



## THE SUPERIOR COURT OF JUSTICE CENTRAL SOUTH REGION

### NOTICE TO THE PUBLIC and PROFESSION

---

#### INTRODUCTION

This Notice to the Public and Profession applies to proceedings in the Superior Court of Justice, Central South Region, effective April 19, 2022.

The purpose of this notice is to address the presumptive modes of proceeding in the three areas of responsibility of the court in the Central South region. It includes clarification of the implementation dates and the process to seek a change from the presumptive mode of proceeding. It addresses the process of filing of documents and the events for which CaseLines is to be used. It also is intended to set out the expectations related to limits on filing of material for various events and the process of scheduling events. This notice also addresses bankruptcy proceedings in the Central South region.

This Notice *supersedes* all previous COVID-19 region-specific Notices to the Profession for the Central South Region issued prior to this date, which are hereby revoked.

Counsel and parties are also advised to refer to the relevant Parts of the [Consolidated Provincial Practice Direction](#), the [Consolidated Practice Direction for Divisional Court Proceedings](#) as well and the Consolidated Notice to the Profession, Parties, Public and the Media which are available on the Superior Court of Justice website [www.ontariocourts.ca/scj](http://www.ontariocourts.ca/scj)

The Central South Region includes the following Courthouses:

Hamilton – John Sopinka Courthouse – 45 Main St. East  
Hamilton Family Court – 55 Main St. West  
Waterloo Region Courthouse – 85 Frederick St. Kitchener  
St. Catharines – Robert S.K. Welch Courthouse – 59 Church St.  
Welland Courthouse – 102 East Main St.  
Brantford Superior Court – 70 Wellington St.  
Cayuga Courthouse – 55 Munsee St. North  
Simcoe Courthouse – 50 Frederick Hobson VC Drive

## PRESUMPTIVE MODE OF HEARING

For complete information on the Presumptive Mode of Hearing Guidelines for the Superior Court of Justice Guidelines, please see:

Consolidated Notice to the Profession, Parties, Public and the Media

The following summary lists the presumptive modes of hearing for matters in the Central South Region (Hamilton, Kitchener, St. Catharines, Welland, Brantford, Cayuga, and Simcoe).

		in-person	virtual	in writing	
<b>CRIMINAL</b>	<b>Trial Scheduling/Assignment Courts</b>		X		
	<b>Judicial Pre-Trials (JPTs)</b> <i>*usually by teleconference*</i>		X		
	<b>Bail Hearings</b> <i>*(virtual where practical but otherwise in person to be addressed at the time of scheduling) *</i>		X		
	<b>Bail Reviews</b> <i>*(virtual where practical but otherwise in person to be addressed at the time of scheduling) *</i>		X		
	<b>Consent Bail Review/Variations</b>			X	
	<b>Detention Reviews</b>		X		
	<b>Pre-Trial Motions</b>	X			
	<b>Non-Jury Trials</b>	X			
	<b>Jury Trials</b>	X			
	<b>Guilty Pleas/Resolutions</b>	X			
	<b>Sentencing Hearings</b>	X			
	<b>Summary Conviction Appeals</b>		X		
	<b>FAMILY &amp; CHILD PROTECTION MATTERS</b>	<b>R. 39 First Appearance</b>		X	
		<b>Child Protection Lists</b>		X	
<b>DRO Conference</b>			X		
<b>Case Conferences</b>		X			
<b>Settlement Conferences</b>		X			
<b>Trial Management Conferences</b> <i>*with a settlement focus*</i>		X			
<b>Trial Scheduling Conferences</b>			X		
<b>Unopposed/14B/Ex parte Motions</b>				X	
<b>Urgent Motions</b>			X		
<b>Short Motions (under 1 hour)</b>			X		

	<b>Long Motions (over 1 hour)</b>	<b>X</b>		
	<b>Temporary Care &amp; Custody Hearings</b>	<b>X</b>		
	<b>Summary Judgment Motions</b>	<b>X</b>		
	<b>Contempt Motions</b>	<b>X</b>		
	<b>Place of Safety Hearings/TBST</b>		<b>X</b>	
	<b>FRO Lists</b>	<b>X</b>		
	<b>Trials</b>	<b>X</b>		
	<b>Trial Scheduling/Assignment Courts</b>		<b>X</b>	
	<b>Speak to Courts for Trial Sittings</b>		<b>X</b>	
<b>CIVIL</b>	<b>Trial Scheduling/Assignment Court</b>		<b>X</b>	
	<b>Case Conference <i>*usually by teleconference*</i></b>		<b>X</b>	
	<b>Pre-Trials</b>		<b>X</b>	
	<b>Jury Trials</b>	<b>X</b>		
	<b>Non-Jury Trials</b>	<b>X</b>		
	<b>Consent Motions/Unopposed/Ex parte</b>			<b>X</b>
	<b>Short Motions (under 1 hour)</b>		<b>X</b>	
	<b>Long Motions/Applications (under 2 hours)</b>		<b>X</b>	
	<b>Long Motion/Applications (over 2 hours &amp; complex and Summary Judgment) * <i>may be heard in person given the guidelines*</i></b>		<b>X</b>	
	<b>Speak to Court for Trial Sittings</b>		<b>X</b>	

