

ONTARIO  
SUPERIOR COURT OF JUSTICE

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at London

**MEMORANDUM**  
**(effective January 4, 2021)**

CONCERNING THE CRIMINAL AND CIVIL OPERATIONS OF THE  
ONTARIO SUPERIOR COURT OF JUSTICE IN LONDON, ONTARIO  
EFFECTIVE JANUARY 4, 2021

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**A. INTRODUCTION**

This memorandum deals only with criminal and civil matters pending in London, Ontario, is **effective** January 4, 2021 and replaces a memorandum that was effective November 2, 2020. It does **not** apply to matters scheduled for hearing in the London Family Court Branch. It has been prepared with the provincial government's announcement that a time-limited Provincewide Shutdown will go into effect as of 12:01 a.m. on December 26, 2020 in mind.

Except where otherwise indicated below, the contents are the same as the memorandum that was effective November 2, 2020.

**Updated** - This memorandum is procedural only. It supplements: (i) in respect of criminal matters, **the Provincial Practice Direction/Amendment to the Criminal Proceedings Rules Regarding Criminal Proceedings**; (ii) in respect of civil matters, **the Consolidated Provincial Practice Direction** and the **Consolidated Practice Direction for the Southwest Region**;<sup>1</sup> and (iii) in respect of criminal and civil matters the **Notice to the Profession and Public Regarding Court Proceedings – December 22, 2020 NEW UPDATE** and the **Consolidated Notice to the Profession: Litigants, Accused Persons, Public and the Media**.<sup>2</sup>

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<sup>1</sup> All are available at <https://www.ontariocourts.ca/scj/practice/practice-directions/southwest/>.

<sup>2</sup> Available at [https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/#PROVINCIAL\\_NOTICES](https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/#PROVINCIAL_NOTICES).

This memorandum is intended to: (i) address the continuing impact of the COVID-19 pandemic and (ii) reflect the fact the Superior Court of Justice is operating with an increased emphasis on technology and remote appearances and with a limited ability to conduct in-person proceedings.

All e-mails or other communications to the court sent pursuant to this memorandum **shall** include: (i) the matter name(s) and London court file number(s) in the subject line and (ii) the e-mail address for counsel for the parties and any self-represented litigant.

London based lawyers are asked to bring this memorandum to the attention of any other lawyer involved in their matter(s) whose practice is based elsewhere and any self-represented party.

## **B. ATTENDANCES ON AND AFTER JANUARY 4, 2021**

### **i. Applicable to Criminal and Civil Matters - Courtroom Availability/Attendances and Document Naming Protocol**

**New – Non-jury matters almost always to proceed virtually** - The Chief Justice has directed that effective December 29, 2020, all non-jury matters should proceed virtually unless it is **absolutely necessary** to hold the proceeding in-person. This direction will remain in effect until the Provincewide Shutdown is lifted or until further notice from the Court.

**Changed** – Consequently, absent a judicial direction or order to the contrary, all non-jury matters, including trials, will be conducted remotely with counsel and where appropriate, litigants and witnesses giving oral testimony, attending by videoconference or teleconference.

**Changed** - Requests for an attendance in a manner other than just specified should be communicated to the court at the time a hearing is scheduled or if already scheduled, as soon as possible and after all counsel and any self-represented party have been consulted. The request must be accompanied by an explanation as to why it is **absolutely necessary** for the attendance to occur in-person. In that event, the

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manner of hearing will be determined by a judge at some time prior to the hearing. A judge may or may not convene a case conference (to be held virtually) for the purpose of discussing that issue.

In-person attendances will not be permitted in any Superior Court of Justice courtroom unless the Court is assured that all reasonably necessary safety precautions are in place to safeguard those who intend to appear in person. To be clear, during the Provincewide Shutdown, the court may not have the ability to accommodate requests for in-person attendances.

**Changed – Courtroom modifications and capacity** - To address public safety concerns, modifications have been made to all courtrooms in the London courthouse. It is expected that additional courtrooms will soon be available. However, the number of persons permitted in each courtroom has been and will continue to be significantly reduced. During the Provincewide Shutdown, each courtroom is subject to a ten person limit.

**Changed – Daily Docket** - As in the past, a daily docket will be circulated by the Trial Coordination Unit which will include: (i) information concerning the method of hearing; and (ii) in the likely event same is being conducted remotely, the connection details. London based lawyers are asked to bring those details to the attention of any other lawyer involved in their matter(s) whose practice is based elsewhere and any self-represented party.

