



COVID-19 & THE PRACTICE OF LAW

WEEKLY UPDATE

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COVID-19 - WEEKLY CHECK IN LOG #38.2 December 17, 2020 SPECIAL UPDATE FROM THE SCJ

Following our weekly call on December 16th, SCJ staff sent the following information that they wanted FOLA to share with our members that offers information about upcoming Notices and some important reminders.

1. Standard Document Naming Protocol - A notice to the profession will be issued in the near future (effective in January 2021) specifying that when documents are submitted to the court in electronic format, the document name must indicate the following information:

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

This will apply to documents filed in civil, Divisional Court, family and criminal cases. A decision regarding whether it will apply to Small Claims Court cases will be made shortly. Below are sample document names:

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

This simple, user-friendly document naming protocol will allow the judiciary to quickly and easily identify documents during virtual and in-person hearings.

2. Class actions

The Class Action Bench and Bar Liaison Committee made a proposal to RSJ Council to amend the *Consolidated Provincial Practice Direction* regarding class actions. The following amendments were approved and will be effective on specified date in January 2021:

- 1) **Costs outlines must be filed in certification and other motions** – Committee noted that it would be useful if counsel on both sides of a certification or other motion provided a costs outline at the outset of the motion in order to promote the reasonableness of costs submissions by ensuring the submissions were made before knowing the result or likely result of the motion.
- 2) **New Class Proceedings Judge’s Book of Authorities** - The proposed list of cases with links to the CanLii website would contain authorities frequently relied on in class proceedings. The list of cases would be made available electronically to each judge hearing motions in class proceedings, in addition to being made available publicly on the Superior Court website. The purpose of the Class Proceedings

Judges' Book of Authorities is to reduce the volume of case law included in parties' books of authorities.

- In preparing books of authorities, counsel need not include authorities contained in the Class Proceedings Judges' Book of Authorities. However, extracts from those authorities which counsel intend to refer to the Court should be included in the filed book of authorities.
- Where possible, books of authorities should be prepared jointly among the parties. Where counsel are unable to agree on a joint book of authorities, then there should be consultation between counsel to avoid any duplication of the authorities included in their respective books of authorities.

- 3) **Best Practices Guide for Class Proceedings will be posted on the SCJ Website** - The Class Actions Bench and Bar Liaison Committee drafted a *Best Practices Guide* to assist both counsel and judges by providing suggested topics and processes to be considered in connection with the case management of class actions. This guide will be posted on the SCJ website in the near future.

3. Assessment Hearings

The SCJ is working with CSD regarding resuming assessment hearings. We will keep you updated on developments.

4. Reminder about modernization amendments to the *Rules of Civil Procedure* and court forms coming into force on January 1, 2020

The SCJ Civil Working Group's proposed amendments to the *Rules of Civil Procedure* supporting e-filing, virtual hearings, and other modernizations were passed by the Civil Rules Committee in November and come into force on January 1, 2021.

5. SCJ Civil Working Group

A subcommittee of the CWG is developing a short guide for the judiciary and parties with best practices for conducting virtual and hybrid trials. This guide will contain hyperlinks to the materials already created on this topic. It is expected to be finished in late January.

6. CaseLines challenges - Assistance requested

One of the biggest obstacles to using CaseLines is the failure of parties to provide their email addresses to the court. The amendments to the *Rules of Civil Procedure* in force on January 1, 2021 require email addresses to be provided on backsheets. The requirement to provide email addresses is also set out in the [Supplementary Notice to the Profession and Litigants in Civil and Family Matters Including Electronic Filings and Document Sharing \(Caselines Pilot\)](#). Please remind your members of this requirement.

We have also heard from members of the bar that there is confusion regarding the difference between CaseLines and the Justice Services Online portal. Please clarify for your members that CaseLines is a web-based platform for parties to submit previously filed documents to the court before a scheduled hearing. It is not an electronic filing tool. Parties must file their documents with the court in accordance with the rules of court and notices to the profession before uploading them into CaseLines.

REMINDER - THERE WILL BE NO NEW UPDATES UNTIL JAN 6th
(Court Notices will still be sent to Presidents and librarians as they come in)