### **Implementation Dates for the Guidelines for the Central South Region**

Implementation of the guidelines for the Central South will be as follows:

Events scheduled with the Court before April 19, 2022, and taking place up and including June 30, 2022, will take place in the mode contemplated when scheduled. Events scheduled with the Court before April 19, 2022, and taking place after July 1, 2022, will presumptively be heard in the mode set out in the Guidelines.

All new matters scheduled on or after April 19, 2022, will follow the presumptions set out in the Guidelines.

## **Changes to the Presumptive Mode of Hearing**

A change to the mode of hearing after July 4, 2022, must be made to the court no later than 14 days in advance of the scheduled event.

Ultimately, the final determination of how an event will proceed will remain subject to judicial discretion. This will take into account the issues of the proceeding, the expected length of the hearing the evidentiary record, the status of parties, and access to technology.

### ***Criminal Proceedings***

Any party seeking to change the presumptive mode of hearing for an event must raise this request with the court at the earliest attendance or no later than when scheduling the event.

The request can be raised with the presiding judge at a Judicial Pre-Trial or Assignment Court.

### ***Family Proceedings***

Any party seeking a change to specific **family** events, may do so by either:

1. A request to a judge at an appearance or
2. The filing of a Request for a Virtual Hearing. This form is to be sent to the respective Trial Coordinator's offices.



Request for a  
Virtual Hearing Form

NOTE: If a request is granted for a virtual hearing, then the hearing will be virtual and not hybrid. The parties will be advised accordingly.

### ***Civil Proceedings***

Any party seeking to change the presumptive mode of hearing for an event must raise this request with the court at the earliest opportunity and no later than when first scheduling the event.

The request must be made in writing and emailed to the Trial Coordinator's Office, copied to all other parties. The Trial Coordinator's Office will arrange for a telephone conference attendance before a judge.

**Failure to raise this at the first available opportunity will result in the event proceeding in the presumptive mode of hearing. The request will not be considered on the scheduled hearing date.**

Requests are to be sent to the following email addresses with **“REQUEST FOR CHANGE IN PRESUMPTIVE MODE, Case Name and File #”** in the subject line:

Hamilton (Civil & Criminal) – [Hamilton.Superior.Court@ontario.ca](mailto:Hamilton.Superior.Court@ontario.ca)  
 Hamilton (Family) – [Hamilton.Family.Superior.Court@ontario.ca](mailto:Hamilton.Family.Superior.Court@ontario.ca)  
 Kitchener /Waterloo – [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca)  
 St. Catharines- [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)  
 Welland – [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)  
 Brantford – [BrantfS@ontario.ca](mailto:BrantfS@ontario.ca)  
 Cayuga – [Cayuga.Superior.Court@ontario.ca](mailto:Cayuga.Superior.Court@ontario.ca)  
 Simcoe – [Simcoe.Superior.Court@ontario.ca](mailto:Simcoe.Superior.Court@ontario.ca)

## **URGENT MATTERS**

Urgent matters are matters which require immediate access to the court and for which it is impractical to follow the standard procedures. Generally, a matter is urgent if a court order is necessary to preserve life, the health or safety of a child, liberty, property, to address the immediate danger of a child’s removal from Ontario and time is of the essence. Urgent requests are to be made by e-mail to the respective Trial Coordinator offices.

Hamilton (Civil & Criminal) – [Hamilton.Superior.Court@ontario.ca](mailto:Hamilton.Superior.Court@ontario.ca)  
 Hamilton (Family) – [Hamilton.Family.Superior.Court@ontario.ca](mailto:Hamilton.Family.Superior.Court@ontario.ca)  
 Kitchener /Waterloo – [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca)  
 St. Catharines- [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)  
 Welland – [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)  
 Brantford – [BrantfS@ontario.ca](mailto:BrantfS@ontario.ca)  
 Cayuga – [Cayuga.Superior.Court@ontario.ca](mailto:Cayuga.Superior.Court@ontario.ca)  
 Simcoe – [Simcoe.Superior.Court@ontario.ca](mailto:Simcoe.Superior.Court@ontario.ca)

The email shall describe the relief requested and why the matter is urgent and shall attach a draft of the proposed Notice of Motion or other originating document but not all of the materials for the hearing itself.

