

Notice to the Profession, the Public and the Media Regarding Civil and Family Proceedings

SUSPENSION OF SUPERIOR COURT OF JUSTICE REGULAR OPERATIONS

March 15, 2020

To protect the health and safety of all court users and to help contain the spread of the 2019 novel coronavirus (COVID-19), the Superior Court of Justice (SCJ) is suspending all regular operations, effective Tuesday, March 17, 2020, and until further notice.

All criminal, family and civil matters scheduled to be heard on or after Tuesday March 17, 2020 are adjourned. This includes all telephone and videoconference appearances scheduled prior to March 17, 2020, unless the presiding judicial officer directs otherwise. Lawyers and litigants with matters scheduled on or after March 17, 2020 are advised not to attend the courthouse.

The Court will continue to hear urgent matters during this emergency period. The Court plays a fundamental role in our constitutional democracy. Access to justice for the most urgent matters must always remain available. This Notice identifies the urgent civil and family matters that shall be heard during the suspension of operations, and the process for bringing such matters before the Court.

A separate Notice to the Profession and the Public will issue, governing criminal matters during the suspension of the Court's regular operations.

In the weeks ahead, the Court will finalize a plan to resume regular operations. We anticipate the establishment of a Return to Operations (RO) Scheduling Court, where matters that have been adjourned will be rescheduled. We will strongly encourage counsel and parties to consent to future hearing dates. Should an appearance before the RO Scheduling Court be required, matters will likely be heard by teleconference.

For regular filings, that are not urgent as defined below, the Ministry of the Attorney General advises that courthouses will remain open. Those filings may continue to occur at courthouses. However, where procedural rules or court orders require the regular filing of documents during this emergency period, and it becomes impossible to file at the courthouse or the courthouse is believed to be unsafe, parties can expect the Court to grant extensions of time once the Court's normal operations resume. Parties must still comply with orders/rules requiring the service or delivery of documents as between parties.

In the event courthouses become closed or are inaccessible due to safety concerns, and to preserve limitation periods under the *Limitations Act*, 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.

During this temporary suspension of regular operations, the Court calls upon the cooperation of counsel and parties to engage in every effort to resolve matters.

A. MATTERS TO BE HEARD DURING THE SUSPENSION

Until further notice, only the following **urgent and emergency** civil and family matters listed below shall be heard by the Superior Court of Justice.

1. The following matters related to PUBLIC HEALTH AND SAFETY and COVID-19:

- a. applications by the Chief Medical Officer of Health for orders in relation to COVID-19;
- b. applications to restrain the contravention or continued contravention of an order made under the *Health Protection and Promotion Act*;
- c. applications to enforce orders requiring the seizure of premises, medications or supplies under the *Health Protection and Promotion Act*;
- d. appeals under subsection 35(16) of the *Health Protection and Promotion Act*;
- e. urgent requests for injunctions related to COVID-19; and
- f. urgent Divisional Court appeals and requests for judicial review related to COVID-19.

2. The following FAMILY AND CHILD PROTECTION matters:

Only urgent family law events as determined by the presiding justice, or events that are required to be heard by statute will be heard during this emergency period, including:

- a. requests for urgent relief relating to the safety of a child or parent (e.g., a restraining order, other restrictions on contact between the parties or a party and a child, or exclusive possession of the home);
- b. urgent issues that must be determined relating to the well-being of a child including essential medical decisions or issues relating to the wrongful removal or retention of a child;
- c. dire issues regarding the parties' financial circumstances including for example the need for a non-depletion order;
- d. in a child protection case, all urgent or statutorily mandated events including the initial hearing after a child has been brought to a place of safety, and any other urgent motions or hearings.

3. The following CIVIL and COMMERCIAL LIST (Toronto) matters:

- a. urgent and time-sensitive motions and applications in civil and commercial list matters, where immediate and significant financial repercussions may result if there is no judicial hearing.
- b. Outstanding warrants issued in relation to a Small Claims Court or Superior Court civil proceeding.

