



NOTICE TO THE PROFESSION, THE PUBLIC AND THE MEDIA
REGARDING CIVIL AND FAMILY PROCEEDINGS
UPDATE REGARDING THE SUSPENSION OF SUPERIOR COURT OF
JUSTICE REGULAR OPERATIONS

April 2, 2020

This notice supplements the March 15, 2020 notice for civil and family matters and should be read in conjunction with that notice.

A. Preamble

To address the safety of all who use and work in the Ontario Superior Court of Justice (SCJ), the Court suspended its regular operations and implemented processes to have ONLY urgent matters heard in all areas of its work as set out in the Notices to the Profession issued by the Superior Court of Justice on March 15, 2020, which came into effect on March 17, 2020.

Starting on April 6, 2020, matters in addition to “urgent” matters will begin to be heard in the Ontario Superior Court of Justice. The complete list of civil and family matters that may be heard in each region is contained in region-specific Notices to the Profession, issued April 2, 2020, which include the process to seek a hearing are available at <https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/>

- Central East (Civil, Family, Criminal)
- Central South
- Central West
- East
- Northeast
- Northwest
- Southwest
- Toronto

For criminal matters, please refer to the criminal Notice to the Profession, updated on April 2, 2020.

As the COVID-19 pandemic continues, the Court recognizes it has a constitutional responsibility to ensure access to justice remains available. To promote access to justice, to minimize growing caseloads, and to maintain the effective administration of justice in Ontario, it is incumbent that the Court expand its operations beyond urgent matters.

To that end, the Court is expanding operations to matters beyond the most urgent matters. All matters will be heard remotely by way of telephone or video conference. With judicial approval, judges or masters may permit remote hearings through other means arranged by the parties.

For the Court's processes to be successful, judges and masters will require lawyers and litigants to act co-operatively and to be flexible to achieve a timely, just and fair hearing. Counsel and parties can anticipate that the judiciary will, in turn, make every effort to respond with flexibility and creativity, where feasible and appropriate.

There will necessarily be regional differences in approach. Some of the Court's regions have significantly higher volumes than others. At this time, some regions also have court administration and trial coordination support better equipped to work virtually. The Court is making the best use of resources available to it.

B. Compliance with Existing Procedures & the Inherent Jurisdiction of the Superior Court of Justice

The emergency created by COVID-19 may, in some instances, render strict compliance with the rules of court impossible or impractical. The rules were drafted without contemplation of how virtual court hearings would be conducted in a pandemic. These functional gaps cannot be an impediment to the timely, fair and just adjudication of matters heard by the Court.

In this time of emergency, the inherent jurisdiction of the Superior Court of Justice may be relied upon, as it is entrenched in s. 96 of the *Constitution Act, 1867* and as confirmed in s. 11(2) of the *Courts of Justice Act*. This unique power shall be relied upon sparingly and with caution to relieve compliance with procedural rules, regulations and statutes when it is:

- just or equitable to do so,
- reasonable and necessary to control the Court's own process during this time of emergency,
- required to render justice between litigants,
- essential to prevent obstruction and abuse of the Court, or

- necessary to secure convenience, expeditiousness and efficiency in the administration of justice.

Accordingly, and relying upon the inherent jurisdiction of the Superior Court of Justice, the processes set out in this Notice, or the process directed by a judge in a case, may deviate from established processes.

C. Service by Email During the Suspension of Regular Operations

Notwithstanding provisions in the *Rules of Civil Procedure* and the *Family Law Rules* and subject to an order of the Court directing otherwise, it is not necessary to obtain consent or a court order to serve a document by e-mail where e-mail service is permitted.

D. Filings

During the suspension of the Court's regular operations, the Court will accept filings by email at the specific email addresses indicated in a region's Notice to the Profession **only** for those matters that are "urgent" or have been identified to be dealt in a region's Notice to the Profession.

Where counsel and parties deliver materials by email, they undertake to file the same materials in paper format, and pay the requisite filing fee, at the court counter when regular court operations resume.

For matters that are not "urgent" or have not been identified to be dealt with in a region's Notice to Profession, counsel and parties are discouraged from physically attending courthouses to file documents in person. Parties should file Claims or Statements of Claims through the Small Claims Court online filing service, or the Civil Claims Online Portal for Superior Court civil matters. Limited family proceedings can also be filed electronically through the Ministry of the Attorney General's website for filing divorce applications.