**New – Document Naming Protocol** - Effective January 11, 2021 a single, Province wide document naming protocol will be implemented for all practice areas, including criminal and civil. The requirements are set forth in Part C of the **Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media**.<sup>3</sup> Compliance with the protocol is mandatory.

ii. **Additional Comments concerning Specific Criminal Proceedings**

**Scheduling attendances – Designations** - Due to the volume of cases and precautions made necessary by COVID-19, matters may continue to take longer than usual. Consequently, even if an accused is in-custody,

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<sup>3</sup> Available at [https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/#PROVINCIAL\\_NOTICES](https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/#PROVINCIAL_NOTICES).

counsel are encouraged to obtain a s. 650.01 *Criminal Code* designation so that the accused does not have to attend and can be remanded directly to the next date without a warrant with discretion. Such designations should be sent to the Trial Co-Ordinator at [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca)

**Changed - Criminal Trials** – The court intends to hear criminal non-jury matters as scheduled. As noted earlier, those matters must, by necessity, proceed remotely unless it is **absolutely necessary** to conduct same in-person. Criminal jury trials scheduled for January 2021 have already been adjourned. The status of criminal jury trials scheduled for February 2021 is not yet known.

**Changed - Currently scheduled non-trial attendances including judicial pre-trials, application readiness, trial readiness and pre-trial applications** - Non-trial attendances including pre-trials, application and trial readiness and pre-trial applications: (i) currently scheduled; and (ii) set for hearing on or after January 4, 2021 will be heard as scheduled. As noted earlier, those matters must, by necessity, proceed remotely unless it is **absolutely necessary** to conduct same in-person.

**Changed – Filings in criminal matters** - All filings for criminal matters are to be sent electronically to the Trial Co-Ordinator’s drop box – [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca)

**Bail and detention reviews** - Bail and detention reviews will continue to be scheduled by the trial coordination unit. As noted earlier, most of those matters must, by necessity, proceed remotely.

### iii. **Additional Comments concerning Specific Civil Proceedings**

**Civil Motions Courts and Special Appointments:** Short motions (60 minutes or less) will continue to be heard on each Friday shown on the Regional calendar. Special Appointments (more than 60 minutes) will continue to be heard on Mondays and Wednesdays as shown on the Regional Calendar.

**Changed – Electronic filing** - The following requirements concerning electronic filing apply to all senders, **except** those who do not have the technology needed to comply. All documents, except a draft order or

judgment, shall be submitted in Portable Document Format (PDF). Unless directed otherwise by the court, a document submitted electronically in accordance with this memorandum need not be filed in printed form.

**Changed - Filing of Motion material (including oversize material and material filed less than five business days before a scheduled event) –**

Generally, motion material is to be filed electronically at <https://www.ontario.ca/page/file-civil-claim-online>. However, if materials are in excess of 10 MBs or the court date is less than five business days away, until further notice, motion material is to be filed electronically at [London.Courthouse@ontario.ca](mailto:London.Courthouse@ontario.ca).

**Changed (one e-mail address) - Motions that become unopposed or on consent -** If a motion or application on a Friday, short motion list ceases to be opposed and becomes one that is to be disposed of on an unopposed or consent basis, an amended confirmation form must be submitted electronically and as soon as possible to (i) <https://www.ontario.ca/page/file-civil-claim-online>; and (ii) [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca).

In that event, (i) the unopposed or consent motion or application need not be spoken to on the return date; (ii) the unopposed or consent motion or application will be treated as a motion/application in writing and (iii) will be processed as soon as possible once a draft order or judgment, as the case may be, is provided electronically to <https://www.ontario.ca/page/file-civil-claim-online>. If there is another issue necessitating oral submissions, the amended confirmation form should indicate that and, briefly, the reason why that is required.

**Changed (one e-mail address) – Scheduling Special Appointments -**

As in the past, a motions list and list of available special appointments dates will be emailed by the Trial Coordination Unit in advance of each Friday hearing date. If the estimated time for argument for a court file on a Friday motion's list exceeds sixty (60) minutes, a special appointment date must be set. On the Friday return of the motion or application, a special appointment date may be obtained from the court registrar between 9:30 and 10 a.m. Thereafter, the matter must be addressed before the presiding judge when it is called sometime after 10 a.m. The special appointment date will **only** be set if the parties/counsel are in a position to confirm to the court that a Certificate of Readiness of Special Appointment will be fully

completed, executed and filed electronically **forthwith** at (i) [London.Courthouse@ontario.ca](mailto:London.Courthouse@ontario.ca) and (ii) [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca).

