Electronically

1. For information on filing applications for estates certificates, please see Part IV of this practice direction.
2. Although services continue to be available at the court counter, counsel and parties are expected to file and/or request issuance of their civil documents electronically, and pay any associated court fees, by using the online portals provided by the Ministry of the Attorney General through its Justice Services Online (JSO) platform: Civil Claims Online and Civil Submissions Online. Documents should be submitted electronically for filing and/or issuance in accordance with the *Rules of Civil Procedure*. Information about Civil Claims Online and Civil Submissions Online is available on the Ministry's website at the following link: <https://www.ontario.ca/page/file-civil-or-divisional-court-documents-online>.
3. Use the Court's Standard Document Naming Protocol when submitting documents to the court in electronic format. The Protocol is set out in this Practice Direction.
4. Uploading a document to CaseLines does not constitute filing of the document. Unless the court orders otherwise, only documents that have already been filed with the court may be uploaded to CaseLines.
5. Once accepted by the court registrar, a document will be considered to have been issued or filed on the date indicated by the registrar or filing software on the document or in the confirmation sent by the registrar.
6. Filings must comply with any restrictions placed on the length of material that can be submitted in connection with each event, such as limits on the number of pages for an affidavit or conference brief.
7. Filed materials should include any prior orders or endorsements that were issued and that are relevant to the request(s) being made.
8. Filing in person at the court office or by email (using the email addresses indicated in each Region's Notice) is available where parties
  - a. have documents that must be filed urgently, including requests for an urgent hearing

- b. have documents that must be filed for a hearing or deadline that is 5 business days or fewer away
- c. have documents that are sealed or are in support of a sealing motion or
- d. are unable to submit documents electronically due to an accessibility or technology limitation

You can contact the Accessibility Coordinator at the courthouse if you require accessibility services.

9. Unless the court directs otherwise, where counsel and parties deliver materials by email, they must:

- a. retain any documents that were originally signed, certified or commissioned in paper format until the day on which the case is finally disposed of or, if no notice of appeal is served in the case, the time for serving the notice has expired; and
- b. promptly make the original document available for inspection and copying on the request of the court, the registrar or any party to the case.

### ***Help with Electronic Filing and Fee Payment: Ministry of the Attorney General***

10. For questions on electronic filing using Civil Claims Online or Civil Submissions Online, including fee payment through these portals, members of the public and counsel can contact the Court Services Division's Contact Centre for Online Services by telephone or email as follows:

- Telephone: 1-800-980-4962 or 647-438-0403 (TTY 1-833-820-0714 or 416-368-4202)
- Email: [CivilClaimsOnline@ontario.ca](mailto:CivilClaimsOnline@ontario.ca)

11. For questions about any documents submitted or to be submitted for filing and/or issuance through Civil Claims Online or Civil Submissions Online or in relation to documents submitted by other methods (e.g., email), members of the public and counsel should contact the civil court office of the appropriate court location.

## **B. Standard Document Naming Protocol**

12. When documents are submitted to the court in electronic format, the document name must be saved as follows:

- Document type (including the form number in family cases),
- Type of party submitting the document,
- Name of the party submitting the document (including initials if the name is not unique to the case), and
- Date on which the document was created or signed, in the format DD-MMM-YYYY (e.g. 12-JAN-2021).

13. For example, documents should be saved as follows:

- Expert Report – Defendant – Loblaws Inc. – 13-MAR-2021

- Financial Statement Form 13.1 – Respondent – A. Wong – 21-NOV-2021
- 11b Application – Defence – Nathanson – 12-JAN-2021

14. Document names shall not include firm-specific naming conventions, abbreviations, form numbers or file numbers.

## **C. Paying Court Fees**

15. Court fees are prescribed by regulation and are generally payable at the time a document with an associated fee is submitted to the court.

16. Where a document is submitted through Civil Claims Online or Civil Submissions Online, payment is made through the portal.

17. Where a document is submitted in person, payment is made in person.

18. Where a document is submitted by email or mail, payment can be made over the phone through a secure credit card transaction or by mail using a cheque, and must be processed before the document will be accepted for filing and/or issuance. Court office phone numbers and mailing addresses can be found on the [Ministry of the Attorney General's website](#).

19. Parties who cannot afford to pay court fees may request a fee waiver certificate. Information about requesting a fee waiver can be found in the [Ministry of the Attorney General's Court Fee Waiver Guide and Forms](#). Fee waiver certificates apply to fees not yet paid.

20. Court fees for documents that were filed by email on or after March 16, 2020 can be paid over the phone through a secure credit card transaction. Court office phone numbers can be found on the [Ministry of the Attorney General's website](#).

21. Cheque payments must be made out to the Minister of Finance and, if mailed or couriered to the court, must be accompanied by a letter that indicates the court file number and title of proceeding, identifies the document that was filed by email, date of the email filing, party who filed the document by email and the name of the representative of the party (if any).

## **D. Materials Relied Upon Must Be Referenced during Hearing**

22. The oral hearing is the occasion when arguments must be succinctly set out by the parties. Parties must bring to the attention of the court all relevant material facts and the authorities that establish the legal proposition relied upon.

23. It is not sufficient to merely upload filed materials to CaseLines.

24. Materials that are not brought to the attention of the judicial officer at the hearing may not be considered. Judicial officers' judgment writing time is not sufficient to permit it to be used as an extension of the time allocated for oral argument.

## **E. Parties' Responsibility to Provide Accurate Estimates of Hearing Time**

25. Parties must give careful consideration to what is to be covered in the hearing time, the pace at which documents and authorities can reasonably be reviewed, and the time needed for oral argument on the issues raised.

26. This consideration should extend to:

- the number of issues which can properly be dealt with in oral argument, and
- the number of authorities actually required in order to establish the legal propositions relied upon.

27. Inaccurate estimates for the time required for hearings may result in a case being adjourned (either before or during the hearing) and rescheduled for a realistic time estimate with no expedition of the rescheduling. There may also be cost consequences.

## **F. Compendium Required**

28. In accordance with rule 4.05.3(3) of the *Rules of Civil Procedure*, each party in a hearing using CaseLines must upload to CaseLines a compendium containing key materials that will be referred to in oral argument (e.g., fair extracts of documents, transcripts, previous orders, etc.).

29. The compendium must include only those materials that will be referred to in argument and must have a table of contents hyperlinked to the sections within it and hyperlinks to authorities cited.

## **G. Factums and Books of Authorities**

30. The factum should only include cases that counsel or the party intends to refer to in the oral argument.

31. Each party's factum shall hyperlink authorities to a publicly available, free website such as CanLII, whenever they are available on such a website.

