



FOLA'S MONTHLY SECTOR MEETING UPDATE

Fola.ca

SECTOR CHECK IN LOG #80

April 13, 2022

Summary

Invited Participants: Sector Calls

OBA, FOLA, LSO, LAO, the Advocates' Society, & OTLA

Superior Court of Justices in Ontario, Court of Appeal for Ontario, & Ontario Court of Justice

MAG -Department staff and the Recovery Secretariat

Issues discussed:

1. COURTS

❖ **SCJ UPDATE:** On March 17th, SCJ Chief Justice Morawetz announced the following:

- guidelines to determine the mode of proceeding in criminal, family, civil and Small Claims Court matters,
- virtual courtroom etiquette rules, and
- an announcement that the gowning requirement will resume on April 19, 2022. The guidelines and virtual courtroom etiquette rules will take effect on **April 19, 2022**.

The guidelines are available [here](#). The virtual courtroom etiquette rules are available [here](#). The gowning announcement is available [here](#).

❖ **SCJ: PROBATE INFORMATION FORM:** Probate applications emailed to the Court must now include the new [Information Form](#). See [section D\(7\)](#) (Email Processes for Estate Certificates (Probate)) of the Court's [Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media](#).

❖ **SCJ - CENTRAL WEST REGION NOTICE:** The SCJ (Central West Region) has published a new Notice to the Profession and Parties which takes effect April 19, 2022. The notice states that it "supersedes all previous region-specific Practice Directions and Notices to the Profession for the Central West Region". You can find the Notice [here](#).

❖ **SCJ CASELINES NOTICE REMINDER:** Paragraph 7 of Part C of the Superior Court of Justice's [Supplementary Notice to the Profession and Litigants in Civil and Family Matters Regarding the Caselines Pilot, E-Filing, and Fee Payment](#) has been amended to clarify when proof of service must be uploaded to CaseLines in civil matters. The paragraph now reads:
"Affidavits of Service - Upload affidavits of service to CaseLines in all family cases. In civil cases, upload affidavits of service only if service is contested or proof of service is necessary for determining the motion (e.g. motions where responding materials were not filed, solicitor removal motions, motions to add a party (defendant), etc.)".

❖ **SCJ: CLASS ACTIONS: UPDATED BEST PRACTICES GUIDE AND MODEL ORDERS:** The [Best Practices Guide for Class Actions in Ontario](#), available on the SCJ website, has now been updated to include:

- [Information to be filed in advance of Motions](#)
- [Use of Compendium](#)
- [Case Management of Class Actions](#)
- [Case Management Post-Certification](#)

Two new model orders for class actions (litigation funding and fee approval) are also available on the [SCJ website](#).

- ❖ **COURT OF APPEAL FOR ONTARIO:** The CAO has begun hearing appeals and panel motions in person. Inmate appeals will also be returning to an in-person format, but until further notice, inmates will continue to appear by video conference. Single motions, purge court, and status court will continue to be heard remotely until further notice. Parties will have the option of attending in-person appeals and panel motions remotely using a Zoom link, which will be provided to them.

Until further notice, the Court will continue to encourage physical distancing. In-person attendance is ordinarily limited to individuals making oral submissions and a maximum of two additional individuals per party. All other individuals, including members of the public and media, will be able to observe remotely by Zoom.

Given the return to in-person hearings, the Court is also revising the standard wording for the surrender condition in release orders pending appeal.

For more information about these changes, please review the Court's Protocol for In-Person Hearings During the COVID-10 Pandemic at this [link](#) and the Court's Consolidated Practice Direction Regarding Proceedings During the COVID-19 Pandemic at this [link](#). Please also ensure to use the Court's updated Counsel Slip and Hearing Information Form at this [link](#).

