



FOLA'S WEEKLY COURTS UPDATE

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FOLA'S WEEKLY UPDATE November 23, 2022

SUPERIOR COURT OF JUSTICE UPDATES

No updates this week

ONTARIO COURT OF JUSTICE UPDATES:

OCJ CONSULTATIONS - FAMILY LAW: FOLA has been invited to a meeting to discuss the mode of appearance for Ontario Court of Justice family cases' proceedings on December 1st. Matters can be heard in-person, by virtual technology (video or telephone) or by a combination of in-person and virtual technology. In most cases, the judiciary can determine that an appearance can be heard by a different method than indicated in the scheduling notice. This [link](#) provides you with the notice issued by the court that includes the mode of proceedings chart: [Scheduling of Family Matters at the Ontario Court of Justice](#). FOLA is being asked to address the following:

- 1) From your perspective, what works well with the court's modes of appearances, including conferences, motions, focused hearings, and trials.
- 2) From your perspective, what does not work well with the court's modes of appearances, including conferences, motions, focused hearings, and trials?
- 3) From your perspective, how do litigants without technology engage in the court process?

If you would like to share your thoughts/comments in advance of our meeting, please do so by November 25th. You can send your comments to Katie at katie.robinette@fola.ca. Please put "OCJ - Family" in your subject line and indicate what Law Association you are a member of.

OCJ CONSULTATIONS - CRIMINAL LAW: FOLA has been invited to a meeting to discuss the mode of appearance for Ontario Court of Justice criminal proceedings on December 2nd. We are being asked to comment on the [Interim Guidelines re Mode of Appearance for Ontario Court of Justice Criminal Proceedings](#) and specifically address the following:

- 1) Any issues / problems with application of court's guidelines re mode of appearance for criminal proceedings (bail, case mgmt., pleas, trials)
- 2) Key obstacles to accommodating meaningful virtual and in-person proceedings under the current guidelines, including strategies for serving vulnerable accused persons who lack the resources to attend court by videoconference.
- 3) Do you have any recommendations regarding future guidelines or initiatives regarding mode of appearance in criminal proceedings?

If you would like to share your thoughts/comments in advance of our meeting, please do so by November 25th. You can send your comments to Katie at katie.robinette@fola.ca. Please put "OCJ - Criminal" in your subject line and indicate what Law Association you are a member of

OCJ JUDICIAL VACANCIES: Windsor (deadline Dec 1st) & Thunder Bay (deadline Dec 16th). [Learn more & apply.](#)

COURT OF APPEAL FOR ONTARIO UPDATES:

No updates this week

MINISTRY OF THE ATTORNEY GENERAL

On November 15, 2022, two regulations were filed to amend the court rules and forms for civil and Small Claims Court proceedings:

- O. Reg. 520/22, amending the Rules of Civil Procedure, posted on e-Laws at <https://www.ontario.ca/laws/regulation/r22520>
- O. Reg. 521/22, amending the Rules of the Small Claims Court, posted on e-Laws at <https://www.ontario.ca/laws/regulation/r22521>

These regulations introduce new unsworn certificates of service for lawyers (under the *Rules of Civil Procedure*) and lawyers and paralegals (under the *Rules of the Small Claims Court*).

Both regulations will come into force on **January 30, 2023**.

The Rules of Civil Procedure amendments:

- introduce two new unsworn lawyer's certificates of service (Form 16B.1 for general use and Form 74B.1 for probate applications) to prove that a document was either served by the lawyer or caused to be served by the lawyer;
- designate the lawyer's certificate of service, as well as electronic filing of certain enforcement documents, as an exception to the general rule that self-represented litigants may perform any step assigned to lawyers under the rules;
- update the name and terminology of the Form 16C certificate of service available to the Sheriff;
- update references to affidavits of service to clarify the applicable forms of proof of service; and
- prescribe revised versions of Forms 74.44, 74.49.2, 74.49.3, 74.50, 74.51, and 75.8 to update their existing references to affidavits of service.
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The new and revised forms prescribed under O. Reg. 520/22 are available on the [Ontario Court Forms - Rules of Civil Procedure website](#) and [Ontario Court Forms - Estate Forms website](#).