However, for Family Law matters, any affidavits should be attached at the same time.

The request for urgency will be reviewed by a judge and, if accepted, the court will provide further direction.

If the matter is found to be urgent, the materials for the hearing are to be filed with the specific court offices as set out under the sections dealing with Criminal, Civil, and Family matters for each courthouse.

## **FILING COURT DOCUMENTS**

Documents **MUST** be filed through the appropriate portals set out herein, or the documents, whether attempting to be filed electronically or in person, will be rejected.

All documents filed with the court **MUST** be filed in accordance with the following Naming Convention, failing which, the documents may NOT be before the court:

The type of document, the type of party filing the document, the name of party (if more than one), and the date: DD-MMM-YYYY.

For example, the documents set out below should be filed as follows:

Notice of Motion-Moving Party-ABC Corp. 14-JUL-2020  
Affidavit of Service-Applicant-Wong 21-NOV-2020  
Statement of Defence-Defendant-XYZ Ltd. 02-JAN-2021  
Compendium-Responding Party-Patel 03-MAR-2021  
Factum-Intervenor-Attorney General 11-NOV-2020

Court filed documents in criminal, civil and family proceedings must comply with the court filing requirements in:

- R. 4.01 of the *Criminal Proceedings Rules*;
- R. 4.01 to 12 of the *Rules of Civil Procedure*;
- the *Family Law Rules* and Province-wide Notice to the Profession Regarding Family Law Cases

Court documents which do not comply with these document standards, including the maximum length for such documents will NOT be accepted for filing (and therefore cannot be uploaded to CaseLines).

## CASELINES

The following events require that the necessary documents, once accepted by the court office after filing, be uploaded to CASELINES:

### Criminal

- Bail Review/Bail Hearings/Applications
- Summary Conviction Appeals
- Pre-Trial Motions/Applications
- Judicial Pre-Trials

### Civil

- Civil Pre-Trials
- Trials
- Long Motions- including Summary Judgment Motions

### Family

- Settlement Conferences
- Trial Management Conferences/Trial Scheduling Conferences
- Long Motions – including Summary Judgment Motions
- Trials

NOTE: Child Protection matters are not yet approved for CaseLines.

If you have received an email from CaseLines inviting you to a case, click the link provided and upload the documents you will rely on for your hearing. Documents must be uploaded at least 5 days in advance of the hearing unless directed otherwise.

See links for additional information on CaseLines:

[CaseLine Tips](#)

[CaseLines - FAQ's](#)

## CRIMINAL PROCEEDINGS

All filings for Criminal matters are to be filed through the following email addresses:

Hamilton – [Hamilton.OCJ.courts@ontario.ca](mailto:Hamilton.OCJ.courts@ontario.ca)  
 Kitchener /Waterloo – [Kitchener.OCJ.Courts@onario.ca](mailto:Kitchener.OCJ.Courts@onario.ca)  
 St. Catharines- [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)  
 Welland – [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)  
 Brantford – [Brantfordscjcourt@ontario.ca](mailto:Brantfordscjcourt@ontario.ca)  
 Cayuga – [HaldimandCountyCourt@ontario.ca](mailto:HaldimandCountyCourt@ontario.ca)  
 Simcoe – [Simcoe.SCJ.Courts@ontario.ca](mailto:Simcoe.SCJ.Courts@ontario.ca)

Parties must comply with the current Province Wide Practice Direction in Criminal proceedings:

[Provincial Practice Direction /Amendment to the Criminal Proceedings Rules Regarding Criminal Proceedings | Superior Court of Justice \(ontariocourts.ca\)](#)

This Provincial Practice Direction covers the following topics:

Part I: Interpretation and Application of this Practice Direction  
 Part II: s. 11(b) – Appearances on Indictments  
 Part III: Factums  
 Part IV: Pre-trial Conferences  
     A. Updated Pre-trial Forms  
     B. Directions and Orders of Pre-Trial Conference Judge  
     C. Conducting Pre-trial Conferences by telephone or video conference  
 Part V: Bail Variations pursuant to s. 519.1 of the Code  
 Part VI: Applications under s. 11(b) of the Canadian Charter of Rights and Freedoms  
     A. Scheduling of s. 11(b) Applications  
     B. Supporting Materials in s. 11(b) Applications  
 Part VII: Related Amendments to Other Superior Court of Justice Practice Directions  
 Part VIII: Media Notification After Jury Sequestered  
     A. Purpose of this Part  
     B. Interpretation and Application of this Part  
 PART IX: Filing  
 PART X: Remote Proceedings  
 PART XI: Designations



## **FAMILY PROCEEDINGS**

Counsel and parties in family proceedings are advised to refer to the Consolidated Notice to the Profession, Parties, Public and the Media which is available at:

\*\*Link to the new Consolidated Notice--- Part III – Procedure governing Family Matters.