32. The factum must include paragraph references each time a case is cited in the factum, with the applicable paragraph also hyperlinked.

33. Where hyperlinks to all authorities are provided in the factum, it will not be necessary to file a book of authorities.

34. For information about factums for motions, please see the relevant section in Part I(I) (Motions).

35. Where a party files a book of authorities, whether in paper or electronic format, it shall not include the full text of all authorities to be relied on, unless the court orders otherwise. Authorities that are available on a free website, such as CanLII, shall be linked from the table of contents.

36. Authorities that are not available on a free public website, such as unreported decisions, decisions only available on approved private electronic databases and excerpts from textbooks, shall be included in an abbreviated book of authorities and filed electronically in PDF format. The abbreviated book of authorities shall include a table of contents that has internal hyperlinks to the cases and textbook excerpts contained within it.

37. "Approved private electronic databases" are private databases that are dedicated to the publication of judicial decisions (e.g. LexisNexis Quicklaw and Westlaw).

38. Counsel and parties should be aware that judicial decisions posted on electronic databases may be subject to correction or editing within a few days of the initial posting and, accordingly, parties should ensure that any decision obtained from an electronic database has not been subsequently amended.

39. Parties should provide the date that the copy of any decision was obtained from an electronic database, as part of the citation information.

40. For decisions of the Ontario Superior Court of Justice released on or after January 1, 2010, parties should provide the neutral citation number (e.g. 2010 ONSC 1).

## H. Orders

41. Judgments, endorsements and orders of the Court are effective as of the date they are made, unless the judgment, endorsement or order states otherwise.

42. Where a draft order is submitted online for issuing and entering, the registrar can electronically issue the order and email it to the requestor. Attending at the courthouse to have an order issued and entered in person is not recommended unless it is time-sensitive.

43. Please note that an issued and entered order is required for the purpose of an appeal to the Court of Appeal for Ontario or an appeal to the Divisional Court Branch of the Superior Court of Justice.

## I. Motions

### a. Short and Long Motion Times in Each Region

44. The following chart sets out the times for short and long motions for civil proceedings in each judicial Region:

<b>REGIONS</b>	<b>SHORT MOTIONS</b>	<b>LONG MOTIONS</b>
Central East: Civil	Under 1 hour	Over 1 hour
Central South: Civil	Under 1 hour	Over 1 hour
Central West: Civil	Under 1 hour	Over 1 hour
East: Civil	Under 1 hour	Over 1 hour
Northeast: Civil	Under 1 hour	Over 1 hour
Northwest: Civil	Under 1 hour	Over 1 hour
Southwest <sup>s</sup> : Civil	Under 1 hour	Over 1 hour

REGIONS	SHORT MOTIONS	LONG MOTIONS
Toronto: Civil	Under 2 hours	Over 2 hours

§The times stated in this chart for the East and Southwest Regions are for general information only. It is recommended that you contact your court location to find out whether your motion will be treated as a short motion or a long motion.

### **b. Factums for Motions**

45. The following requirements apply within all judicial Regions of the Ontario Superior Court of Justice for motions in civil proceedings:

- a. Factums are required for long motions and encouraged for all other motions unless otherwise directed by a judge or associate judge.
- b. In all regions except the Toronto Region, no factum may exceed 20 pages, unless leave is granted. In the Toronto Region, no factum may exceed 30 pages, unless leave is granted.

46. The times for service and filing of factums shall be in accordance with the times for service and filing of other motion materials under the [Rules of Civil Procedure](#), unless a region-specific Practice Direction or Notice to the Profession states otherwise.

### **c. Motions to Transfer a Civil Proceeding under Rule 13.1.02 of the Rules of Civil Procedure**

47. Paragraphs 48 to 51 of this Practice Direction govern all motions to transfer under rule 13.1.02.

48. A high volume of requests to transfer civil proceedings to another county, often in another Region, are being received. Counsel frequently seek to transfer a case, on consent. While the transfer may be appropriate in the circumstances of the case, the onus rests with the moving party to satisfy the court that a transfer is desirable in the interest of justice, having regard to the factors listed in rule 13.1.02(2)(b). It is not sufficient to bring a transfer motion orally, on consent, or to file a consent for an order to transfer a case to another county under rule 13.1.02.

49. A motion to transfer a proceeding should be brought at the court location to which the moving party seeks to have the proceeding transferred. The moving party must file a Notice of Motion with a supporting affidavit, as required under rule 13.1.02(2). The moving party's affidavit must address the factors listed in rule 13.1.02(2)(b) and, as part of the relevant matters, must identify the current stage of the proceeding (i.e., whether further motions are anticipated in the proceeding, whether a pre-trial has occurred or is scheduled, and whether mediation has been held) and why the proceeding was originally commenced in the originating county. The affidavit should also address the estimated length of trial, whether it is a jury trial, and the number of parties and counsel.

50. Counsel are *not* required to provide affidavit evidence about the availability of judges and court facilities in the other county to satisfy factor (viii) under rule 13.1.02(2). This factor shall be addressed by the Regional Senior Judge in the Region where the motion is brought, after consulting with the local administrative judge or Regional Senior Judge for the other county.

51. The Regional Senior Judge, or his or her designate, will hear all motions to transfer. To allow the Regional Senior Judge to promptly determine all such motions, they shall be brought in writing.

Responding parties are *strongly encouraged* to file and rely exclusively on written submissions to allow the motion to be heard and fully determined in writing. If an oral hearing becomes necessary, the motion shall be heard by teleconference arranged through the Office of the Regional Senior Judge in the Region where the motion is brought.

## **J. Proceedings under Rule 76 (Simplified Procedure)**

52. In accordance with subrules 76.10 (2) and (4), the trial management plan agreed to by the parties must be filed with the court at least five days before the pre-trial conference. The Court has adopted a standard Trial Management Plan form that should be used in all cases proceeding under Rule 76.

53. Self-represented parties are encouraged to refer to the *Instructions for Self-Represented Parties Preparing for Rule 76 Simplified Procedure Trials*, available on the Superior Court's website, which offers guidance on how to prepare for trial.

## **Part II: Civil Proceedings Using CaseLines**

54. This section sets out requirements specific to civil hearings using CaseLines.

### **A. Uploading Electronic Documents for Use at Hearings**

55. CaseLines is an online platform where judges, parties, and court staff view electronic court documents before and during hearings.

56. All court documents must be uploaded to CaseLines regardless of whether the hearing is in person or virtual. Each party must upload their court documents to CaseLines as set out below. Information about how to use CaseLines is available on the Court's website:  
<https://www.ontariocourts.ca/scj/caselines/>.