**Confirmation forms required** - As set forth in the *Rules of Civil Procedure*, confirmation forms are required for **all** matters on a motions list, **including** applications, matters requiring the setting of a special appointment date and special appointments. Amended Confirmation forms are required whenever there is a change in the information previously provided to the court. Confirmation forms must be filed electronically and in accordance with the required timelines at: (i) <https://www.ontario.ca/page/file-civil-claim-online>; and (ii) [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca).

**Filing of relevant prior endorsements** – If counsel or a party intend to refer to a prior endorsement at a hearing, a copy should be attached to the confirmation form or amended confirmation form, as the case may be, if the prior endorsement is not already included in the electronically filed motion or application material.

**Changed – Civil Assignment court** - When setting dates in civil assignment court in London, Ontario, all participants are expected to know and to have accounted for the weeks of the spring, fall and statutory judicial meetings. Those dates have been circulated by the trial coordination unit for the 2021 calendar year and will also be available on the Superior Court of Justice website at [www.ontariocourts.ca](http://www.ontariocourts.ca)

If the schedule of judicial conferences has not been circulated or posted for the year contemplated for a pre-trial and/or trial, the most recent dates that have been circulated/posted should be used as a guide. As well, participants are expected to know that civil trials will not begin or continue during the months of July or August in any year.

**Pre-trial memos** - All pre-trial memos are to be filed electronically in the Trial Co-Ordinator's drop box – [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca)

Paragraph 15 of the Consolidated Practice Direction for the Southwest Region applies to pre-trial memos (described in the Practice Direction as pre-trial briefs) subject to the following:

- a. The parties need not bring – or file – a brief containing all medical and other expert briefs despite rule 50.11 of the *Rules of Civil Procedure* and para. 15 b of the Practice Direction;

- b. Instead, they shall provide tabs or a similar feature in the pre-trial memo allowing easy access to expert reports, case law and any other pertinent documents they believe are essential to the conduct of the pre-trial. Alternatively, the filing party shall provide access to a document sharing platform that provides easy access to expert reports, case law and other pertinent documents the filing party believes are essential to the conduct of the pre-trial; and
- c. In addition, the party who set the matter down for trial shall submit an electronic copy of the trial record at the time the pre-trial memo is filed in the Trial Co-Ordinator's drop box - [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca)

**Changed - Civil jury and non-jury trials** – Civil jury trials scheduled to commence in January 2021 have already been adjourned. The status of those scheduled to commence in February 2021 is not yet known.

For now, civil non-jury trials will remain as scheduled. If called to trial, it is likely that civil non-jury trials will be held remotely by Zoom. Due to the current uncertainty, **consent** adjournment requests in relation to civil non-jury trials currently scheduled to commence in January or February 2021 and civil jury trials scheduled to commence in February 2021 may be submitted to the court by letter sent electronically to [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca).

**Daily Docket - Method of hearing and connection details** – For all civil matters referred to above, the court will provide on the daily docket: (i) information concerning the method of hearing; and (ii) in the likely event the hearing is being conducted remotely, the connection details. Once again, London based lawyers are asked to bring those details to the attention of any other lawyer involved in their matter(s) whose practice is based elsewhere and any self-represented party.

**Urgent motions or applications** - If a motion or application is believed to be so **urgent** that it cannot await a Friday return date, an e-mail requesting an earlier hearing may be sent to the Trial Co-Ordinator at [London.SCJ@ontario.ca](mailto:London.SCJ@ontario.ca) The e-mail shall be **no** longer than two (2) pages and shall state: (i) the London court file number if already assigned; (ii) the names of all parties and any other person affected by the order sought; (iii) the relief requested; (iv) the reasons why the matter is urgent; and (v) the e-mail address of all lawyers involved in the case and of any unrepresented person. If an e-mail address for an unrepresented person is not known,

other contact information must be provided. The request will be reviewed by a triage judge and directions will be given by the court in the event the matter is to be scheduled for hearing.

**Motions in-writing and rule 7.08 matters** - The preceding paragraphs do **not** affect consent motions, unopposed motions and motions without notice brought in accordance with rule 37.12.1 (1) through (3). Such motions may continue to be filed along with motions or applications under rule 7.08 of the *Rules of Civil Procedure*. All such rule 37.12.1 motions in writing and motions and applications under rule 7.08 are to be filed at <https://www.ontario.ca/page/file-civil-claim-online>.

Dated at London, Ontario on the 23rd day of December 2020.



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Grace J.,

Local Administrative Judge, London