- ❖ **OCJ - CRIMINAL:** [Interim Guidelines re Mode of Appearance for Ontario Court of Justice Criminal Proceedings](#). In light of the recent easing of COVID-19 public health measures, including lifting capacity limits in public spaces such as courthouses, the Ontario Court of Justice has issued interim guidelines for modes of appearance in criminal proceedings, which are now in effect. See [Notice to the Public and to the Profession - Interim Guidelines re Mode of Appearance for Ontario Court of Justice Criminal Proceedings](#).
- ❖ **OCJ - FAMILY:** [Scheduling of Family Matters at the Ontario Court of Justice](#) (Posted March 18).
- ❖ **OPENING OF THE COURTS - SAVE THE DATE:** the 2022 Opening of the Courts of Ontario Ceremony will be held on Monday, October 3, 2022 at 3:30 pm.
- ❖ **REMINDER - 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 to Jane Robertson (FOLA Treasurer) at jajadiver@bellnet.ca.
- ❖ **NOTICE:** To help reduce the number of emails in your inbox, FOLA will now ONLY be emailing Court Updates on Wednesdays. These weekly Court Updates will contain all Notices from the Courts over the past week.
- ❖ **OCJ VACANCY:** MAG is currently accepting applications for an OCJ bilingual judicial position in Toronto. The deadline to apply is April May 2nd. Learn more and apply [here](#).
- ❖ **SCC VACANCY:** On April 4, 2022, the Prime Minister of Canada opened the process to select the next justice of the Supreme Court of Canada, and fill the vacancy created by the retirement of the Honourable Michael J. Moldaver on September 1, 2022. The deadline to apply is May 13th. You can find out more and apply [here](#).

2. MINISTRY OF THE ATTORNEY GENERAL (MAG)

- ❖ **FEES FOR COURT TRANSCRIPTS:** A new court transcript fee schedule will come into effect on April 1, 2022. The consolidated amendment will appear on e-Laws shortly. In the meantime, the amending regulation, Ontario Regulation 145/22: Fees for Court Transcripts can be found [here](#).

The changes align with the evolving transcript production model in Ontario, including current court practice directions and new court rules relating to electronic transcripts. MAG anticipates ordering parties will experience efficiencies under the new model, particularly where one electronic transcript is required for filing with the court and can be shared amongst the parties. Overall, MAG's goal is to balance the interests of ordering parties while compensating authorized court transcriptionists (ACTs) for the important role they perform in the justice system.

MAG's [Questions and Answers document](#) provides additional details regarding the implementation of the new transcript fee schedule. If you have any questions, contact Court Reporting Services, Court Services Division at CourtReportingServices@Ontario.ca.

- ❖ **RULES FOR CIVIL PROCEDURE:** On March 23, 2022, a regulation was filed to amend the court rules and forms for civil proceedings: O. Reg. 224/22, amending the *Rules of Civil Procedure*. The regulation is posted on e-Law [here](#).

The regulation addresses the rules regarding the deadlines for parties to submit their confirmation of motion and confirmation of application forms (Forms 37B and 38B), as well as the deadline to upload materials to CaseLines.

The regulation, which amends three rules and revises two forms, will come into force on **April 23, 2022**.

The rule amendments:

- require a moving party to confirm the motion 5 days before the hearing instead of 3, and permit the responding party to confirm the motion (if the moving party has not done so) 4 days before the motion instead of 2 (rule 37.10.1);
- require an applicant to confirm the application 5 days before the hearing instead of 3 (rule 38.09.1);
- separate the CaseLines deadline for motions and applications from the confirmation form deadlines (rule 4.05.3);
- remove references to e-mail submission of confirmation forms being possible only if available in the court office, since e-mail is available in every civil court office (rules 37.10.1 and 38.09.1); and
- prescribe revised versions of the Form 37B Confirmation of Motion and Form 38B Confirmation of Application, to
 - emphasize the duty to update the court if circumstances change after confirmation,
 - add reference to the abandonment procedure, and
 - require a list of materials for applications (as is already required for motions).

The revised Forms 37B and 38B are available on the [Ontario Court Forms Website](#) and a summary of the regulation is available on Ontario's Regulatory Registry [here](#).

- ❖ **JUSTICE SERVICES ONLINE COURT CASE SEARCH TOOL:** The Ministry of the Attorney General has advised FOLA that the Justice Services Online (JSO) Court Case Search Tool has been expanded to include certain Ontario Court of Justice criminal court case information, effective March 21, 2022.