### **Case Conferences**

**Case Conference Briefs must not exceed 8 pages**, plus permissible attachments (as defined below) and additional documents that are required by the *Family Law Rules*. This 8-page limit includes the brief itself (Form 17A) and any additional pages of facts and/or arguments that are attached to the brief as an appendix or schedule.

**All documents filed must use of font of not less than 12 point and double spacing.**

If disclosure is not resolved prior to the Case Conference, any party seeking disclosure **must** include in their materials a list of the outstanding disclosure (not included in the 8-page limit).

Permissible attachments must include only **relevant excerpts** from the following documents, (not included in the 8-page restriction):

- a. Parenting assessments (pursuant to Section 30 of the *Children's Law Reform Act*), Office of the Children's Lawyer reports and Voice of the Child Reports;
- b. Documents that establish a child's educational needs (for example, report cards or Individual Education Plans);
- c. Income or business valuations, pension valuations or real estate appraisals (where the value of property is in dispute);
- d. Proof of income for the relevant period(s) including pay stubs, confirmation of benefits received and/or Statement of Business or Professional Activities from a party's Income Tax Return; and,
- e. Domestic contracts, including separation agreements, marriage contracts or cohabitation agreements that are relevant to the issues in dispute.
- f. Support calculations; and,
- g. Terms of recognizance, police report or reports from the Children's Aid Society, where applicable

### **Settlement Conference**

**Settlement Conference Briefs must not exceed 12 pages, plus** permissible attachments (as defined in the Case Conference section above) and additional documents required by the *Family Law Rules*. This 12-page limit includes the brief itself (Form 17C) **and** any additional pages of facts and/or arguments that are attached to the brief as an appendix or schedule.

Parties must serve, file and upload a [Trial Scheduling Endorsement Form](#) with their Settlement Conference briefs.

If a Trial Scheduling Conference is scheduled at the Settlement Conference and an order is made by the judge that UPDATED TSEF are to be completed, these shall be served, filed and uploaded to CaseLines no later than three (3) days prior to the event.

### **Short Motions (1 hour or less)**

Parties must comply with the filing requirements in the *Family Law Rules*.

Except for motions arising from the wrongful removal or retention of a child, each party is restricted to one primary affidavit in support of their position on the motion and cross-motion (if applicable) which shall not exceed 12 pages of narrative. This limit does not include third party and reply affidavits, where required, which shall not exceed 5 pages each, or affidavits relating to a party's financial statement in accordance with Rule 13(12)(b).

In addition, exhibits to each party's affidavit shall be limited to only the **necessary and relevant** evidence and are generally expected not to exceed 10 pages.

Leave is required to file documents beyond these restrictions which will only be granted in exceptional circumstances.

**All documents filed must use of font of not less than 12 point and double spacing.**

Parties are required to submit draft orders with their motion materials.

### **Long Motions (over 1 hour)**

A factum (or Summary of Argument) is required on all long motions except as noted otherwise. Except with leave of the court, factums are limited to 20 pages, at least 12-point font and double spaced.

A Compendium containing excerpted portions of the cases and of the evidence to which the party intends to refer during the hearing must be uploaded to CaseLines for all long

motions. A party must file a Compendium and upload it with their factum. A joint Compendium may be filed with the respondent's factum.

All court documents must comply with the maximum length requirements set out in this Practice Direction. Failure to do so may result in the document being rejected for filing and, therefore, prohibited from being uploaded to CaseLines.

The authorities that are included on the court's list of [Often Cited Family Cases](#) do not need to be provided to the court. Counsel and parties are advised to refer to Part I of the Consolidated Provincial Practice Direction for further direction.

### **Family Confirmations**

A Confirmation (Form 14C & 17F) must be filed:

- By all parties no later than 2 pm, three (3) days before the hearing or conference.

The parties or their counsel should consult with each other prior to filing their Confirmations unless the parties are self-represented and prohibited from communicating by court order.

Where a Confirmation has not been filed by either party, the motion may not proceed.