57. This step is different from filing documents with the court. Documents uploaded to CaseLines for use at a hearing should have already been filed by the party as set out in Part I above. Where there is a difference between the filed version of a document and the version provided to the court for use at a hearing, the filed version shall prevail.

58. Parties will receive an email from CaseLines with a link for their matter. Include your current email addresses on all documents that are filed with the court and make CaseLines a trusted sender by saving **caselines.com** in your contacts list, or regularly check your junk folder for emails from CaseLines.

59. Materials must be uploaded on CaseLines as follows and in accordance with the following deadlines:

- a. Unless the Court approves an expedited or modified schedule, all materials must be uploaded promptly after service or as soon as practicable after the CaseLines link has been provided.
- b. All documents must be uploaded in PDF format. The indexes to all Records should include hyperlinked bookmarks. Factums must also be uploaded in Word format.

- c. Upload documents into the bundle created for the hearing. Do not upload documents into the Master Bundle. Ensure documents are uploaded to the correct bundle.
- d. Each party's factum shall hyperlink authorities as set out in Part I(G) (Factums and Books of Authorities) above.
- e. As set out in Part I(G) (Factums and Books of Authorities) above, no book of authorities containing the full text of all authorities to be relied on shall be filed with the court in paper or electronic format, unless the court orders otherwise.
- f. Documents must be named in accordance with the Standard Document Naming Protocol in Part I(B) of this Practice Direction (above).
- g. Each party must upload a Compendium for oral argument to CaseLines containing key materials that will be referred to in oral argument (for example, fair extracts of documents, transcripts, previous orders, authorities, etc.) in accordance with Part I(F) (Compendium Required) above. The Compendium for oral argument must be uploaded to CaseLines as soon as possible before the hearing date. The Compendium must include only those materials that will be referred to in oral argument and must have a table of contents hyperlinked to the sections within it and hyperlinks to authorities cited. Where portions of cases are included in a Compendium, the title of the proceeding and headnote should be included as well. Where portions of the Record are included in a Compendium, the first page of the document and identification of where it may be found in the Record, by reference to CaseLines page number, should also be provided.
- h. At least one day before the hearing, the parties must upload a Participant Information Form setting out the name(s) of counsel and self-represented parties, how they wish to be addressed and the estimated time for oral submissions. This document is only uploaded to CaseLines. It is not also filed with the Court.
- i. Each party's documents must be named using the Standard Document Naming Protocol set out in Part I(B) and must be uploaded so that the documents are displayed in CaseLines in the following sequence:

1-Factum

2-Motion Record/Application Record/Trial Record and Compendium

3-Transcripts, if any

4-Exhibit Books, if any

5-Abbreviated Book of Authorities, if any

6-Bill of Costs/Costs Outline, if any

7-Participant Information Form

8-Other documents, if any and if permitted under the *Rules of Civil Procedure*.

Adding a numerical prefix in the document name, as illustrated above, helps to ensure that the documents remain listed in the correct order in CaseLines.

60. At the hearing, the parties must be prepared to use CaseLines bundles and CaseLines-generated page numbers and the “Direct Others to Page” function and to advise the court of the CaseLines page numbers when referring to documents.

61. It is the responsibility of the parties to ensure that all materials they upload to CaseLines comply with the Rules of Civil Procedure and are properly before the court. Parties may depart from the Rules of Civil Procedure only if a judge grants them leave to do so.

62. Unredacted versions of documents that are or, are proposed to be, the subject of a sealing order should **NOT** be uploaded into CaseLines. Although the notice of motion for the sealing order can be uploaded after it is filed with the Court, the unredacted document proposed to be sealed must be emailed to the Trial Coordination Office, identifying the case name, court file number and the hearing date (if assigned), together with a request that the document be forwarded to the presiding judge or associate judge as a sealing order is being sought. If the hearing takes place by telephone or videoconference, immediately following the granting of the sealing order, the moving party must enclose an unredacted version of the document in a sealed envelope, append the court order/endorsement to the envelope, and file it in hardcopy at the court office for inclusion in the court file.

63. In motions for removal as lawyer of record under rule 15.04(1.2) and (1.3) of the *Rules of Civil Procedure*, redacted motion materials should be uploaded to CaseLines. Unredacted motion materials should not be uploaded to CaseLines. These documents should be emailed to the Trial Coordination Office for delivery to the judicial official, unless a regional practice direction or notice to the profession provides for another method of delivery.

64. It is counsel’s obligation to upload to CaseLines any documents that they will be seeking to have entered as exhibits into the event bundle of CaseLines. These documents should be uploaded separately to the event bundle, as the registrar can only add one electronic exhibit stamp per document.

65. Parties must ensure that all previous orders and endorsements in the case that are relevant at the hearing have been uploaded into the Orders and Endorsements sub-bundle in CaseLines so they can be accessed by the judiciary at future hearings. If neither party is represented by counsel, assistance is available from the filing office to help upload these documents into CaseLines.

66. Parties must also ensure that all pleadings have been uploaded into the Pleadings sub-bundle in CaseLines.

67. If you have received an email from CaseLines inviting you to a case, click the link provided and upload the documents you will rely on for your hearing. Documents must be uploaded **at least 5 days in advance** of the hearing, or at the same time as **any filing deadlines that are less than 5 days away** as set out by a **rule of court** (e.g. r. 4.05.3(4)).

## **B. Release of Orders and Endorsements**

68. Where an event was heard using CaseLines, court staff may release orders and endorsements to the parties by uploading them to CaseLines instead of sending them by email, subject to any direction from the presiding judicial official. You can locate these documents by accessing the Orders and Endorsements sub-bundle in CaseLines.

69. CaseLines will automatically alert parties to changes that occur in a bundle, for instance if a party uploads material or if the court uploads an order or endorsement following the event. These notifications are sent from [noreply@caselines.com](mailto:noreply@caselines.com) to the email address of all parties with access to the bundle. Staff provide this notification feature to parties when they are first invited into the case file. Please be sure to save [noreply@caselines.com](mailto:noreply@caselines.com) as a safe sender in your email settings.

## C. Help with CaseLines

70. For assistance with technical issues, contact Thomson Reuters technical support at 1-800-290-9378 and select either “CaseLines”, “Case Center” or “Evidence Sharing” when you reach the directory, or email [decsupport@thomsonreuters.com](mailto:decsupport@thomsonreuters.com). Support is available from 8:00 a.m. to 5:00 p.m. (Monday to Friday).

