

NOTICE TO THE PROFESSION
PROTOCOL FOR CIVIL MATTERS IN THE SUPERIOR COURT OF JUSTICE,
CENTRAL EAST REGION
(Effective May 19, 2020)

Introduction

This Protocol applies to civil matters in the Superior Court of Justice in the Central East Region, until further notice.

The Protocol is subject to change from time to time as may be necessary.

Civil Matters Adjourned

On March 15, 2020, all civil proceedings in the Superior Court of Justice that were scheduled to proceed between March 16 and June 1, 2020, were adjourned by Order of Chief Justice Geoffrey Morawetz. See, Notice to the Profession regarding Civil and Family Proceedings, posted on the website of the Superior Court of Justice (“the Notice”). On May 5, 2020, the adjournment was extended to July 6, 2020.

This Protocol addresses matters additional to the urgent and emergency matters referenced in the Notice.

Judicial Pre-Trials

Commencing the week of May 18, 2020, designated judges will be assigned to conduct civil pre-trials on re-booked dates, for those cases where pre-trials were previously scheduled to proceed between March 16 and July 10, 2020. The focus of these re-booked pre-trials will be settlement of the action, and judicial direction as to steps that may assist the parties in settling the action.

Civil pre-trials will *not* be conducted for the purpose of trial management.

Civil pre-trials will be available *only* in cases where all parties are represented by counsel.

Procedure for Booking a Judicial Pre-Trial

It will be the responsibility of counsel with carriage of the file to initiate a request for a pre-trial in accordance with this Protocol. The Court will *not* initiate scheduling of a pre-trial.

A request for a pre-trial on an action commenced at any location in the Central East Region shall be made to Ms. Arzu Kaya at the following email address: arzu.kaya@ontario.ca (“the pre-trial email address”). Counsel may use this email address *only* for communications related to the request for and scheduling of a pre-trial.

Counsel requesting a pre-trial must indicate the style of cause and court file number of the case; the court centre where the action was commenced; and the date and location of the pre-trial that was previously scheduled. Counsel requesting the pre-trial must also provide an explanation not to exceed two typed pages of the nature of the action, why a pre-trial would be of assistance, and what if any settlement discussions have taken place. Counsel for all other parties must be copied on the email request.

Counsel who opposes the holding of a pre-trial shall, within 48 hours of the date and time shown on the email requesting the pre-trial, submit to the pre-trial email address a responding email message not to exceed two typed pages. The responding email message must explain why a pre-trial should not be held. The responding email message must be copied to counsel for all other parties.

The requesting email and any responding email message will be submitted to a triage judge, who will determine whether a pre-trial will be scheduled. Counsel for all parties will be advised of the decision in writing.

Pre-Trial Memos

No pre-trial memos shall be filed unless and until counsel are notified that the request for a pre-trial has been granted.

Pre-trial memos may not exceed 15 pages. Any additional documents that counsel wish the pre-trial judge to review must be hyperlinked or made available by “Drop Box” or some other means that does not require sending by email.

Pre-trial memos must be delivered to the pre-trial email address no later than 12 noon on the Friday preceding the scheduled pre-trial.

Pre-trial memos that do not adhere to these requirements will not be accepted by the Court.

The Pre-Trial

Pre-trials will be held remotely by teleconference or videoconference. The responsibility for arranging the necessary technology is that of counsel who requested the pre-trial. The Court will *not* make the remote connection arrangements.

The remote connection information for the pre-trial must be provided to the Court through the pre-trial email address by 12 noon on the Friday preceding the scheduled pre-trial.

The only individuals who may be present for the pre-trial are counsel who have carriage of the file and the pre-trial judge.

No recording may be made of the pre-trial by any participant.

The pre-trial judge may wish to speak separately with counsel (caucus) and/or speak with counsel and their client. Counsel must ensure the ability of the pre-trial judge to do so.

Counsel are required to have their clients available so that immediate instructions can be sought about proposed terms of settlement. Counsel retained by a corporation such as an insurance company must certify to the presiding judge at the beginning of the pre-trial that they have available a representative of the corporation with the authority to settle.

At the conclusion of the pre-trial, if counsel require an Order (such as an Order dismissing the action), a draft Order can be provided in Word format through the pre-trial email address for forwarding to the pre-trial judge for electronic signature.

Rule 7 Motions (Court Approval for Settlements Involving Infants and Parties Under Disability)

Where judicial approval is required of a settlement involving an infant or other party under disability AND where there is urgency to ensure that funds can be accessed for the infant or party under disability, counsel may bring a motion in writing.

Until further notice, these motions should be submitted to the Court through the following generic email addresses:

Barrie Barrie.SCJ.courts@ontario.ca

Bracebridge Bracebridge.courts@ontario.ca

Cobourg Cobourg.courts@ontario.ca

Durham (Oshawa) Durham.SCJ.courts@ontario.ca

Lindsay Lindsay.courts@ontario.ca

Newmarket Newmarket.SCJ.courts@ontario.ca

Peterborough Peterborough.SCJ.courts@ontario.ca

The materials must comply with the requirements of Rule 7, except that any exhibits that would normally be attached to the affidavit filed in support of the motion should be hyperlinked or made available by “Drop Box” or some other means that does not require sending by email. The Court is unable to accept materials that are split into multiple emails.