The Confirmation must list only the specific issues that are to be decided at the event. It should also indicate which materials the judge should review with clear reference to the specific volume, tab and page numbers. Referring to "all" prior affidavits or documents is not appropriate and will be ignored. Referring to documents that the party does not intend to refer to in submissions is discouraged and may be a factor in determining costs.

For long motions, the confirmation should list the all the materials of all parties related to the motion and any cross motions in chronological order.

The Confirmation must also include an appropriate time estimate for submissions on all issues in the motion including time required by the other party. If a party chooses not to make submission on an issue, the court is entitled to consider that the party has abandoned that specific issue.

Confirmations are to be sent to the respective Trial Coordinator's Offices as follows:

Parties are to note in the subject line – *CONFIRMATION – Court file Name and Number.*

Hamilton (Family) – [Hamilton.Family.Superior.Court@ontario.ca](mailto:Hamilton.Family.Superior.Court@ontario.ca)

Kitchener /Waterloo – [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca)

St. Catharines- [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)

Welland – [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)

Brantford – [BrantfS@ontario.ca](mailto:BrantfS@ontario.ca)

Cayuga – [Cayuga.Superior.Court@ontario.ca](mailto:Cayuga.Superior.Court@ontario.ca)

Simcoe – [Simcoe.Superior.Court@ontario.ca](mailto:Simcoe.Superior.Court@ontario.ca)

## **CIVIL PROCEEDINGS**

### **Short Motions (1 hour or less)**

Parties are filing unnecessary materials on motions. Accordingly, the following limitations are imposed on motion material:

Each party is restricted to one primary affidavit in support of their position on the motion which shall not exceed 12 pages of narrative. This limit does not include third party and reply affidavits, where required, which shall not exceed 5 pages each. In addition, exhibits to each party's affidavit shall be limited to only the **necessary and relevant** evidence.

### **Long Motions and Applications**

A factum is required on all long motions and applications except as noted otherwise. Except with leave of the court, factums are limited to 20 pages, at least 12-point font and double spaced.

A Compendium containing excerpted portions of the court filed documents and evidence that are essential to the hearing of the motion shall be filed and uploaded by each party for all long motions. A joint Compendium may be filed with the respondent's factum.

All court documents, including factums and compendiums, must comply with R. 4 of the Rules of Civil Procedure with respect to formatting, including hyperlinks and bookmarks. and must comply with the maximum length requirements set out in this Notice. Failure to do so may result in the document being rejected for filing and, therefore, prohibited from being uploaded to CaseLines.

Any failure to file a factum in accordance with these timelines will be addressed by the judge hearing the long motion, which may result in an adjournment or cost consequences.

The authorities that are included on the court's list of [Often-Cited Civil Cases](#) do not need to be provided to the court. Counsel and parties are advised to refer to Part I of the Consolidated Provincial Practice Direction for further direction.

### **Civil Pre-Trials**

#### *Briefs*

Pre-Trial conference briefs shall contain no more than 20 double spaced typed pages. Medical reports, contract, experts' reports and other documents are not to be attached. Relevant excerpts from such documents should be included in the typed pre-trial brief. The documents should be brought to the pre-trial conference in case the presiding judge needs to review one or more of them. The first page or two of the pre-trial briefs should contain an

“executive summary” of the case so that the presiding judge can quickly get a “snapshot” of the facts and issues.

#### *Pre-Trial Conference Report Forms*

To make pre-trial conferences productive, counsel and any self-represented party are required, at least seven days in advance of the pre-trial conference, to consult and fill out a Rule 50.08 Pre-Trial Conference Report form (or a Rule 76 Report to the Trial Judge form) with the required information respecting witnesses and any other portions of the Report on which the parties agree. For example, that summaries of the proposed evidence of witnesses or opening statements will be exchanged.

After the parties have consulted, and the partially completed the Report, it must be served, filed **AND uploaded to CaseLines by the plaintiff.**

Pre-trial dates will, where possible, be scheduled within 120 days of the trial date or the commencement of the sittings.

Counsel and parties must comply with R. 50 including that parties with authority to settle must attend pre-trial hearings.

The fact that the parties agree on certain matters does not bind the pre-trial conference judge to accept the agreement with respect to the process to be followed or the completion of the Report.

The parties must comply with the provisions of R. 53.03 with respect to expert reports and deliver the Certificate referred to in R. 50.03. Failure to deliver all expert reports at least 90 days prior to the pre-trial will likely attract a cost sanction and other directions and terms may be imposed by the pre-trial judge including an order prohibiting expert testimony by any expert whose report was not served in compliance with this Rule.