71. If you are a self-represented litigant, the Ministry of the Attorney General’s Court Services Division is now offering telephone support. Please dial 1-800-980-4962 or 647-438-0403 and select option 4 for CaseLines support or email your questions to [info.CaseLines@ontario.ca](mailto:info.CaseLines@ontario.ca).

72. Information about how to use CaseLines is available on the Court’s website: <https://www.ontariocourts.ca/scj/caselines/>.

73. For self-represented parties without access to the necessary technology, assistance is also available through the court filing office or with the Accessibility Coordinator at the courthouse where the case is being heard: <https://www.ontariocourts.ca/scj/at-court/accessibility/>.

## Part III: Proceedings under the *Class Proceedings Act, 1992*

74. In a proceeding under the *Class Proceedings Act, 1992*, if provisions of this section conflict with other provisions of this practice direction, the provisions in this section prevail.

### A. Adoption of the Canadian Bar Association’s 2018 Protocol for Multi-jurisdictional Class Actions

75. The Canadian Judicial Council endorsed the Canadian Bar Association (CBA)’s Resolution 18-03-A (Class Action Judicial Protocols (2018)), approving the Association’s revised “Canadian Judicial Protocol for the Management of Multi-Jurisdictional Class Actions and the Provision of Class Action Notice”, also known as the 2018 Protocol. The Ontario Superior Court of Justice adopted the 2018 Protocol and, as of June 1, 2019, parties to class proceedings shall comply with its terms.

76. Plaintiff’s counsel must post the pleadings in their class action on the CBA’s [National Class Action Database](#) prior to the first attendance and confirm that they have done so at that attendance. To submit documents to the National Class Actions Database,

- Download and complete the [Database Registration Form](#) (Microsoft Word format)
- Email the completed Database Registration Form with accompanying scanned documents (e.g. original pleadings and certification motion) (PDF or Word format, character recognition preferred) to the CBA at [classaction@cba.org](mailto:classaction@cba.org).

Questions about the National Class Actions Database can be emailed to: [classaction@cba.org](mailto:classaction@cba.org).

77. At each attendance, the parties to a class action shall advise the court of any other action they are aware of and the status of each action.

78. Plaintiff's counsel must compile a notification list setting out the names of all known counsel and judges in any action, together with their contact information. Prior to the date being set for the first case management conference, plaintiff's counsel must provide the court and all other counsel with the notification list.

79. Additional required steps for class actions are set out in the 2018 Protocol.

## **B. Dedicated Class Proceedings Judges**

80. To promote the goals of the *Class Proceedings Act, 1992*, including judicial economy and access to the courts, each Regional Senior Judge has assigned one or more judges to coordinate all class proceedings in that Region as the "Class Proceedings Judge". To increase efficiency and provide a degree of consistency, in keeping with the case management approach ascribed to the court by the Act, the Class Proceedings Judge will preside over the majority of pre-trial class proceedings motions and certifications in that Region.

81. Every class proceeding shall have appended to the court file number the letters CP, indicating that it is a class proceeding.

82. The names of assigned Class Proceedings Judges may be obtained from the Regional Managers in each Region:

<b>Region</b>	<b>Telephone</b>
Northwest	(807) 343-2727
Northeast	(705) 564-7813
East	(613) 239-1385
Central East	(905) 853-4822
Toronto	(416) 327-6104
Central West	(905) 456-4838
Central South	(905) 645-5323
Southwest	(519) 660-2285

### ***Originating Process and Court Documents***

83. The title of proceeding for every class proceeding shall state that it is a "Proceeding under the *Class Proceedings Act, 1992*."

## ***Procedure on Motions and other Hearings***

84. In accordance with the statutory scheme, the judge hearing the pre-trial motions will case manage the proceeding.

85. The prior preparation of draft orders for consideration by the court at the end of a hearing will greatly expedite the issuance of orders. Where relevant model orders have been approved by the Class Action Bench-Bar Liaison Committee, a copy of the draft order blacklined to the model order and indicating all variations sought from the model order must be filed.

86. In order to assist the judge hearing pre-trial motions in determining the reasonable costs expectations of the unsuccessful party and assessing the reasonableness of the amount claimed for costs by the successful party:

- a. Counsel for the parties to a motion brought before the judge are expected to follow the provisions of Rule 57.01(6) of the *Rules of Civil Procedure* concerning costs outlines.
- b. Unless the parties have agreed on the costs that it would be appropriate to award for the subject motion, every party who intends to seek costs for the motion shall:
  - i. Provide to every other party involved in the motion, and bring to the hearing, a costs outline (Form 57B), not exceeding 3 pages in length; and
  - ii. Provide to the judge hearing the motion, at the commencement of the motion, a copy of their costs outline.
- c. While it would be preferable for the parties to complete all sections of Form 57B before the costs outline is submitted, it will be acceptable if the costs outline provides, at a minimum, the fees and disbursements requested, as required in the first part of Form 57B, and the details of the amount claimed (the hours spent, the rates sought for costs and the rate actually charged by the party's lawyer) as required in the last section of Form 57B.
- d. Counsel for the parties to a motion are expected to consult with one another, in advance of the hearing, with a view to resolving the issue of the costs of the hearing and are encouraged to agree on the amount to be awarded to the successful party as costs of the hearing, including fees, disbursements and HST.
- e. Nothing herein prevents the court from requiring, or the parties from requesting the opportunity to make, further cost submissions following the determination of the motion, nor does anything herein affect the right of the Law Foundation of Ontario to make costs submissions and/or present evidence in respect of costs, in accordance with Rule 12.04 of the *Rules of Civil Procedure*, in cases where the plaintiff has received financial support from the Class Proceedings Fund of the Law Foundation of Ontario.

## **Part IV: Applications for Estates Certificates (probate)**

87. The process described below does not apply to documents filed in estate litigation cases. Estate litigation documents should be filed in the same manner as other civil litigation documents, through the Civil Submissions Online filing portal (see Part I(A)).

88. Applications for estates certificates (probate), including an Application for a Certificate of Appointment of Estate Trustee or an Application for a Small Estate Certificate or Amended Small Estate Certificate, and supporting and responding documents (e.g., Form 75.1 Notice of Objection), may be filed electronically by email to the Superior Court of Justice at the email address for the court location set out at the following link: <https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/consolidated-notice/email-probate/>.