4. Any other matter that the Court deems necessary and appropriate to hear on an urgent basis. The Bar and the public are advised that these matters will be strictly limited.

The Court has discretion to decline to schedule for immediate hearing any particular matter described in the above list, if appropriate.

A hearing may be conducted in writing, by teleconference or videoconference, unless the Court determines that an in-person hearing is necessary. If an in-person hearing is needed, coordination will occur between the Ministry of

the Attorney General, the trial coordinator and the parties/counsel to find a safe and appropriate physical facility for the hearing.

B. PROCEDURE TO BRING AN URGENT MATTER

Filing urgent documents

1. Moving parties/applicants shall file urgent motion and application materials by email to the appropriate courthouse. The list of email addresses for each court may be found here [By Tuesday March 17, 2020, a complete list of email addresses for urgent filings for each courthouse will be linked here].
2. The Court expects parties will only submit brief materials to allow for a fair, timely and summary disposition. Emailed filings cannot exceed 10MB. If the size of electronically filed material exceeds 10MB, further emails may be sent within the 10MB maximum. Every effort must be made, however, to limit filed materials to 10MB.
3. Unless a matter is proceeding *ex parte* (i.e. without notice to responding parties), filed materials must indicate when and how service on responding parties was made.
4. Filed materials should also include any prior orders or endorsements that were issued and that are relevant to the urgent matter.
5. Caselaw and other source materials referenced in factum should be hyperlinked. Where hyperlinks are provided, it will not be necessary to file a Book of Authority.
6. Where it is not possible to email a sworn affidavit, affidavits may be delivered unsworn but the affiant must be able to participate in any telephone or videoconference hearing to swear or affirm the affidavit.

Scheduling a hearing

7. Where a moving party/applicant has filed material to seek an urgent hearing, the trial coordinator will seek direction from a triage judge as to whether or not the matter is urgent and should be scheduled for a hearing. The triage judge will also determine a schedule for the service and filing of any responding material.
8. Responding material shall be filed in the same manner as a moving party/applicant. The trial coordinator will provide to the parties the triage judge's schedule for the service and filing of any responding material.
9. Once all written submissions have been received, the judge will determine the manner of hearing.
10. Matters may be heard and determined in writing, by telephone or video conference.
11. It is anticipated that most matters will be dealt with by telephone conference, although a judge may direct a videoconference hearing. In rare instances, and where necessary and safe, some matters may be heard in-person in facilities that are deemed safe with necessary precautions in place.
12. The trial coordinator will advise the parties/counsel of the date and time for the hearing, and the method of hearing. There will be strict limits for the duration of the hearing, and the trial coordinator will advise of the maximum allotted time for the hearing.

13. There will be dedicated telephone conference lines for urgent hearings. There is also limited capacity for videoconference hearings. If one or more parties in a matter is represented by counsel, counsel may be asked to provide a teleconference number for the hearing.

The Hearing

14. Where a telephone or videoconference hearing is scheduled, there will be strict time limits imposed for oral submissions, to which parties and counsel are expected to adhere.
15. Mechanisms will be in place to record a hearing. Counsel and parties may also record a proceeding for their own purposes if authorized by the judge, pursuant to section 136(3) of the *Courts of Justice Act*.

C. SELF-REPRESENTED LITIGANTS

1. Self-represented litigants are expected to comply with the process set out in this Notice.
2. Pro Bono Ontario has a hotline (1-855-255-7256) for self-represented litigants with civil matters where they may obtain advice and assistance from dedicated pro bono lawyers.
3. For family litigants, the Court seeks the assistance from the family bar and Legal Aid Ontario in providing necessary support.

D. CONCLUSION

This suspension will cause substantial inconvenience to those with matters before the Court. The decision to engage this emergency process was not made lightly. However, the health and safety of the public, as well as all justice participants is a priority.

We ask for and appreciate your co-operation, flexibility and understanding during this extraordinary time.

Geoffrey B. Morawetz
Chief Justice
Ontario Superior Court of Justice