E. Orders

Judgments, endorsements and orders of the Court are effective as of the date they are made, unless the judgment, endorsement or order states otherwise. Counsel and parties are encouraged to submit draft Orders with their filed material. The issuance and entering of a formal Order, which may require a physical attendance at a courthouse, is not recommended, unless an issued order is necessary for enforcement purposes (e.g., a family law restraining order). Only orders relating to matters of urgency will be formally issued until the Court returns to regular operations.

F. Gowning

The requirement to gown for an appearance in the Superior Court of Justice is suspended. Counsel and parties are expected to dress in appropriate business attire. Judges and masters will similarly dress in business attire.

G. Public and media access to proceedings

The Ontario Superior Court of Justice remains committed to the open court principle throughout the COVID-19 pandemic.

Any member of the media or the public who wishes to hear/observe a remote proceeding may email their request to the local courthouse staff in advance of the hearing. The person requesting access should provide their name, the hearing they wish to hear/observe, and their contact information.

Every effort will be made to provide the requestor with information on how they may hear/observe the proceeding.

Certain proceedings are closed to the media and public by legislation, court order, or rules (e.g., pre-trials and settlement conferences). Section 136 of the *Courts of Justice Act* restricts the recording by a member of the public of a court hearing.

The Court will seek to post on a public website matters scheduled to be heard by the Court, so that the media can choose to hear or observe a proceeding.

H. Communicating with the Court, Staff and Trial Coordinators

No party and no party's lawyer shall communicate directly with a judge or master, unless the court directs otherwise.

Lawyers or parties shall communicate with court staff and trial coordinators by email, pursuant to a region's Notice to the Profession.

The below direction shall be followed when communicating by email with court staff and trial coordinators.

1. To ensure the email is received and processed by the appropriate court office, the subject line should include the following information:
 - LEVEL OF COURT (SCJ)
 - TYPE OF MATTER (Criminal, Family, Civil, Commercial List, Estates)
 - FILE NUMBER (indicate NEW if no court file number exists)

- TYPE OF DOCUMENT (e.g., Motion, Conference Brief, Other Request)
2. The body of the email should include the following information if applicable:
 - i. court file number (if it is an existing file)
 - ii. short title of proceeding
 - iii. list of documents attached (note: attachments cannot exceed 10 MB)
 - iv. type of request
 - v. name, role (i.e. lawyer, representative, party, etc.) and contact information of person submitting the request (email and phone number)

I. Expanded Civil Matters

In addition to the urgent civil matters set out in the March 15th Notice to the Profession, and subject to each region's Notice, remote hearings will be expanding to include the following civil matters in most court locations, effective April 6, 2020:

1. Pre-Trial Conferences – Pre-trial conferences that were cancelled between March 16 and May 31, 2020 due to the court closure can be rescheduled at the request of the parties. The objective of the pre-trials will be settlement of the action. Parties must certify that case is capable of settlement with the assistance of a pre-trial judge.
2. Rule 7 motions or applications for approval of settlement, in writing.
3. Consent motions, in writing.

Each region's Notice may include other civil matters that may be heard in that region. The process to schedule a civil hearing is set out in each region's Notice.

J. Expanded Divisional Court Hearings

Starting on April 6, 2020, Divisional Court will begin to schedule hearings of non-urgent matters arising throughout the Province of Ontario.

The process to schedule Divisional Court matters anywhere in Ontario is set out in the Section D of the [Toronto region Notice to the Profession](#).

K. Expanded Family Matters

In addition to the urgent family matters set out in the March 15th Notice to the Profession, and subject to each region's Notice, remote hearings will be expanded to include the following family matters, effective April 6, 2020:

1. Requests for consent orders submitted by 14b motions under the Family Law Rules;
2. Case conferences with a potential limit on the number of issues that can be addressed at the hearing.

Each region's Notice may include other family matters that may be heard in that region. The process to schedule a family hearing is set out in each region's Notice.

L. Assistance for Self-represented persons

Self-represented parties who seek assistance may contact:

- Civil matters: Pro Bono Ontario's Free Legal Advice Hotline: 1-855-255-7256
- Family matters: The Law Society of Ontario emergency family law referral line can be accessed at the following phone numbers:
 - General: 416-947-3310
 - Toll-free: 1-800-268-7568

Geoffrey B. Morawetz
Chief Justice
Ontario Superior Court of Justice