89. Where email is used to file documents in these applications, the following requirements must be met:

- i. Applicants must complete an Information Form and email it to the court together with the probate application. The application form and supporting documents (affidavits, consents, proof of death, renunciations, draft certificates, motions) should be submitted by email only.
- ii. The subject line of the email sent to the court must indicate the acronym for the court, the area of law, court file number (if any), and type of document, as set out in the examples below:

SCJ – ESTATES – ES-1234567 – Application for Certificate of Appointment of Estate Trustee

SCJ – ESTATES – new file – Application for Certificate of Appointment of Estate Trustee

- iii. Each email sent to the court, including attachments, must not exceed 35 MB.
- iv. Document attachments must be in PDF format.
- v. Each PDF attachment must contain only one court form and must be saved with a name that specifies the court form number and type of document [e.g. Form 74A (Application for Certificate of Appointment of Estate Trustee), Form 74E (Affidavit of Condition of Will), etc.].
- vi. Original documents filed in support of the application (e.g. wills, codicils, bonds, ancillary certificates) and certified copies must be filed in hard copy by mail or courier to the Superior Court of Justice location where the application was filed or in person at that court office.
- vii. Estate administration tax payments must also be sent by mail or courier to the court office or provided at the court office. Filing fees, if any, may be paid in person, by mail or courier using a cheque, or over the phone by secure credit card transaction. Contact information for court locations can be found on the [Ministry of the Attorney General's website](#).
- viii. Probate certificates will be electronically issued and delivered by email to the address provided by the applicant.

90. If court staff advise that documents emailed to the court require correction, the corrected versions can be sent to the court by email. If additional documents are needed to complete the application, then court staff will advise which ones can be emailed and which ones need to be provided in hard copy.

## Part V: Guidelines to Determine Mode of Proceeding in Civil

91. Please see the Regional Notices for scheduling protocols related to the application of the following presumptive guidelines including scheduling processes related to requests for changes in the presumption.

### A. Overarching principles

92. These guidelines set out presumptive methods of attendance for events in civil proceedings. In applying these guidelines, the Court will take into account the following general principles:

#### 1. Discretion of the Court:

While presumptions for each event set out the default position of the Court, the final determination of how an event will proceed will remain subject to the discretion of the Court. This will take into account the issues in the proceeding, the expected length of the hearing, the evidentiary record, the status of the parties (e.g. self-represented litigants) and access to technology (including virtual capacity at institutions and courthouses).

#### 2. Rule 1.08:

Rule 1.08 of the *Rules of Civil Procedure* sets out the procedure for the moving party to specify the proposed method of attendance at a hearing or other step in a proceeding. The moving party and responding party/parties are to refer to these guidelines which set out the general expectations of the Court regarding the method of attendance.

#### 3. Access to justice:

While virtual platforms to conduct proceedings remotely have enhanced access to justice for many, the Court also recognizes that there are significant variations in the abilities of litigants to access and use the technology that is required for virtual hearings. Until such time as there is a means to provide access to technology to those who do not have it so that they can fully participate in a remote hearing, the Court will take this access issue into account when determining the appropriate mode of proceeding. In that respect, if remote proceedings are utilized, the needs of all participants must be met so they can fully and equally participate.

#### 4. Self-represented litigants:

While the Court's determination of the appropriate mode of proceeding will necessarily take into account the ability of litigants to access and effectively use technology for virtual hearings, the Court will also consider other circumstances uniquely related to self-represented litigants. Issues such as the inability to obtain timely assistance from duty counsel and court staff, needing support to use technology or the inability to adequately address issues in writing may mean that in proceedings involving a self-represented litigant, Courts may favour an in-person mode of proceeding.

#### 5. In-person hearings important:

While the continued use of virtual proceedings increases efficiency at many stages in the litigation process, the Court also recognizes the importance of in-person interaction and hearings for more substantive attendances. For these matters, in-person advocacy and participation will remain an essential feature of our justice system.

#### **6. Hybrid options:**

In determining the mode of proceeding and the application of the guidelines, the Court will also take into account whether some parts of a proceeding should be conducted virtually and other parts conducted in person. In other words, hybrid options will be considered where appropriate or necessary.

#### **7. Impediments to a virtual hearing:**

There may be statutory, security or other impediments to having a remote hearing in certain matters, particularly criminal cases, civil contempt hearings and other matters that deal with sensitive information (e.g. child protection cases). Moreover, a party's or participant's personal circumstances (e.g. disabilities or caregiver responsibilities) may make remote hearings less suitable.

### **B. Definitions of terms**

93. "Virtual" = proceedings using a platform like Zoom video or audioconference or by teleconference.

94. "Hybrid" = proceedings in which some justice participants are appearing physically in the courtroom and others are participating virtually.

95. "In-person" = proceedings in which all parties, counsel and the judge are physically in the courtroom.

96. "Videoconference or audioconference" = connecting into a proceeding using a platform like Zoom through video and audio or audio only.

97. "Teleconference" = connecting into a proceeding via a telephone number to a landline.

### **C. Presumptive guidelines to determine mode of proceeding in civil matters**

98. The following guidelines set out the Court's expectations for the default method of appearance for all civil events that will be applied across the province. However, the Court also recognizes that some Regions, in particular the Northwest, Northeast and those with circuiting judges, will require greater flexibility in hearing more cases virtually.

#### **1. Case conferences:**

All case conferences will be held virtually (by videoconference or audioconference or by teleconference) unless the Court specifies a different method of attendance.

#### **2. Pre-trial conferences involving trial management and scheduling issues only:**

All pre-trial conferences involving trial scheduling issues only will be held virtually (by videoconference or audioconference or by teleconference) unless the Court specifies a different method of attendance.

**3. Pre-trial conferences: settlement and trial management conferences:**

All pre-trial conferences directed at settlement or both settlement and trial management will be held virtually (by videoconference or audioconference or by teleconference) unless the Court directs that an in-person pre-trial conference is required.

**4. Trial and motion scheduling court:**

All trial and long motion scheduling court appearances will be held virtually (by video conference or audioconference or by teleconference) unless the Court specifies a different method of attendance.

**5. Consent motions, without notice motions and unopposed motions:**

All motions on consent of both parties, all motions without notice and all motions that are unopposed will be held in writing unless the Court specifies a different mode of proceeding.

**6. Contested motions and applications:**

All contested motions (short or long) and all contested applications will be held virtually unless a party requests that it be held in person and the Court agrees or the Court directs that it will be held in person. In directing that the contested motion or contested application be held in person, the Court will take into account the positions of the parties; the complexity of the legal or factual issue; whether the outcome of the motion or application is legally or practically dispositive of a material issue in the case (e.g. summary judgement); whether viva voce evidence will be heard; and any other factor bearing on the administration of justice.

