

**NOTICE TO THE PROFESSION**  
**PROTOCOL FOR CIVIL MATTERS IN THE SUPERIOR COURT OF JUSTICE,**  
**CENTRAL EAST REGION**  
**(Effective July 27, 2020)**

**Introduction**

This Protocol applies to civil matters in the Superior Court of Justice in the Central East Region, until further notice.

The Protocol is subject to change from time to time as may be necessary.

**Civil Trials**

There will be limited court space in all centres in the Central East Region for the balance of 2020. Accordingly, the regional Civil (non-Family) Trial Sittings scheduled to commence on November 16, 2020 are **cancelled**.

**Civil Non-Jury Trials**

In an effort to reach **non-jury** civil trials that had been pre-tried but could not proceed in November 2019 or May 2020, the region is instituting a running civil trial list of those cases.

When court space becomes available because of the collapse of criminal matters, counsel/parties with cases on the running civil trial list will be notified that their case is called in for trial. Counsel/parties must be ready to proceed to trial on 48 hours notice. If counsel/parties are not ready to proceed when notified, the case will fall to the bottom of the running list. [Note that where counsel have multiple cases on the running list, those cases will *not* be called in back-to-back.]

It is anticipated that cases will be called in for trial commencing the week of October 5, 2020.

Counsel/self-represented parties will have the option of conducting the trial by ZOOM.

More detailed information will be communicated shortly to bar organizations and associations.

### **Civil Jury Trials**

Given public health considerations including the need for social distancing and also facilities limitations during the ongoing COVID-19 pandemic, it is uncertain whether any civil jury cases will proceed to trial before May 2021.

### **Judicial Pre-Trials**

It is anticipated that civil pre-trials currently scheduled as of July 27, 2020, will proceed as scheduled.

Dates may also be requested for new civil pre-trials.

There is NO requirement that the parties certify that the case is capable of settlement. However, the focus of the pre-trial will be settlement of the action, including judicial direction as to steps that may assist the parties in settling the action, and NOT trial management.

### **Procedure for Booking a Judicial Pre-Trial**

It will be the responsibility of counsel with carriage of the file to initiate a request for a pre-trial in accordance with this Protocol. The Court will *not* initiate scheduling of a pre-trial.

A request for a pre-trial on an action commenced at any location in the Central East Region shall be made to Ms. Arzu Kaya at the following email address: [arzu.kaya@ontario.ca](mailto:arzu.kaya@ontario.ca) (“the pre-trial email address”). Counsel may use this email address *only* for communications related to the request for and scheduling of a pre-trial.

Counsel requesting a pre-trial must indicate the style of cause and court file number of the case; the court centre where the action was commenced; and where applicable, the date and location of any pre-trial that was previously scheduled. Counsel requesting the pre-trial must also provide an explanation not to exceed two typed pages of the nature of the action, why a pre-trial would be of assistance, and what if any settlement discussions have taken place. Counsel for all other parties must be copied on the email request.

Counsel who opposes the holding of a pre-trial shall, within 48 hours of the date and time shown on the email requesting the pre-trial, submit to the pre-trial email address a responding email message not to exceed two typed pages. The responding email message must explain why a pre-trial should not be held. The responding email message must be copied to counsel for all other parties.

The requesting email and any responding email message will be submitted to a triage judge, who will determine whether a pre-trial will be scheduled. Counsel for all parties will be advised of the decision in writing.

### **Pre-Trial Memos**

No pre-trial memos shall be filed unless and until counsel are notified that the request for a pre-trial has been granted.

Pre-trial memos may not exceed 15 pages. Any additional documents that counsel wish the pre-trial judge to review must be hyperlinked or made available by “Drop Box” or some other means that does not require sending by email.

All pre-trial memos shall be filed through the local trial coordinator, at the applicable location and address below:

#### Newmarket

Cookes, Janique [Janique.Cookes@ontario.ca](mailto:Janique.Cookes@ontario.ca)

#### Barrie and Bracebridge

Munro, Wendy [Wendy.Munro@ontario.ca](mailto:Wendy.Munro@ontario.ca)

Oshawa

Vennor, Penny [Penny.Vennor@ontario.ca](mailto:Penny.Vennor@ontario.ca)

Tri County (Cobourg, Lindsay, and Peterborough)

O'Brien, Maureen [Maureen.OBrien@ontario.ca](mailto:Maureen.OBrien@ontario.ca)

Pre-trial memos must be filed no later than five business days prior to the pre-trial.