Counsel shall submit with their motion materials a draft Judgment in Word format for electronic signature.

Civil Motions on Consent

The Court will hear, in writing, motions (including estate and guardianship matters) that are **on consent**, meaning where a party to an action or an Application has

served a Notice of Motion and the responding party is consenting to an Order granting the relief sought.

All consent motion materials must be filed by sending them electronically to the generic email addresses set out above under the heading Rule 7 Motions. The totality of the motion materials filed electronically **must not exceed 10 MB**. If the motion materials exceed this limit, or otherwise do not comply with this Protocol, the motion will not be heard.

The motion materials filed electronically must include: a Notice of Motion, an affidavit or affidavits in support, a Consent signed on behalf of all parties, email addresses for all parties, a draft order approved as to form and content by all parties, and a draft Order in Word format for judicial signature.

The moving party must also provide a written Undertaking that an original copy of the motion materials with proof of service and any fee payable will be filed with the Court filing office in the applicable location, within 45 days of the resumption of regular court operations.

The judiciary is working remotely and does not have access to motion materials previously filed in hard copy with the Court. If the motion materials filed electronically are duplicates of a “basket motion” previously filed with the Court in hard copy, the moving party must indicate in the draft Order that the “basket motion” previously filed is withdrawn.

Once a judge reviews the motion materials and determines that the relief sought will be granted, the judge will sign the draft Order using their electronic signature. A copy of the signed Order will be returned to the moving party via email. The moving party is responsible for providing a copy of the signed Order to all responding parties within 7 days of its receipt.

Contested Short Motions

Contested short motions (i.e. those ordinarily requiring one hour or less in total of oral argument) including estate and guardianship matters, will be heard *in writing*.

The moving party shall serve their motion materials, including a Notice of Motion indicating that the motion will be heard in writing on a date to be determined by

the Court, a factum not to exceed 15 typed pages, and a draft order in Word format on all other parties by email, and then file the materials with the Court electronically through the applicable generic email address set out above. The moving party's materials **may not exceed 35 MB**. If the materials exceed this limit, or otherwise do not comply with this protocol, the motion will not be heard. Casebooks should *not* be filed. Counsel should provide a list of cases with hyperlinks.

The moving party must also provide a written Undertaking that an original copy of the motion materials with proof of service *and any fee payable* will be filed with the Court filing office in the applicable location, within 45 days of the resumption of regular court operations.

Any responding party shall serve their motion materials, including a factum not to exceed 15 pages, on all other parties by email and then file the materials with the Court electronically through the applicable generic email address set out above, in accordance with the time set out in the Rules. The responding party's materials **may not exceed 35 MB**. If the materials exceed this limit, or otherwise do not comply with this protocol, they will not be accepted. Casebooks should *not* be filed. Counsel should provide a list of cases with hyperlinks.

The timelines set out in the Rules for the filing of motion materials apply.

The judiciary is working remotely and does *not* have access to any documents or materials previously filed with the Court. If the motion materials were previously filed with the Court in hard copy, they must be re-filed electronically. The moving party must indicate in the draft Order that the motion previously filed is withdrawn.

Short motions will be placed before a judge for hearing in writing on a roster basis. In the event the judge determines that brief oral argument is required, counsel will be notified and a date set for the hearing of argument by teleconference or videoconference.

Motions to Transfer an Action to the Central East Region from Another Region

Please note that these motions, whether on consent or contested, will not be heard until normal court operations resume, and should *not* be filed pending the resumption of normal court operations.

Urgent Estates Matters

The Court is able to deal with applications for appointment of estate trustees with a will, applications for estate trustees without a will, and resealing applications, only where there is urgency. Routine estates matters cannot be addressed at this time.

Examples of matters that MAY be considered urgent include applications where assets are needed to be accessed for support of dependents, or the sale of property, or both.

Until further notice, counsel or a self-represented party should submit materials for urgent estates motions through the following generic email addresses:

Barrie Barrie.SCJ.courts@ontario.ca

Bracebridge Bracebridge.courts@ontario.ca

Cobourg Cobourg.courts@ontario.ca

Durham (Oshawa) Durham.SCJ.courts@ontario.ca

Lindsay Lindsay.courts@ontario.ca

Newmarket Newmarket.SCJ.courts@ontario.ca

Peterborough Peterborough.SCJ.courts@ontario.ca

These email addresses may *not* be used for the submission of routine estates matters.

All materials submitted to the Court for an urgent estates matter **must not exceed 35 MB**. The Court is unable to accept materials that are split into multiple emails.

All attachments are to be hyperlinked or made available by “Drop Box” or some other means that does not require sending by email.

Materials submitted for an urgent estates matter will be reviewed by a judge. If the matter is determined to be urgent, the judge will issue an endorsement and sign any necessary orders to allow the application to be issued.

Other Civil Matters

It is not possible at this time for the Court to deal with civil matters other than those covered by the Notice and this Protocol. Counsel are asked to refrain from contacting trial coordinators or using the generic email addresses to make inquiries about non-urgent civil matters.

Dated May 19, 2020



Justice Michelle Fuerst
Regional Senior Judge,
Superior Court of Justice,
Central East Region