**7. Examinations for discovery:**

All examinations for discovery will be held in person, unless the parties consent to it being conducted virtually or unless the Court specifies a different mode of proceeding.

**8. Mandatory mediations:**

All mediations will be held in person, unless the parties consent to it being conducted virtually or unless the Court specifies a different mode of proceeding.

**9. Judge-alone trials:**

All judge-alone trials will be held in person unless all parties consent to a virtual trial and the Court approves. The Court may consider the option of a hybrid proceeding and whether a witness, at the request of either party, may be permitted to testify virtually by videoconference.

**10. Jury trials:**

All civil jury trials will be held in person. The Court may consider the option of a hybrid proceeding and whether a witness, at the request of either party, may be permitted to testify virtually by videoconference.

#### **11. Assessment hearings:**

All assessments for solicitor fees or judge-referred orders for assessment of costs will be held virtually (by videoconference).

#### **12. Costs:**

All motions for costs will be held in writing or as the Court directs.

#### **13. Motions for leave to appeal to the Divisional Court:**

All motions for leave to appeal to the Divisional Court will be held in writing unless the Court specifies a different mode of proceeding.

#### **14. Appeals to the Divisional Court and applications for judicial review:**

All appeals and applications for judicial review in Divisional Court will be held in person, unless all parties consent to it being heard virtually and the Court agrees or the Court decides that the appeal or application should be conducted virtually.

## **Part VI: Provisions Applicable to all Superior Court of Justice Proceedings**

### **A. Virtual Hearings**

#### ***Preparing for your virtual hearing***

99. To ensure the virtual hearing runs smoothly, please see the Court's guidance to help you prepare for the hearing, (including by testing your internet connectivity and having a charger available during the hearing) All participants and members of the public that attend a virtual court proceeding must conduct themselves as if they were physically in the courtroom. All individuals participating in virtual court proceedings must observe the well-established rules of court decorum which can be found here: [Virtual Courtroom Etiquette Rules](#).

#### ***Virtual hearing etiquette to improve quality of court recording and transcript***

100. Please consult Court Services Division's etiquette tip sheets to ensure quality and accuracy of the court recording and transcript.

#### ***Public and Media Access to SCJ Virtual Hearings***

101. Any member of the public who wishes to hear/observe a public, remote proceeding may email their request to the local courthouse staff in advance of the hearing. Indicate which hearing you wish to hear/observe and provide your contact information.

102. Certain proceedings, such as conferences involving settlement discussions, may be closed to the media and public by legislation or court order.

## ***Recording and Other Illegal Conduct during a Virtual Hearing***

103. Participants and observers shall not record, take photos, screen capture, or broadcast any part of a Court proceeding unless it is expressly authorized by the presiding judicial official. It is an offence under section 136 of the ***Courts of Justice Act*** and you may also be charged with an offence under the ***Criminal Code***, if you record, photograph, screen capture, publish, broadcast (or live stream) any part of a court proceeding without the express permission of the presiding judicial official.

104. Other conduct during the course of a virtual court hearing may be an offence under the ***Criminal Code*** or may constitute contempt of court, for example, racist comments or threats to harm a person or justice participant.

## **B. Gowning for Counsel**

105. Counsel must be gowned for any virtual proceeding that, if conducted in person, would require gowning. Counsel are not required to gown for the following court attendances:

- Trial scheduling court (also known as assignment court, “speak to” court or “purge court”);
- Case conferences, trial management conferences, or pre-trials; and
- Small Claims Court proceedings.

106. Counsel must be gowned for all other proceedings. They must do so regardless of whether the presiding judicial official is a judge or an associate judge.

### ***Attire modifications***

107. Counsel with personal circumstances, including pregnancy, a medical condition or disability, may modify their traditional court attire in order to accommodate their personal circumstances as they see fit, including dispensing with a waistcoat and tabs. Modified attire must be both dark in colour and in keeping with court decorum.

108. Counsel wearing modified attire are requested to advise the court registrar before the opening of court that they are wearing such attire in accordance with this Practice Direction. This is to ensure that counsel do not need to discuss their personal circumstances or modified attire on the record or in open court.

## **C. Communicating with Court, Staff and Trial Coordinators**

109. Counsel and self-represented persons shall not communicate directly with a judge, unless the court directs otherwise. Instead, they may communicate with the court filing and trial coordination offices by email. The Regional notice will indicate the appropriate email contact information.

110. When communicating by email with court staff or trial coordinators, counsel and self-represented parties should:

- a. Include the following information in the **subject line**:
  - Level of court (SCJ)

- Type of matter (Civil, Commercial List, Estates)
  - File number (indicate NEW if no court file number exists)
  - Originating court location
  - Type of document (e.g., Motion, Conference Brief, other request)
  - Style of cause
  - Date of event
- b. Include in the body of the email the following information, if applicable:
- Court file number (if it is an existing file)
  - Style of cause
  - Date of event
  - Short title of proceeding
  - List of documents attached
  - Type of request
  - Name, role (i.e. lawyer, representative, party, etc.) and contact information of person submitting the request (email and phone number)
- c. Copy all parties on emails sent to the court.

## **D. Ensuring the Integrity of Scheduled Trials, Hearings and Appeals**

111. This section is intended to ensure that trials, hearings and appeals are scheduled on the basis of the chronological order in which lawyers make their commitments to appear in court. It has three important objectives:

- a. to ensure that the trial lists of the Superior Court of Justice and the Ontario Court of Justice are respected;
- b. to reduce court delays, the waste of court resources and the unnecessary expense and inconvenience to the public brought about by adjournments; and
- c. to assist parties in having adequate representation by a lawyer acceptable to them.

### ***Trial Dates***

112. Where a date for trial or other hearing has been set by the Superior Court of Justice or the Ontario Court of Justice, the trial or hearing is expected to take place on that date.

### ***Presumption of Commitment***

113. By agreeing to a trial or other hearing date, a lawyer is presumed to have made a commitment to appear on that date and to be bound not to make any other commitments that would make the lawyer's appearance on that date impossible.

### ***Duty to Inform of Previous Commitments***

114. When setting a date for trials or other hearings in the Superior Court of Justice or the Ontario Court of Justice, every lawyer has a duty to disclose previous commitments to another court that may conflict with a proposed date for a trial, hearing or appeal.

## **E. Accessing Court Transcripts**

115. A request for an official transcript of a court proceeding may be made by accessing the information and following the procedure set forth on the Ministry of Attorney General website for Court Transcripts: [https://www.attorneygeneral.jus.gov.on.ca/english/courts/court\\_transcripts.php](https://www.attorneygeneral.jus.gov.on.ca/english/courts/court_transcripts.php).