A summary of O. Reg. 520/22 is available on Ontario's Regulatory Registry at: [22-MAG013](#)

The Rules of the Small Claims Court amendments:

- introduce a new unsworn lawyer or paralegal's certificate of service (Form 8B) to prove that a document was either served by the lawyer or paralegal or caused to be served by the lawyer or paralegal;
- update existing provisions that refer to the use of affidavits of service;
- move the provision about proof of service within the service rule (Rule 8) for better organization;
- update references to affidavits of service to clarify the applicable forms of proof;

- prescribe a revised version of the Form 8A affidavit of service to better capture existing service methods and to add information about using a lawyer or paralegal's certificate of service as an alternative form of proof of service; and
- prescribe revised versions of Forms 7A, 9A, 10A, 15A, and 20H to update their existing references to affidavits of service and make housekeeping updates (e.g. updated links to Ontario.ca pages).

The new and revised forms prescribed under O. Reg. 521/22 are available on the [Ontario Court Forms - Rules of the Small Claims Court Forms website](#).

A summary of O. Reg. 521/22 is available on Ontario's Regulatory Registry at: [22-MAG014](#)

OTHER ONTARIO GOVERNMENT NEWS

REMINDER: ONTARIO'S NOT-FOR-PROFIT ACT: Ontario's Not-for-Profit Corporations Act (ONCA) took effect on October 19, 2021. Existing non-profits have 3 years from that date to bring their governing documents into compliance with the new law. Learn more on our [ONCA Resource Page](#).

RECOVERY SECRETARIAT

Questions about Courthouse operations related to health & safety can be directed to Samantha Poisson at MAGrecoverysecretariat@ontario.ca.

FOLA

- ❖ **GOOD NEWS RE: LiRN CLAWBACKS:** LiRN has said that, due to concerns raised from several Associations, they have extended their deadline for business cases related to excess fund balances to December 31st. Further, as a result of revising the deadline, fund balance recovery amounts, if any, will be deducted in equal amounts from the quarterly grants issued in quarters 2, 3, and 4.
- ❖ **LAW LIBRARY & ZOOM QUESTION:** Has any law library purchased a soundproof booth that could be used for zoom proceedings in the library to provide privacy? One or two Law Associations are looking into this and would love to chat with those of you who have. Please email Katie at katie.robinette@fola.ca if you have a soundproof booth.
- ❖ **FOLA PLENARY PICTURES:** We now have many of our Plenary pictures up on our website. You can view them [here](#). Post Plenary Report and videos coming soon!

LAW SOCIETY OF ONTARIO

- ❖ **BENCHER ELECTIONS:** Nominations are now open for the 2023 Bencher Elections! You can find more information on [FOLA's Bencher Elections webpage](#). Information as to how FOLA will be involved in these elections will be discussed at our Fall 2022 Plenary and will be posted on that page following the event. Also, over the coming weeks, FOLA will be adding resources for those considering running - so please do visit this page regularly! **Nominations are open until February 24th and voting will occur online in April 2023 with the results announced on May 1, 2023 after the tabulation of votes.**
- ❖ **VIRTUAL VERIFICATION:** After discussions with licensees and stakeholders, the Law Society will continue the temporary pandemic measure of allowing virtual verification without authentication until January 1, 2024. This extension will provide licensees more time to adjust to post-pandemic practice and to better understand their client identification and verification obligations.

Licensees who have questions about their client identification and verification obligations are encouraged to contact the Practice Management Helpline by calling 416-947-3315 and selecting the option to connect with the Helpline. Learn more on the [LSO website](#).