The expansion of the Tool permits users to search case information about active criminal cases in the OCJ (excluding youth cases) and SCJ (youth cases are initialized). Active cases are those where:

- A future court date has been scheduled;
- There has been a court date within the past seven (7) days; or
- A bench warrant has been issued within the past five (5) years.

Both active and completed SCJ civil cases continue to be available in the Tool to assist with the completion of remote litigation searches.

For your general information, searches may be conducted by entering either the last or business name of the accused or litigant, or the case number, in full or in part (it is not required that both be entered). A list of up to fifty cases will then be generated. To narrow a search, users may enter the court location or first name of the accused or litigant, or for OCJ searches only, the accused person's middle initial or year of birth. The case information available through the Tool includes:

- Case title;
- Case number;
- Court location;
- Next event/appearance type and date, if scheduled;
- Whether a publication ban has been ordered in the case;
- OCJ cases only: Date on which the Information was sworn;
- SCJ criminal cases only: Name of the legal representative and the date the accused was committed to stand trial in the SCJ; and
- SCJ civil cases only: Name of the legal representative, claim amount, date the case was opened and the most recent order type/date.

Users may still need to contact the court location where the matter was, or is, being heard if they are unable to find the information they are seeking, or they are seeking information about a case that is excluded from the Tool. Excluded cases include youth cases in the OCJ, older criminal cases in the OCJ and SCJ, and cases subject to a statutory or court-ordered access restriction. The Tool is available at <https://www.ontario.ca/page/search-court-cases-online>

Any questions about this initiative may be directed to Vaia Pappas, Director, Operational Support Branch at 416-326-2514 or 'Pappas, Vaia (MAG)' Vaia.Pappas@ontario.ca.

3. MINISTRY OF FINANCE

- ❖ **NON-RESIDENT SPECULATION TAX (NRST):** Effective March 30, 2022, the Non-Resident Speculation Tax (NRST) rate was increased to 20 per cent and expanded provincewide. As a result, the NRST may apply on the purchase or acquisition of an interest in residential property located anywhere in Ontario by individuals who are foreign nationals (individuals who are not Canadian citizens or permanent residents of Canada) or by foreign corporations or taxable trustees. Learn more [here](#). The NRST applies in addition to the general Land Transfer Tax (LTT) in Ontario.

4. RECOVERY SECRETARIAT

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

5. LSO

- ❖ **DEPOSIT INSURANCE PROTECTION RULES:** The Government of Canada has made important changes to the rules governing deposit insurance protection for funds held in trust under the [Canada Deposit Insurance Corporation Act](#). Effective April 30, the Canada Deposit Insurance Corporation (CDIC) requires that "professional trustees," including lawyers and paralegals, who hold deposits in trust in their professional capacity at a CDIC member institution meet new requirements. For more information

about these new requirements, review the CDIC's [For Professional Trustees](#) page and its guide, [What You Need to Know - Professional Trustees](#).

❖ **CONVOCAATION:** The LSO's next Convocation will be on April 28th starting at 9am. You can watch live via webcast [here](#) (link to be uploaded to the website on that page the morning of the 24th).

6. FEDERAL - FAMILY

❖ **DIVORCE ACT - NEW RESOURCES:** Justice Canada has announced the following new resources available on the [Justice Canada website](#) to help you understand the 2021 amendments to the Divorce Act:

New courses (free and accredited):

- Parenting under the new Divorce Act

This course provides an overview of the amendments to the Divorce Act related to parenting including the new parenting terminology and best interests of the child criteria. It is intended to help legal advisers understand the child-focused approach of the Divorce Act's parenting provisions and the impact of family violence on parenting arrangements.

- Relocation under the Divorce Act

This course is designed to increase legal advisers' knowledge and understanding of the new change of residence and relocation framework in the Divorce Act. It focuses on the procedures people must follow in relation to moves and the principles a court will apply in making a decision about a child's relocation.

- Family dispute resolution and duties for parties to a proceeding and legal advisers under the new Divorce Act

This online course focuses on family dispute resolution and the new duties for parties and legal advisers under the Divorce Act. This course will also address the amendments to the Act that encourage parties to use family dispute resolution processes and family justice services.

New resource for parents on relocation

Justice Canada now also has an [Infographic](#) explaining the new process where a parent proposes to move with a child.