116. If the authorized court transcriptionist is unable to access the recording to make a transcript, you may make a motion to the judge to ask that access be granted. Unless a judge of the Superior Court of Justice orders otherwise, no transcripts are available to anyone - including the parties - for case, settlement, and trial management conferences.

117. When the public is excluded from a court proceeding (known as in camera proceedings), the public may not have access to records relating to that portion of the proceedings.

## **F. Release of Digital Court Recordings**

118. This section outlines the policy on the release of digital court recordings. Members of the public, counsel, litigants, accused or the media may obtain copies of digital court recordings (hereinafter referred to as "digital recordings") made from Digital Recording Devices (DRDs) of matters heard in open court, in accordance with the requirements of this section. The copies of digital court recordings will include annotations.

119. The release of digital recordings will be at the court's discretion and the use of all digital recordings will be subject to any court order and any common law or statutory restriction on publication applicable to the particular proceeding.

120. Unless this section provides otherwise, all persons must execute an undertaking with the court to access the digital recordings. The undertaking prescribes the way in which the digital recording is to be used and the terms and conditions under which the digital recording is being provided. All digital recordings are subject to the prohibition set out in s. 136 of the *Courts of Justice Act*, which prohibits the broadcast, reproduction and dissemination of audio recordings. Any person who contravenes s. 136 is guilty of an offence and subject to a penalty, in accordance with s. 136(4) of the *Courts of Justice Act*.

### ***Exception, Small Claims Court Proceedings***

121. A person requesting the release of a digital recording of a Small Claims Court proceeding must: (i) obtain a court order authorizing access, (ii) complete the "Undertaking to the Court for Access to Digital Court Recordings", and (iii) pay the prescribed fee. Paragraphs 140 to 143 of this practice direction apply to these requests. The release of a digital recording of a settlement conference is subject to rule 13.03 (4) of the *Rules of the Small Claims Court*.

122. For the purposes of obtaining an order for the release of a digital recording of a Small Claims Court proceeding, the provisions in paragraphs 140 to 143 apply and all references to “judge” shall be read to include “deputy judge”.

### **Definitions**

123. For the purposes of this section, “judge” means: all judges and associate judges of the Superior Court of Justice.

### **Restrictions on Access to Digital Recordings from DRDs**

124. All copies or access to digital recordings are subject to any express order the presiding judge may make. The presiding judge may expand or restrict access to the digital recordings in any particular proceeding before him or her.

125. Unless a judge of the Superior Court of Justice orders otherwise, no digital recordings are available to anyone in the following civil proceedings:

- i. *in camera* proceedings or any portion of a proceeding that is heard *in camera*;
- ii. private or closed hearings;
- iii. proceedings subject to a statutory, common law or court ordered restriction on the provision of transcripts or digital recordings of the proceeding; and,
- iv. case and pretrial conferences; and,
- v. motions and applications (e.g. motions and applications under rule 37 and rule 38 of the *Rules of Civil Procedure*).

### **Access to Digital Recordings from DRDs**

#### **Counsel of Record**

126. A counsel of record in a proceeding may obtain the digital recordings of that proceeding upon completion of the “Undertaking of Counsel/Licensed Paralegal of Record” and payment of the prescribed fee.

127. Persons attending on behalf of counsel of record may obtain the digital recording if he or she: (i) provides a signed undertaking from counsel of record; (ii) signs the authorization included in the “Undertaking of Counsel/Licensed Paralegal of Record”; and (iii) pays the prescribed fee.

#### **Litigant or Accused**

128. A litigant or accused in a proceeding may obtain the digital recordings of that proceeding upon completion of the “Undertaking to the Court for Access to Digital Court Recordings” and payment of the prescribed fee.

#### **The Media**

129. Members of the media, identified on the [“Joint Courts’ List of Designated Media for Access to Digital Court Recordings”](#) accessible on the Superior Court of Justice website:

[www.ontariocourts.ca/en/media-list.htm](http://www.ontariocourts.ca/en/media-list.htm), may obtain the digital recordings upon completion of the “Undertaking to the Court for Access to Digital Court Recordings” and payment of the prescribed fee.

130. Members of the media who are not identified on the “[Joint Courts’ List of Designated Media for Access to Digital Court Recordings](#)” may make an application for an order in accordance with this section authorizing him or her to obtain access to the digital recordings of the proceeding.

131. The applicant may obtain the digital recordings if he or she: (i) obtains a court order authorizing access, (ii) completes “Undertaking to the Court for Access to Digital Court Recordings”, and (iii) pays the prescribed fee.

### **Members of the Public**

132. Members of the public may make an application for an order in accordance with this section authorizing him or her to obtain access to the digital recordings of the proceeding.

133. The applicant may obtain the digital recording if he or she: (i) obtains a court order authorizing access, (ii) completes the “Undertaking to the Court for Access to Digital Court Recordings”, and (iii) pays the prescribed fee.

### **Presiding Judge, Regional Senior Judge (RSJ) or Local Administrative Judge (LAJ)**

134. Copies or access to digital recordings shall be provided, upon request, to the presiding judge for the proceeding in which the digital recording was prepared.

135. Copies or access to digital recordings shall be provided, upon request, to the RSJ or LAJ (or his or her designate), for administrative purposes, in the absence of the presiding judge. The presiding judge will be notified that access or copies of the digital recording were made available to the RSJ or LAJ (or his or her designate).

136. Where a judge wishes to access a digital recording from a proceeding in which another judge presided, the judge shall obtain the consent of the presiding judge to access the digital recording, subject to paragraph 137 (below).

137. Where a judge determines that he or she can deal more effectively and efficiently with a case by accessing a digital recording from a previous proceeding before another judge, in the same case or a related case, the judge can access the digital recording by obtaining permission from the presiding judge, the RSJ, the LAJ, or his or her designate, *unless it is in the interests of justice to dispense with such permission*. In that event, access to the digital recording shall be provided to the judge upon request. After access is provided, the judge who has obtained access shall notify the judge who presided at the earlier proceeding, if that judge was not notified when the issues arose.

### **Court Services Division Staff and Transcriptionists**

138. Copies or access to digital recordings shall be provided upon request at no charge to the following:

- a. Court Services Division Staff who require access in the course of their employment responsibilities; and,
- b. Transcriptionists authorized by Regulation 158/03 under the *Evidence Act* who require access to transcribe court proceedings and who have signed an “Undertaking of Authorized Court Transcriptionist for Access to Audio Court Recordings”.

