



COVID-19 & THE PRACTICE OF LAW

WEEKLY UPDATE

Fola.ca

COVID-19 - WEEKLY CHECK IN LOG #60

June 2, 2021

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 - Political, Department staff, and the Recovery Secretariat

Issues discussed:

1. COURTS

- ❖ The SCJ (Toronto Region) has adopted a new Estates List Confirmation form. It replaces two forms:
 - Confirmation: Scheduling Appointment
 - Confirmation: Hearing Matter

Users can access it at paragraph 35 of the [Consolidated Practice Direction Concerning the Estates List in the Toronto Region](#).

- ❖ Central East Region - update to civil notice. Parties must (1) file pre-trial memos through an online portal and (2) send a copy to the pre-trial email address. See paragraph 43 of the [Region's civil notice](#).
- ❖ Updated link in At-A-Glance Guide to Virtual Hearings: The SCJ's [At-A-Glance Guide to Virtual Hearings](#) now links to the second edition of the Best Practices for Remote Hearings document.
- ❖ Small Claims Court update: An order of Associate Chief Justice McWatt further adjourning certain Small Claims Court proceedings to July 5, 2021 is now on the [SCJ website](#).
- ❖ Updates to the Small Claims Court Notice to Profession will be posted within the next week, including updated direction on how to seek a motion hearing. Moving parties will no longer be asked to contact the court to seek a hearing date. They will file materials first, then wait for court staff to contact them with a hearing date; The SCC E-Filing Service Portal is once again accepting various plaintiff-side documents in undefended claims. These documents will be listed in the notice. For the past couple of months, this portal was only accepting plaintiff's claims (and amended plaintiff's claims); More information about the process for scheduling different hearings will be provided in the Notice.
- ❖ Expect a new Ottawa Family Law Notice (regarding child protection) later this week from the SCJ.

2. MAG

- ❖ **PRE-AUTHORIZED PAYMENTS:** On June 1st, MAG announced improvements to pre-authorized payment for Justice Services Online (JSO) that will make payment processing more convenient for filers and (ideally) provide a better online experience. You can read that announcement [here](#).
- ❖ MAG is seeking applications from qualified lawyers to serve on family law legal panels across the province. Each year, Ontario's Ministry of Children, Community and Social Services counsel and the panel of lawyers appear in courts across the province in response to Motions to Change and in related proceedings with respect to assignments made by support recipients. Deadline to apply is June 11th. More information can be found [here](#).
- ❖ On June 1st, Court Services Division issued a Notice to the Legal Profession & Public re: Inclusive Language and Procedures in Courts. You can read that [here](#).

- ❖ **SATELLITE COURTS/FLY INS:** MAG is finalizing details on the re-opening of Satellite/Fly-in locations (Hearst and Kapuskasing). Target re-opening date is June 14th.
- ❖ **RULES OF CIVIL PROCEDURE:** On May 28, 2021, a regulation was filed to amend court rules and forms for civil proceedings in the Superior Court of Justice: [O. Reg. 383/21](#), amending the Rules of Civil Procedure. The regulation makes administrative amendments to align the Rules of Civil Procedure with amendments to the Courts of Justice Act that were introduced to replace references to “case management master” with references to “associate judge”. The legislative amendments were made through the Accelerating Access to Justice Act, 2021, Schedule 3. These amendments will come into force in tandem with the in-force date for the Courts of Justice Act amendments, on a date to be proclaimed by the Lieutenant Governor.

The regulation also makes amendments to remove the option of providing a confirmation of application or motion form to the registrar by fax, which will come into force on July 1, 2021.

Amendments to the estate rules achieve consistency in the use of the term “certificate of appointment of estate trustee” and make consequential amendments to recent rule changes establishing a simplified probate process for small estates (O. Reg. 111/21). These amendments are effective May 28, 2021. The regulation amends 59 rules and 14 forms. A summary of the regulation is available on Ontario’s Regulatory Registry at: [21-MAG016](#)

3. RECOVERY SECRETARIAT

- ❖ **REMINDER:** Questions about Courthouse operations during COVID-19 can be directed to Samantha Poisson at MAGrecoverysecretariat@ontario.ca.

4. FOLA

- ❖ **SUBMISSIONS & CONSULTATIONS:**

EXPERT EVIDENCE - CIVIL RULES: The Chair of the Expert Evidence Subcommittee of the Civil Rules Committee is requesting input from FOLA on expert reports in civil matters. FOLA is in the process of consulting members and are requesting comments by June 7th. You can learn more [here](#).