7. FOLA

❖ **CALL FOR COMMENT: REAL ESTATE:** On March 30th, the Minister of Municipal Affairs & Housing introduced the [More Homes for Everyone Act, 2022](#). There are a number of existing Acts affected and the government is currently seeking input (specifics are listed below and more can be found on our website under [Current Consultations here](#)). FOLA will be making a submission in response to the More Homes for Everyone Act and if you would like to offer your comments to us for consideration in our Submission, please send them to Katie at katie.robinette@fola.ca by April 20th.

❖ **FAMILY LAW - COURT REOPENINGS:** In response to Law Association member feedback, the Courts have offered the following comments related to the resumption of in-person matters:
"There were several competing factors which we had to take into consideration, including (but not limited to):

- The COVID-19-induced delays that we are facing with family conferences in many SCJ locations;
- The reduced number of family conferences that most judges can do each day when they are hearing matters virtually;
- The dramatically reduced supports that have been available to judges hearing virtual family conferences, especially at UFC locations, including lack of timely access to duty counsel and on-site mediation services;
- In some cases, reduced party buy-in at virtual conferences.

It was a matter of systemic efficiency, both in terms of the numbers of events that could be held and maximizing the likelihood of resolutions - which is key to the functioning of family operations."

If you would like to participate in a meeting with Court staff to discuss this issue further, please let Katie know at katie.robinette@fola.ca. FOLA can arrange a group meeting. Please include your concerns in your email.

- ❖ **NEW MEMBER REWARD - DESTINATION CPD:** Destination CPD is a legal conference and travel company in one. They plan informative legal educational programs with Canadian content, and networking and social events - in exotic locations. Their next conference/trip is to Las Vegas and Law Association members get 10% off! Learn more & register [here](#).
- ❖ **REPEAT FOLA NOTICE:** To help reduce the number of emails in your inbox, FOLA will now ONLY be emailing Court Updates on Wednesdays. These weekly Court Updates will contain all Notices from the Courts over the past week.
- ❖ **FOLA PLENARY:** FOLA will be hosting our Spring Plenary on May 12th via Zoom. The Agenda is still being developed but more information is available [here](#).

8. PROPOSED REGULATIONS

REAL ESTATE

- ❖ **[Proposed Regulations to Better Inform and Protect Purchasers of Condominium Homes:](#)** The Ministry of Government and Consumer Services is consulting on proposed regulations to address condo cancellations. If you would like to send your concerns/comments to FOLA for consideration in our Submission, please send them to Katie at katie.robinette@fola.ca by April 15th. If you'd like to comment directly to MGCS, comments due by April 22, 2022 and can be done via the online submission process [here](#).
- ❖ **[Proposed Development Charges Act changes \(the proposed More Homes for Everyone Act, 2022\)](#)**
Comments Due: April 29, 2022
- ❖ **[Proposed Planning Act changes \(the proposed More Homes for Everyone Act, 2022\)](#)**
Comments Due: April 29, 2022
- ❖ **[Amendments to the New Home Construction Licensing Act, 2017 to protect purchasers of new homes](#)**
The Ministry of Government and Consumer Services is proposing amendments to the New Home Construction Licensing Act, 2017 (Licensing Act) to help address the issue of inappropriate or unethical behaviour by vendors. The proposed amendments would also enhance the Home Construction Regulatory Authority's (HCRA's) enforcement powers, among other things.
Comments Due: April 29, 2022
- ❖ **[Amendments to the Ontario New Home Warranties Plan Act](#)**
The Ministry of Government and Consumer Services is proposing amendments to the Ontario New Home Warranties Plan Act (Warranties Act).
Comments Due: April 29, 2022

CRIMINAL LAW (FEDERAL)

- ❖ **[Bill C-5, amending the Criminal Code and the Controlled Drugs and Substances Act](#)** has been sent to Committee. To comment on the legislation and/or appear as a witness, visit [here](#).

QUESTIONS/CONCERNS?

Law Association members are welcome to send any issues/concerns related to the practice of law caused by the COVID-19 epidemic to FOLA at katie.robinette@fola.ca and we will continue to 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.