#### **Civil Confirmations**

A Confirmation (Form 37B or 38B) must be filed:

- By the moving party by 2 pm, five days before the hearing
- The responding party by 10:00 am three (3) days before the hearing
- The parties may file a Confirmation jointly on or before 2pm, five days before the hearing.

The parties or their counsel should consult with each other prior to filing their Confirmations unless the parties are self-represented and prohibited from communicating by court order.

Where a Confirmation has not been filed by either party, the motion may not proceed.

The Confirmation must only list the specific issues that are to be decided on the motion. They should also indicate which materials the judge should review with clear reference to the specific volume, tab and page numbers. Referring to documents that the party does not intend to refer to in submissions is discouraged and may be a factor in determining costs.

The Confirmation must also include an appropriate time estimate for submissions on all issues in the motion including time required by the other party. If a party chooses not to make submission on an issue, the court is entitled to consider that the party has abandoned that specific issue.

**Confirmations are required for all motions: long or short, even if they are set for hearing on a specific date. The presiding judge uses the confirmation for preparation: to determine what to read and what issue are in dispute.**

Confirmations are to be sent to the respective Trial Coordinator's Offices as follows:

Parties are to note in the subject line – *CONFIRMATION – Court file Name and Number.*

Hamilton (Civil & Criminal) – [Hamilton.Superior.Court@ontario.ca](mailto:Hamilton.Superior.Court@ontario.ca)

Kitchener /Waterloo – [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca)

St. Catharines- [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)

Welland – [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)

Brantford – [BrantfS@ontario.ca](mailto:BrantfS@ontario.ca)

Cayuga – [Cayuga.Superior.Court@ontario.ca](mailto:Cayuga.Superior.Court@ontario.ca)

Simcoe – [Simcoe.Superior.Court@ontario.ca](mailto:Simcoe.Superior.Court@ontario.ca)

## **PRESENT SCHEDULING PROTOCOLS**

The prior scheduling protocols of the court changed as a result of COVID-19. It is anticipated that the scheduling protocols will change again in the future to accommodate the electronic filings of materials and virtual appearances. The present protocols will continue until further notice.

For any short or long motion, the Notice of Motion or Application record shall indicate any Wednesday date for the hearing date as a HOLD DATE.

Confirmations are required 5 days before in Civil matters and 3 days before in Family matters.

If no responding material is filed prior to the original motion date then the moving party must file a confirmation to that effect, and the motion will proceed as an unopposed basket motion, and the original motion hearing date will be vacated.

For short motions or applications which can be argued in less than 60 minutes, the trial coordinator will provide a date for the hearing and the original Wednesday hold date may then be vacated.

Confirmations are to be sent by email to the Trial Coordinators at:

Hamilton (Civil & Criminal) – [Hamilton.Superior.Court@ontario.ca](mailto:Hamilton.Superior.Court@ontario.ca)  
 Hamilton (Family) – [Hamilton.Family.Superior.Court@ontario.ca](mailto:Hamilton.Family.Superior.Court@ontario.ca)  
 Kitchener /Waterloo – [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca)  
 St. Catharines- [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)  
 Welland – [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)  
 Brantford – [BrantfS@ontario.ca](mailto:BrantfS@ontario.ca)  
 Cayuga – [Cayuga.Superior.Court@ontario.ca](mailto:Cayuga.Superior.Court@ontario.ca)  
 Simcoe – [Simcoe.Superior.Court@ontario.ca](mailto:Simcoe.Superior.Court@ontario.ca)

## **Scheduling of Long Motions or Applications**

A “long” motion or application is one which is expected to require more than one hour for argument, including reply argument (but excluding the time required by the judge to consider the matter and render a decision).

These motions or applications are generally set to be argued during a specified week rather than a specific date.

There are generally two ways that long motions may be scheduled: (1) by a judge determining the motion is a long motion and not a short motion or (2) by the parties scheduling it as a long motion at the outset.

For motions determined by the party at the outset to be long, once all material is filed, a confirmation is to be sent advising of the specific “Ready List” week to be called.

If parties are not able to agree to a specific week or issues arise, the parties may contact the Trial Coordinator to obtain a date for a brief appearance before a judge. Parties will be required a maximum one-page outline of the issues in dispute.