- ❖ **FAMILY LEGAL SERVICES PROVIDER LICENCE (FLSP):** A report proposing a FLSP Licence is going to Convocation for consideration on December 1st. The report is now available [online](#). This report comes following recent comments made by the SCJ and the OCJ. If you would like to watch the webcast of the meeting, a link will be available via [LSO.ca](#) the morning of December 1. The meeting will begin at 9 a.m.

The Motion to be voted on is: “If the FLSP licence is approved, approve the requirement that the Access to Justice Committee review the FLSP licence, within three years from its implementation, to determine the impact of the FLSP licence on access to justice, and report to Convocation.”

FOLA’s Family Law Chairs will be following Convocation and will discuss our next steps (if any) around this proposal.

- ❖ **CONSULTATION: PROFESSIONAL REGULATION COMMITTEE’S [MANDATORY SUCCESSION PLANNING REPORT](#):**
The Professional Regulation Committee’s consultation report: [Mandatory Succession Planning](#) was included as an information item to Convocation. As outlined in the report, the Committee has launched a consultation that will be open until November 30. In particular, the Committee would like to hear from sole practitioners and licensees in small private practice firms. FOLA will be preparing a Submission. If you would like to contribute your comments for consideration in our Submission, please send them to Katie at katie.robinette@folo.ca by November 4th. You can also submit your comments directly to the LSO. **Consultation open until November 30, 2022.** The consultation form is available [here](#). Those interested may respond to some or all of the questions.
- ❖ **CONSULTATION: EXPANDED REMEDIAL OUTCOMES FOR THE PROCEEDINGS AUTHORIZATION COMMITTEE (PAC):** The Professional Regulation Committee is seeking feedback on its recommendation to expand the remedial outcomes available to the Proceedings Authorization Committee (PAC) to include mandatory regulatory meetings and continuing education or remediation programs. Visit [LSO Website](#) for more information. **Deadline is January 15, 2023.**
- ❖ **REINSTATED REQUIREMENTS FOR VIRTUAL VERIFICATION OF CLIENT ID:** Effective January 1, 2023, lawyers and paralegals who choose to verify the identity of an individual using video conferencing technology or other forms of virtual communication are required to authenticate the individual’s government-issued photo identification. [Learn more here.](#)
- ❖ **AWARDS PART 1:** The Human Rights Award recognizes outstanding contributions to the advancement of human rights and/or the promotion of the rule of law provincially, nationally or internationally. The award is granted for devotion to the advancement of human rights and the rule of law over a long term or for a single outstanding act of service. The call for nominations deadline is December 31. Learn more on the [LSO website](#).
- ❖ **AWARDS PART 2:** Nominations for the 2023 Law Society Awards are open until December 16, 2022. Award criteria, the nomination process and the online nomination form are all available [here](#). Paralegals are eligible for the William J. Simpson Distinguished Paralegal Award. Awards for lawyers include the Law Society Medal and the Laura Legge Award. Both lawyers and paralegals are eligible for the J. Shirley Denison Award and the Lincoln Alexander Award. Nominations are encouraged for members from all communities, practice areas, firm sizes and regions across the province.
- ❖ **LAW SOCIETY EXTERNAL APPOINTMENTS – CALL FOR APPLICATIONS:** As part of its mandate, the Law Society recommends and makes appointments to a variety of boards, councils and committees. The Law Society is currently seeking applications from qualified lawyers and paralegals for the following:
 - Legal Aid Ontario Board of Directors
 - Federal Judicial Advisory Committee

The application deadline is December 22, 2022. More information is available on the [external appointments webpage](#).

❖ **CONVOCATION:** The next meeting of Convocation is scheduled to take place on December 1st.

THE OBA & COURT DELAYS

The OBA is collecting data on Court Delays through an online portal on their website. They are encouraging lawyers to complete their survey so that they can use that data to address our growing backlogs. Complete their survey [here](#).

EVENTS

WEBINAR FOR FOLA MEMBERS: A GUIDE TO ASSEMBLING, SHARING, AND SERVING LEGAL DOCUMENTS

Wednesday November 16th at 11:00 a.m. or Thursday November 17th at 4:00 p.m.