REBBA PHASE 2 REGULATIONS: The Ministry of Government and Consumer Services has launched the second phase of regulation development (Phase 2). During this phase, the ministry is developing regulatory proposals to: a) Update the Code of Ethics regulation (the Code) under REBBA; b) Transfer procedural and technical requirements from the Code to other regulations; c) Enhance disclosure requirements and other registrant obligations to better protect consumers of real estate services and increase consumer choice; and d) Update RECO’s regulatory powers and tools, including revising the procedures of RECO’s discipline committee. Comments are due by July 2, 2021. More information can be found [here](#).

LAO - LASA RULES CON’T: FOLA continues to receive Association submissions made to Legal Aid Ontario re: Draft Rules under the Legal Aid Services Act. This week, FOLA was part of a joint Submission re: Criminal Law and the Draft Rules. A reminder that all Submissions can be found [here](#).

- ❖ **BENCHER ELECTIONS 2023:** FOLA has received some communications from Law Associations regarding the 2023 Bencher elections and we are posting them to our website on our “[In the News](#)” page. To date, we have received a letter from the Peel Law Association and a Statement from the Carleton County Law Association – both related to concerns around the “#FullStop” or “StopGroup” (formerly the StopSOP slate) and their comments around diversity, equity, and inclusion. If other Associations have produced something and send it to FOLA, we will post accordingly – regardless of any side they align themselves with.

NOTE: As with past Bencher elections, FOLA does not - at this time - anticipate endorsing specific candidates. We do, however, encourage our members to vote and we feel it is part of our mandate to share relevant information. We noted that the 2019 Bencher election attracted less than a 30% turnout, one of the lowest (if not the lowest) ever. We do, from time to time, advocate for specific issues in advance of elections and seek out where candidates stand on those leading up to elections. During FOLA’s Spring Plenary, Chair William Woodward, Vice Chair Nathan Baker, and LiRN Chair Johanne Blenkin referenced the 2021 cuts to the LiRN budget, which cuts were passed down to the local law associations. As one of three shareholders in LiRN,

FOLA takes the proper funding of local law libraries very seriously and we feel we have an obligation to take a position where we see that funding threatened.

- ❖ **FOLA/CASELINES TRAINING RECORDING:** Earlier this week, FOLA received a copy of a recording from the May 26th live demo by CaseLines titled "An introduction to the Evidence Sharing Platform". You can view that [here](#). Also at that link is a PDF of the presentation deck and a Q&A doc.
- ❖ **SMALL CLAIMS COURT WORKING GROUP - COMMENTS/SUGGESTIONS WELCOME:** Jane Robertson is FOLA's representative on the Small Claims Court Working Group, whose mandate is to assist with formulating revisions to forms and process given the impact of the Covid-19 epidemic on the operations of the Small Claims Court. Jane is welcoming feedback and insight from the perspective of both the practicing bar and the per diem Deputy Judges who practice and preside in the Small Claims Court, Superior Court of Justice, Ontario. Feel free to contact her with suggestions and/or queries that you wish to come to the attention of the Small Claims Court Working Group. Please be advised that while she may not be able to answer your questions directly, she will bring your queries and comments to the attention of the working group. Jane can be reached by email at: jajadiver@bellnet.ca

5. LAWPRO

- ❖ **FREE CPD:** LAWPRO is offering two free CPD events scheduled in June, being delivered in partnership with the Toronto Lawyers Association. Both are eligible for Law Society professionalism content, and LAWPRO's Risk Management Credit. The links below take you straight to the registration page.
 - i. On June 15th, [Continuing to Manage - Mental Health, Resilience and Resources](#) follows up on LawPRO's February 5th mental health event.
 - ii. On June 22nd, [Working Together, Remotely - Managing and Leading Through COVID-19 and Beyond](#) will focus on a host of practice management issues lawyers and firms need to address given the current environment.

6. LAO

- ❖ Legal Aid Ontario received 100 written submissions re: Draft Rules and are planning on posting a summary of submissions to their [Draft Rules/LASA website](#) once available.
- ❖ FOLA's Submission on the Draft Rules can be found [here](#). Also on that page are other Association Submissions, including the Alliance for Sustainable Legal Aid's Submission - on which FOLA collaborated.

7. LSO

- ❖ **REMINDER: CONTINGENCY FEES REFORMS:** A reminder that on July 1, 2021, amendments to the lawyer and paralegal conduct rules as well as amendments to the Solicitor's Act and new regulation O. Reg. 563/20 will come into force. In accordance with the amendments, lawyers will be required to provide potential clients with the consumer guide, [Contingency Fees: What you need to know](#), and will be required to use the new standard form Contingency Fee Agreement. The Law Society has developed [Frequently Asked Questions](#) to support members with understanding and implementing these new requirements. The resources are available [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. If your concerns are related to issues surrounding health and safety measures as the Courts expand in person operations, please indicate the name of the Courthouse and the steps you have already taken to address your concerns to: MAGrecoverysecretariat@ontario.ca.