For all long motions, motion confirmations are required as follows:

**Prior to the week assigned, a further confirmation is required no later than Thursday prior to the Monday. The confirmation shall include issues to be decided, list of materials relied upon and availability of counsel during the week.**

Confirmations are to be sent by email to the Trial Coordinators at:

Hamilton (Civil & Criminal) – [Hamilton.Superior.Court@ontario.ca](mailto:Hamilton.Superior.Court@ontario.ca)  
 Hamilton (Family) – [Hamilton.Family.Superior.Court@ontario.ca](mailto:Hamilton.Family.Superior.Court@ontario.ca)  
 Kitchener /Waterloo – [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca)  
 St. Catharines- [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)  
 Welland – [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)  
 Brantford – [BrantfS@ontario.ca](mailto:BrantfS@ontario.ca)

Cayuga – [Cayuga.Superior.Court@ontario.ca](mailto:Cayuga.Superior.Court@ontario.ca)  
Simcoe – [Simcoe.Superior.Court@ontario.ca](mailto:Simcoe.Superior.Court@ontario.ca)

## **BANKRUPTCY**

### **Matters Heard by Associate Judges sitting as Registrars in Bankruptcy**

Associate Judges sitting as Registrars in Bankruptcy in Hamilton will now hear all bankruptcy matters virtually, in writing, by teleconference or video conference. In exceptional cases, the Registrars may use their discretion to determine whether a matter should be heard in-person, on a case-by-case basis.

The Bankruptcy Court Office will only schedule in person matters when a request is made and at the direction of the Registrar in Bankruptcy.

The party shall file their materials with the Bankruptcy Court office at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca). The party will also attach a completed Hearing request form. The party shall advise of preferred manner, dates and times for the hearing of the matter as well as a time estimate for hearing. If the estimated time for the hearing exceeds one hour, the party will also attach a completed Special Appointment Request Form. The Bankruptcy Court office will schedule the matter subject to the availability of the court and, if the matter is proceeding by teleconference or videoconference, the Bankruptcy Court office will provide connection details.

### **Conduct of Matters In writing, by Teleconference or by Videoconference**

The types of motions as enumerated in paragraph 7.1 herein shall be heard in writing.

Bankrupts' applications for discharge following compliance with prior discharge orders and bankrupts' applications for discharge that are on consent or unopposed, including matters where opposition is withdrawn, shall be heard in writing and shall be scheduled to be heard in writing by the Bankruptcy Court office on the next available date, excepting matters where there are alleged conduct issues or section 178 (c), (d), (e), more than two (j), (k) and (l) BIA facts, in which case such matters shall be heard virtually.

Trustees' applications for discharge shall be heard in writing.

Taxations of Statements of Receipts and Disbursement (where a clear Letter of Comment has been received and is anticipated to be unopposed) and Taxation of legal bills will be heard in writing. If a party wishes a taxation to be heard in writing, the party shall email the materials to the Bankruptcy Court office at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca) and request that the taxation be scheduled for the next available date. The following documents should be included in filings:



- a. Statement of Receipts and Disbursements (SRD) – each taxation submission should have (1) the record containing required documents for review including the SRD, and (2) a separate PDF copy of the SRD for signature.
- b. Comment letter.
- c. Trustee affidavit of fees, with docketed and any other relevant documentation (if there are extenuating circumstances or complexities concerning the administration of the estate, these matters should be addressed in the affidavit filed in support of the taxation).
- d. Inspector resolution approving the SRD (if not apparent from the SRD).
- e. Copies of taxed legal bills of costs.
- f. Statement of Affairs – one (1) copy only; and
- g. Estate general ledger or detailed trial balance.

The following documents are not necessary to include in these filings:

- a. Duplicate copies of documents.
- b. Scans of forms that are blank or not filled in or completed or blank pages after tabs;
- c. Copies of documents, notices or reports in connection with the discharge of the bankrupt; and
- d. Affidavits of service proving service of the initiating bankruptcy documents.

Attachments are limited to thirty-five (35) MB.

All other motions may be heard by teleconference and videoconference at the request of the parties.

All other bankrupts' applications for discharge by bankrupts shall be heard virtually. The Registrars in Bankruptcy shall use their discretion to order bankrupts' application for discharge to be heard in-person.

### **Materials for Hearing**

For each individual matter, parties shall email all relevant materials and documents necessary for the hearing to the Bankruptcy Court office at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca) and the email shall contain in the subject line the bankruptcy/estate file number and surname of the bankrupt. The system cannot accommodate large records. Accordingly, the parties shall exercise discretion in determining what materials are necessary. Caselaw and other source materials referenced in a factum should be hyperlinked. Where hyperlinks are provided, the

parties need not file a Book of Authorities. The Registrars in Bankruptcy will ask for further materials if necessary.