See why over 500 Canadian law firms and over 15,000 lawyers and staff practice secure file sharing and automated document assembly.

In this 30-minute session, you will hear how you can:

- Protect your clients and firm when sharing documents
- Serve parties electronically without an Affidavit of Service
- Easily generate court forms and letters in minutes
- Eliminate errors and reduce your exposure to risk
- Never miss a deadline or due date

[Learn more & register here.](#)

All attendees will be entered into a draw for a \$50 Amazon gift card and the winner announced at the end of the webinar.

THE ART OF EXAMINATIONS

Tuesday, November 22, 2022 - 4:00 - 5:30pm (virtual)

SPEAKER: John Russo, Pallett Valo LLP

Summary: Learn about examinations (rule review, re-examination, examination styles, etc.), examinations for discovery, and cross-examinations.

[Learn more & register](#)

THE 19TH EMPLOYMENT LAW SEMINAR

Thursday November 24th, 2022, from 2:00pm - 5:00pm

HLA Member Cost: \$135.60 (HST Included) / Non-Member Fee: \$163.85 (HST Included) / Articling Student Cost: \$101.70 (HST Included) / Law Staff Cost: \$90.40 (HST Included)

Join the HLA for the 19th Annual Employment Law Seminar held via Zoom. Topics include, a Legislative Update, Challenges with Hybrid or Remote Work, Intersection of Long-Term Disability Benefits and Employment Law - A Case Study, Case Law Update and Employment Contracts: Special Clauses, Pitfalls and Validity. This program is accredited for 2.5 hours of Substantive Content and 0.5 Hours of Professionalism Content.

[Click here](#) to fill out the form to register.

Please email form to: szordan@hamiltonlaw.on.ca

CIVIL LITIGATION: HOW TO CONDUCT MOTIONS

Tuesday, November 29, 2022 - 4:30 - 5:30pm (virtual)

SPEAKERS: Amandeep Sidhu and Melissa Wright (KMB Law LLP), with Honourable Justice Charles C. Chang (SCJ)

Summary: Everything you wanted to know about motions but were afraid to ask!

[Learn more & register](#)

THE 36TH ANNUAL JOINT INSURANCE SEMINAR

Thursday December 1st, 2022, from 9:00am - 2:00pm

HLA Member Cost: \$217.30 (HST Included) / Non-Member Cost: \$247.73 (HST Included) / Articling

Student and Law Staff Cost: \$121.69 (HST Included)

Join the HLA for the 36th Annual Joint Insurance Seminar. Topics include, Updates on the Courts, Top Tort Cases, Medical Malpractice: Take a Walk on the Wild Side, Partial Settlement Agreement; Pierringer meets Mary Carter, Epidemiology Update, Top AB Cases & LAT Update, A Primer: Biomechanical Engineering Analysis, Products Liability Update, Appraisals and Challenging Engineering Evidence. This program is accredited for 5.00 Hours of Substantive Content and up to 1 Hour may be claimed as Professionalism Hours.

[Click here](#) to fill out the form to register.

Please email form to: szordan@hamiltonlaw.on.ca

QUESTIONS/CONCERNS?

SCJ SMALL CLAIMS COURT WORKING GROUP: FOLA is requesting that practitioners (as well as Deputy Judges) take a moment to consider and comment on what works well and what could use improvement in our Small Claims Court so that constructive feedback can continue to flow to the Small Claims Court Working Group. Please send comments with "Small Claims" in the subject line to Katie at katie.robinette@fola.ca.

EVERYTHING ELSE

Law Association members are welcome to send any issues/concerns to FOLA by emailing Katie at katie.robinette@fola.ca. We will address them in as timely a manner as possible. Please also note that FOLA cannot assist in issues related to a specific case and the Courts will NOT provide clarification on any Notice to the Profession.