**Pre-trial memos that do not adhere to these requirements will not be accepted by the Court.**

**The Pre-Trial**

Pre-trials will be held remotely by ZOOM. Effective August 3, 2020, the Court will make the connection arrangements and will advise counsel/self-represented parties of the connection arrangements.

The only individuals who may be present for the pre-trial are counsel who have carriage of the file, any party who is self-represented, and the pre-trial judge.

No recording may be made of the pre-trial by any participant. The exception is where a party is self-represented, in which case a recording of the pre-trial will be made by court staff at the direction of the presiding judge, for the assistance of the Court. Neither the recording nor a transcript of it may be released to anyone without an order of a judge of the Court.

The pre-trial judge may wish to speak separately with counsel (caucus) and/or speak with counsel and their client. Counsel must ensure the ability of the pre-trial judge to do so.

Counsel are required to have their clients available so that immediate instructions can be sought about proposed terms of settlement. Counsel retained by a corporation such as an insurance company must certify to the presiding judge at the beginning of the pre-trial that they have available a representative of the corporation with the authority to settle.

At the conclusion of the pre-trial, if counsel or a self-represented party requires an Order (such as an Order dismissing the action), a draft Order must be provided in Word format through the pre-trial email address for forwarding to the pre-trial judge for electronic signature.

**Rule 7 Motions (Court Approval for Settlements Involving Infants and Parties Under Disability)**

Where judicial approval is required of a settlement involving an infant or other party under disability, counsel may bring a motion in writing.

Until further notice, these motions should be submitted to the Court through the following generic email addresses:

Barrie [Barrie.SCJ.courts@ontario.ca](mailto:Barrie.SCJ.courts@ontario.ca)

Bracebridge [Bracebridge.courts@ontario.ca](mailto:Bracebridge.courts@ontario.ca)

Cobourg [Cobourg.court@ontario.ca](mailto:Cobourg.court@ontario.ca)

Durham (Oshawa) [Durham.SCJ.courts@ontario.ca](mailto:Durham.SCJ.courts@ontario.ca)

Lindsay [Lindsay.courts@ontario.ca](mailto:Lindsay.courts@ontario.ca)

Newmarket [Newmarket.SCJ.courts@ontario.ca](mailto:Newmarket.SCJ.courts@ontario.ca)

Peterborough [Peterborough.SCJ.courts@ontario.ca](mailto:Peterborough.SCJ.courts@ontario.ca)

The materials must comply with the requirements of Rule 7, except that any exhibits that would normally be attached to the affidavit filed in support of the motion should be hyperlinked or made available by “Drop Box” or some other means that does not require sending by email. The Court is unable to accept materials that are split into multiple emails.

Counsel shall submit with their motion materials a draft Judgment in Word format for electronic signature.

### **Civil Motions on Consent**

The Court will hear, in writing, motions (including estate and guardianship matters) that are **on consent**, meaning where a party to an action or an Application has served a Notice of Motion and the responding party is consenting to an Order granting the relief sought.

All consent motion materials must be filed by sending them electronically to the generic email addresses set out above under the heading Rule 7 Motions. The totality of the motion materials filed electronically **must not exceed 10 MB**. If the motion materials exceed this limit, or otherwise do not comply with this Protocol, the motion will not be heard.

The motion materials filed electronically must include: a Notice of Motion, an affidavit or affidavits in support, a Consent signed on behalf of all parties, email addresses for all parties, a draft order approved as to form and content by all parties, and a draft Order in Word format for judicial signature.

The moving party must also provide a written Undertaking that an original copy of the motion materials with proof of service and any fee payable will be filed with the Court filing office in the applicable location, within 45 days of the motion being heard.

Most members of the judiciary are working remotely and do not have access to motion materials previously filed in hard copy with the Court. If the motion materials filed electronically are duplicates of a “basket motion” previously filed with the Court in hard copy, the moving party must indicate in the draft Order that the “basket motion” previously filed is withdrawn.

Once a judge reviews the motion materials and determines that the relief sought will be granted, the judge will sign the draft Order using their electronic signature. A copy of the signed Order will be returned to the moving party via email. The moving party is responsible for providing a copy of the signed Order to all responding parties within 7 days of its receipt.