Hard copies of the electronically filed materials, with the appropriate filing fee and copy of the court endorsement or order disposing of the matter, shall be filed with the Bankruptcy Court office, once regular court operations resume. Hard copies of the materials shall conform with the Rules of Civil Procedure requirements respecting court documents, including but limited to binding as required by Rule 4 of the Rules of Civil Procedure.

All materials and documents necessary for the hearing shall be saved and emailed as attachments using the Standard Document Naming Protocol found in the Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media. All electronic documents shall contain a hyperlinked table of contents/index and links to other electronically available documents, such as case authorities, etc.4.1

### **Affidavits**

Parties are directed to O. Reg. 431/20 Administering Oath or Declaration Remotely under the Commissioner for Taking Affidavits Act, the Law Society's Virtual Commissioning resource as well as the Law Society's Corporate Statement re: COVID-19 which provides for alternate means of commissioning affidavits. The Bankruptcy Court will accept unsworn affidavits prior to the hearing on the condition that a sworn affidavit is provided prior to the hearing, or the affiant is available at the teleconference to swear the contents.

### **Orders**

Finalized draft orders requiring signing shall be emailed directly to the Bankruptcy Court office at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca). The signed order will be electronically delivered to the party.

### **Issuing Bankruptcy Applications**

The party shall email the Bankruptcy Court office with the application and request issuance. The Bankruptcy Court office shall provide an electronically issued application. The party shall mail a hard copy of the issued application and the appropriate filing fee that day or the following day. A date for the hearing of the bankruptcy application to proceed in writing may be obtained on request by email to the Bankruptcy Court office at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca).

Proof of service, which must be effected in accordance with the Bankruptcy and Insolvency Act, must be filed by email at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca) at least three days in advance of the in-writing hearing date.

If the application is on consent or unopposed, the Registrar will deal with the matter in writing. If the application is opposed, the Registrar will adjourn the matter to be heard by a judge on a date to be fixed by the trial coordinator.

### **Matters to be Heard in Writing**

The following motions shall be heard by the Registrars in Bankruptcy in writing:

- a. Motions to extend proposal periods where a Notice of Intention has been filed;
- b. Motions to approve Division I proposals, if unopposed;
- c. Motions for substituted service;
- d. Motions for leave to file an assignment in bankruptcy, brought by the trustee or administrator of a deceased;
- e. Motions pursuant to s. 38 of the BIA;
- f. Motions to re-appoint the trustee;
- g. Motions to amend the style of cause/name of the bankrupt/debtor;
- h. Motions to approve the sale of assets to related parties, pursuant to s. 30(4) of the BIA;
- i. Motions to revive consumer proposals;
- j. Motions seeking leave to file a completion or second consumer proposal; and
- k. Any other matter which the Registrars in their discretion determine is appropriate.

If a party seeks to apply for a bankrupt's discharge following compliance with prior court discharge orders or where the application is on consent or unopposed, excepting matters where there are alleged conduct issues or section 178 BIA facts, the party shall email the materials to the Bankruptcy Court office at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca), together with a completed [Hearing Request Form](#), and request that the application be scheduled for the next available date. If the estimated time for the hearing exceeds one hour, the party will also attach a completed [Special Appointment Request Form](#). The system cannot accommodate large records. Accordingly, the parties shall exercise discretion in determining what materials are necessary. The party shall undertake to file a hard copy with the Bankruptcy Court office by regular mail, together with the appropriate filing fee, once regular court operations resume.

Motions in writing shall be heard during the following weeks where Associate Judges are assigned to Hamilton Bankruptcy Court:

- May 16, 2022
- June 20, 2022
- July 18, 2022
- August 15, 2022
- September 19, 2022
- October 17, 2022
- November 21, 2022
- December 19, 2022

Once a date for the hearing of an in-writing motion has been assigned, the party shall serve the motion in accordance with the notice requirements in the *Bankruptcy and Insolvency Act* and the procedure set forth in Rule 37.12.1 of the Rules of Civil Procedure shall apply. The moving party shall email the materials to the Bankruptcy Court office at [Hamiltonciviloffice@ontario.ca](mailto:Hamiltonciviloffice@ontario.ca) together with proof of service. The system cannot accommodate large records. Accordingly, the parties shall exercise discretion in determining what materials are necessary. The party shall file a hard copy with the Bankruptcy Court office by regular mail, together with the appropriate filing fee, once regular court operations resume.

Orders that are granted will be electronically delivered to the party upon disposition. The order is effective from its date.

The Honourable Mr. Justice Paul R. Sweeny  
Regional Senior Judge, Central South Region  
April 19, 2022