## **Named Administrative Bodies or Organizations**

139. Representatives of the bodies or organizations authorized pursuant to a Memorandum of Understanding with the Ministry of Attorney General to have access to digital audio recordings may obtain digital court recordings of court proceedings related directly to the matters under consideration by these bodies or organizations, upon completion of an Undertaking approved by the court and prescribed by the Memorandum of Understanding.

### ***Hearing of the Application***

140. Applications regarding access to the digital recording for any ongoing proceeding will be heard by the judge who is seized of the proceeding.

141. Applications shall be brought in accordance with the procedural rules that govern the court proceeding.

142. Applications regarding access to the digital recording for any other type of proceeding or for a proceeding that has concluded will be heard by the judge who presided at the hearing.

143. Where the judge who presided at the hearing is not available to hear the application or where no particular judge is associated with the proceeding, the RSJ or LAJ (or his or her delegate) may hear the application. Applicants should be aware that, especially for proceedings that have concluded or proceedings adjourned for a lengthy period of time, it may not always be possible to schedule an application before the appropriate judge on short notice because a judge may have many ongoing obligations in other proceedings.

144. The Undertaking of Counsel/Licensed Paralegal of Record to the Court for Access to Digital Court Recordings can be obtained as a Word or PDF document on the Superior Court of Justice Website.

145. The Undertaking to the Court for Access to Digital Court Recordings (for use by anyone other than a counsel or paralegal of record) can be obtained as a Word or PDF document on the Superior Court of Justice Website.

## **G. Electronic Devices in the Courtroom**

146. This section outlines the protocol on how electronic devices may be used in courtrooms of the Ontario Superior Court of Justice by counsel, licensed paralegals, law students and law clerks assisting counsel, self-represented litigants, and media or journalists. **Note:** This section does not apply to persons who require electronic devices (or services requiring the use of electronic devices) to accommodate a disability.

### ***Definitions***

147. Electronic Devices

For the purposes of this section, “electronic devices” include all forms of computers, laptops and personal electronic devices, such as cell phones and tablets.

148. Publicly Accessible Live Communications

For the purposes of this section, “publicly accessible live communications” are defined as the act of using an electronic device to transmit information from the courtroom to a publicly accessible medium (e.g. via Twitter or live blogs).

#### 149. Judge

For the purposes of this section, “judge” means:

- a. All judges, associate judges of the Superior Court of Justice, and
- b. judges of the Small Claims Court and deputy judges.

#### ***Prohibited Use of Electronic Devices by the Public***

150. Members of the public gallery observing the hearing are ***not permitted*** to use electronic devices in the courtroom unless the presiding judge orders otherwise.

#### ***Use of Electronic Devices in the Courtroom***

151. ***Unless the presiding judge orders otherwise***, the use of electronic devices in silent mode and in a discreet and unobtrusive manner is ***permitted*** in the courtroom by:

- a. counsel;
- b. paralegals who are licensed by the Law Society of Ontario;
- c. law students and law clerks assisting counsel during the proceeding;
- d. parties; and,
- e. media or journalists

subject to the following restrictions:

- i. The electronic device cannot interfere with courtroom decorum or otherwise interfere with the proper administration of justice.
- ii. The electronic device cannot interfere with the court recording equipment or other technology in the courtroom.
- iii. The electronic device cannot be used to send publicly accessible live communications where to do so would breach a restriction on publication made in the proceeding. **Note:** Anyone using an electronic device to transmit publicly accessible live communications from the courtroom has the responsibility to identify and comply with any publication bans or other restrictions that have been imposed either by statute or by court order.
- iv. The electronic device cannot be used to take photographs or videos unless the judge has granted permission to do so, in accordance with s. 136 of the *Courts of Justice Act*.
- v. Counsel, parties, the media and journalists must seek leave of the Court for permission to audio record a proceeding. Any audio recording, in the manner that has been approved by the Court, is for the sole purpose of supplementing or replacing handwritten notes.
- vi. Talking on electronic devices is not permitted in the courtroom.

#### ***Enforcement***

152. Anyone who uses an electronic device in a manner that is inconsistent with this section, any order of the presiding judge or that the presiding judge determines to be unacceptable may be:

- a. subject to prosecution for breaches of s. 136 of the *Courts of Justice Act*, a citation and prosecution for contempt of court, or prosecution for other offences;
- b. ordered to turn off the device;
- c. ordered to leave the device outside the courtroom;
- d. ordered to leave the courtroom; and/or
- e. ordered to abide by any other order the presiding judge may make.

## **H. Publication Bans**

### **Application of this Part**

153. This part applies to all applications or motions for discretionary publication bans. It does not apply to publication bans that are mandated by statute (i.e., those that either operate automatically by virtue of statute or that a statute provides are mandatory on request).

### **Formal Notice of Application/Motion Required**

154. Unless otherwise directed by the court, any person seeking a discretionary order restricting publication of any Superior Court proceeding must serve and file a notice of motion or application and any supporting materials, in accordance with the applicable procedural rules.

### **Notification of the Media**

155. Unless otherwise directed by the court, the person seeking the publication ban (the requesting party) must provide notice to the media of the motion using the procedure set out in this section.

156. The requesting party must complete and submit the “Notice of Request for Publication Ban” form available on the Superior Court of Justice website.

157. The notice period for submitting a Notice of Request for a Publication Ban is the same as the notice period under the applicable procedural rules for serving and filing a notice of motion.

158. The information on the Notice of Request for Publication Ban will be distributed electronically to members of the media who have subscribed to receive notice of all publication ban applications/motions in the Superior Court.

159. Any member of the media who wishes to receive copies of the Notices prepared and submitted under this section should submit a request through the Superior Court of Justice website.

160. The requesting party may be required to produce a copy of the Notice of Request for Publication Ban to the Court at the hearing of the application/motion in order to establish that notice was provided in accordance with this section.

## **I. Manner of Address for Associate Judges**

161. Associate judges should be addressed in English as “Your Honour” and in French as “Votre Honneur”.

## **J. Reserved Decisions**

162. If a judge or associate judge does not release a decision or endorsement within the timeframe provided by the judicial officer or as required under section 123 of the Courts of Justice Act, and if the parties have not been advised that an extension of time has been granted by the Regional Senior Judge or Chief Justice, counsel or parties should make reasonable inquiries with the appropriate court office. If, after reasonable inquiries, the decision is still not released and no extension or explanation has been provided, counsel or the party (if self-represented) are advised to write to the Regional Senior Judge.

Dated: June 1, 2023

---

Geoffrey B. Morawetz  
Chief Justice  
Ontario Superior Court of Justice

---

Date