---

## **Contested Short Civil Motions**

Contested short motions (i.e. those ordinarily requiring one hour or less in total of oral argument) including estate and guardianship matters, will be heard in writing unless a counsel or a party notifies the trial coordinator in writing that an oral hearing by ZOOM video or teleconference is requested.

The moving party shall serve their motion materials, including a Notice of Motion indicating that the motion will be heard in writing or virtually on a date to be determined by the Court, a factum not to exceed 15 typed pages, and a draft order in Word format on all other parties by email, and then file the materials with the Court electronically through the applicable generic email address set out above. The moving party's materials **may not exceed 35 MB**. If the materials exceed this limit, or otherwise do not comply with this protocol, the motion will not be heard. Casebooks should *not* be filed. Counsel should provide a list of cases with hyperlinks.

The moving party must also provide a written Undertaking that an original copy of the motion materials with proof of service *and any fee payable* will be filed with the Court filing office in the applicable location, within 45 days of the motion being heard.

Any responding party shall serve their motion materials, including a factum not to exceed 15 pages, on all other parties by email and then file the materials with the Court electronically through the applicable generic email address set out above under the heading Rule 7 Motions, in accordance with the time set out in the Rules. The responding party's materials **may not exceed 35 MB**. If the materials exceed this limit, or otherwise do not comply with this Protocol, they will not be accepted. Casebooks should *not* be filed. Counsel should provide a list of cases with hyperlinks.

The timelines set out in the Rules for the filing of motion materials apply.

Most members of the judiciary are working remotely and do *not* have access to any documents or materials previously filed with the Court. If the motion materials were previously filed with the Court in hard copy, they must be re-filed electronically. The moving party must indicate in the draft Order that the motion previously filed is withdrawn.

Short motions will be placed before a judge for hearing in writing on a roster basis. If an oral hearing by ZOOM video or teleconference is requested, a hearing date will be arranged by the trial coordinator.

### **Long Motions**

Where, as of March 17, 2020, counsel/parties had booked a long motion hearing date, a rescheduled hearing date can be requested. Counsel/parties wishing a rescheduled hearing date should contact the trial coordinator at the applicable location and address below:

---

#### Newmarket

Cookes, Janique [Janique.Cookes@ontario.ca](mailto:Janique.Cookes@ontario.ca)

#### Barrie and Bracebridge

Munro, Wendy [Wendy.Munro@ontario.ca](mailto:Wendy.Munro@ontario.ca)

#### Oshawa

Vennor, Penny [Penny.Vennor@ontario.ca](mailto:Penny.Vennor@ontario.ca)

#### Tri County (Cobourg, Lindsay, and Peterborough)

O'Brien, Maureen [Maureen.OBrien@ontario.ca](mailto:Maureen.OBrien@ontario.ca)

Long motions will be heard virtually, by ZOOM video.

The timelines set out in the Rules for the filing of motion materials apply, as do the Rules specifying the materials to be filed.

---

## **Estates Matters**

The Court is able to deal with estates matters including applications for appointment of estate trustees with a will, applications for estate trustees without a will, and resealing applications.

Until further notice, counsel or a self-represented party should submit materials for estates motions through the following generic email addresses:

Barrie [Barrie.SCJ.courts@ontario.ca](mailto:Barrie.SCJ.courts@ontario.ca)

Bracebridge [Bracebridge.courts@ontario.ca](mailto:Bracebridge.courts@ontario.ca)

Cobourg [Cobourg.court@ontario.ca](mailto:Cobourg.court@ontario.ca)

Durham (Oshawa) [Durham.SCJ.courts@ontario.ca](mailto:Durham.SCJ.courts@ontario.ca)

Lindsay [Lindsay.courts@ontario.ca](mailto:Lindsay.courts@ontario.ca)

Newmarket [Newmarket.SCJ.courts@ontario.ca](mailto:Newmarket.SCJ.courts@ontario.ca)

Peterborough [Peterborough.SCJ.courts@ontario.ca](mailto:Peterborough.SCJ.courts@ontario.ca)

All materials submitted to the Court for an estates matter **must not exceed 35 MB**. The Court is unable to accept materials that are split into multiple emails. All attachments are to be hyperlinked or made available by “Drop Box” or some other means that does not require sending by email.

*Dated July 27, 2020*



Justice Michelle Fuerst  
Regional Senior Judge,  
Superior Court of Justice,  
Central East Region

*July 27, 2020*