



2022-2023
EXECUTIVE

July 20, 2022

David Corbett
Deputy Attorney General
Ministry of the Attorney General
McMurtry-Scott Building
720 Bay Street
Toronto, ON M7A 2S9

Via Email (david.corbett2@ontario.ca)

Beverly Leonard
Assistant Deputy Attorney General
Court Services Division
Ministry of the Attorney General
McMurtry-Scott Building
720 Bay Street
Toronto, ON M7A 2S9

Via Email (beverly.leonard@ontario.ca)

Dear Mr. Corbett and Ms. Leonard:

Re: Court Services Division – Document Filing and Issuance Issues

The Federation of Ontario Law Associations (FOLA) is the voice of lawyers who practice in Ontario's 46 county and district law associations. I write today to convey the concerns and frustrations of these front-line lawyers with various Court Services Division processes, staffing levels, and the ongoing and widespread rejection of court filings for what often appear to be illegitimate, irregular, and even trivial reasons.

FOLA has received numerous complaints and has read of others on social media. These concerns have created significant delays and costs to parties. This is becoming an access to justice issue by needlessly driving up the time and expense of litigation, and even prejudicing parties before the court. In at least one case we are aware of, the needless rejection of a document caused a lawyer to miss an appeal deadline for their client. In others, counsel have been asked to resubmit documents for trivial and non-substantive issues, often after lengthy delays waiting for a reply.

The issues we have heard about run the gamut from filings that are rejected for not having backsheets, to amendments to pleadings being rejected for underscoring of words, to waiting months for routine or even consent orders to be issued to parties, to days-long waits for documents to be issued electronically (what used to be an over-

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the-counter, same-day transaction). We have also heard from numerous counsel about difficulties making contact with court staff to address issues, misfiled documents, and long-delayed or missing materials. Inconsistency between court locations is also needlessly driving up costs.

Lawyers are already dealing with increased administration as a result of the additional steps needed to prepare electronic documents that comply with the rules of court and practice directions (i.e., bookmarking, hyperlinking to pinpoint citations, uploading text-searchable materials). Many of these tasks can no longer be performed by support staff, further driving up costs.

Having documents needlessly rejected, delayed once they are filed, and poor communication from staff is a disservice that creates additional cost and uncertainty for the end user. It is also contrary to the efficiency objectives of the rules of court. Moreover, the scrutiny of documents by Court Services to this degree is unhelpful. This is an exercise best left to the bench and the parties in an adversarial proceeding, who already will review the materials in detail, and where costs can be used to redress serious omissions or flaws.

We have enclosed, with this letter, a sample of some of the issues we are hearing from lawyers, in their own words. We believe it is mission-critical to modernizing Ontario's justice system that court staff meet established and mandatory performance service standards.

We want to acknowledge your letter of July 13, 2022, describing some of the system improvements being put in place. This is a positive development, and we appreciate the ongoing attention to these issues. Obviously, the technology use in our courts has leapfrogged 20 years in just over 2 years, and there will be growing pains. That said, we encourage you to continue to remain in close communication with the bar on these issues. We also urge you to ensure that Court Services is sufficiently staffed, and that staff have clear training and direction so that there is consistency and these new systems and protocols do not themselves become counterproductive and costly burdens.

We would be pleased to convene a meeting to discuss some of these issues in greater detail. It is always FOLA's goal to be a solution-oriented partner in the justice sector. Should you or your office wish to contact me, I can be reached directly at 807-861-3684 or info@douglasjudson.ca.

Sincerely,

Douglas W. Judson
Chair

Encl. List of Examples of Court Services Issues Reported by Law Association Members

C. Hon. Douglas Downey, Attorney General of Ontario, *Via Email* (doug.downey@pc.ola.org);

Timothy Abel, Manager of Stakeholder Relations, Caucus Liaison, and Appointments Advisor, Office of the Attorney General of Ontario, *Via Email* (timothy.abel@ontario.ca)