



FOLA’s Southwest Regional Report for November 2021 Plenary

As we all appreciate, the Covid-19 pandemic persists and the government has marched on, using this unprecedented turn of events to modernize the Judicial system.

Our monthly teleconference meetings continue with general reports from Association Presidents that are still mostly positive. However, a few significant concerns have been flagged. In particular, criminal matters continue to dominate the courtroom landscape taking priority over family and civil matters. Civil litigation lawyers are well delayed in the ability to get to trial. The Courts are all backlogged, with some worse than others. In addition, staffing issues within the court system is often problematic. The pandemic saw many retirements with new staff who are inexperienced assuming significant responsibilities. Pandemic burn-out is real and job dissatisfaction is a hurdle. Departing staff leave significant vacancies to fill. On a rare occasion, it has been shared, that a court has had to adjourn all matters due to a lack of court staff. I have not confirmed this claim but if true, this is significant, as we can all appreciate the impact(s).

The remote court system has seen a real shift by all with a new found respect and appreciation for the help provided by court staff. But this insight does not immediately fix the problem.

Many lawyers identify a need for enhanced Judicial resources: more Judges to be appointed. In a day moving past bricks and mortar to online court attendances this presents as a realistic goal but increased staff supports are also required. Talk of specialized Judicial pretrials with Justices focusing on key areas of the law to permit enhanced negotiated efforts and trial avoidance is a request from the practicing Bar, especially in family law and civil litigation. Time will tell where the dust will settle on these lofty concepts but certainly above my paygrade as a volunteer here to serve the South-West Region. That is my attempt at humour.

In the meanwhile, as reported at the last Plenary, remote court attendances continue as the new norm. Zoom is the utilized format used for everything from bail hearings, to case management/remand courts to pretrials to actual virtual trials. The zoom platform applies to both the Ontario Court of Justice and the Superior Court of Justice.

Trials are also completed in hybrid fashion (with a combination of remote and in-person attendances) and also full in person/in the courtroom trials with masks and multi-layers of plexiglass. Jury trials are actively available once more.



I reported to you, in May, that:

One repeated complaint, however, is that: “the only consistency is inconsistency!”

Unfortunately, this is still a worthy point of discussion. Staffing issues and Judicial resource limitations combined with the introduction of still new technology has led to differences of approaches. I am told that even the implementation of case lines is not uniform across the region. We also continue to hear that there is a lack of uniformity as to procedures in the courtroom and in the court offices. There continues to be a lack of uniformity of application of remote attendance expectations from the Bench, as well. One continued example, is the use of remote/virtual/substitute execution of court documents (deemed signed). Some Judges and Justice of the Peace do and others do not and when and why and how it should be done varies even within local association courtrooms, appreciating Judicial discretion.

Now it is time for me to conclude this position of South-West Regional Representative. My by-law allotted time has run out. The Plenary will see the election of my replacement and I happily welcome another to enjoy this worthwhile position of voluntary service.

Thank you again for allowing me to serve as the South-West FOLA Representative for the past 5 years. It has been an honour being the voice of the practicing South-West Bar and I wish you all good health, as this pandemic marches on.

Yours faithfully in FOLA service,

Terry L. Brandon
FOLA Southwest Regional Representative & Legal Aid Committee Chair

*** Southwest Region Law Associations and Presidents**

Elgin Law Association, Catherine Papineau
Essex Law Association, Jack Sullens
Huron Law Association, Sarah Wisking
Kent Law Association, Kenneth Marley
Lambton Law Association, Amanda Gaw
Middlesex Law Association, Karen Hulan
Oxford Law Association, Michellene Beauchamp
Perth Law Association, Cynthia Weeks