

**ONTARIO
SUPERIOR COURT OF JUSTICE**

at London

MEMORANDUM

(effective September 8, 2020)

**CONCERNING THE CRIMINAL AND CIVIL OPERATIONS OF THE ONTARIO
SUPERIOR COURT OF JUSTICE IN LONDON, ONTARIO COMMENCING
SEPTEMBER 8, 2020**

A. INTRODUCTION

This memorandum deals only with criminal and civil matters pending in London, Ontario, is **effective** September 8, 2020 and replaces memoranda issued on June 25 and July 2, 2020. It does **not** apply to matters scheduled for hearing in the London Family Court Branch

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**; and (ii) in respect of civil matters, **the Consolidated Provincial Practice Direction** and the **Consolidated Practice Direction for the Southwest Region**.¹

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 preparing for September 8, 2020 when it is hoped that the court can slowly continue the process of resuming normal operations.

All e-mails or other communications to the court sent pursuant to this memorandum shall include the matter name(s) and London court file number(s)

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

in the subject line and 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 SEPTEMBER 8, 2020

i. Courtroom Availability/Attendances

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.

In London, five of thirteen Superior Court of Justice (including the London Family Court Branch) courtrooms have been modified to address public safety concerns.

Consequently, the ability of the Superior Court of Justice to hear matters in person will continue to be very limited.

The court plans to conduct criminal trials and when it becomes possible, civil jury trials, in person. Absent a judicial direction or order to the contrary, civil non-jury trials and all non-trial matters, including criminal and civil assignment courts, will be conducted remotely with counsel and where appropriate, litigants and witnesses giving oral testimony, attending by videoconference or teleconference.

Requests for an attendance in a manner other than just specified should be communicated to the court at the time the hearing is scheduled. In that event, the manner of hearing of will be determined by a judge at some time prior to the hearing. A judge may or may not convene a case conference for the purpose of discussing that issue.

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) if being conducted remotely, the connection details.

ii. Additional Comments concerning Specific Criminal Proceedings

Scheduling attendances - 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, 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

Criminal Trials – Subject to space limitations, it is the court’s intention to resume criminal jury and non-jury trials on-site on September 8, 2020.

Currently scheduled non-trial attendances including judicial pre-trials, application readiness, trial readiness and pre-trial applications - The court proposes that 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 September 8, 2020 will be heard as scheduled. As noted earlier, most of those matters must, by necessity, proceed remotely.

Pre-trial memos - All pre-trial memos relating to pre-trials scheduled for the period from September 8, 2020 onward are to be filed in the Trial Co-Ordinator’s drop box – 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

Friday motions and special appointments: NO judge will be available for motions court on Friday, September 18, 2020. Otherwise, motions will continue to be heard on each Friday shown on the Regional calendar.

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). If provided, a draft order or judgment **must** be submitted in Word format.

Motion material is to be filed electronically at <https://www.ontario.ca/page/file-civil-claim-online>. In that event, printed copies are NOT required.

If a motion or application 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.

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>.

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) <https://www.ontario.ca/page/file-civil-claim-online>; and (ii) London.SCJ@ontario.ca.

As set forth in the *Rules of Civil Procedure*, confirmation forms are required for **all** matters on a motions list, **including** applications and special appointments. 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. In that event, printed copies are **NOT** required.

Pre-trial memos - All pre-trial memos are to be filed electronically in the Trial Co-Ordinator's drop box – 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 hyperlinks in the pre-trial memo to expert reports, case law and any other pertinent documents; 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

Civil jury and non-jury trials – Civil jury trials scheduled to commence in September or October 2020 will **not** proceed. If not already done so, those trial dates are vacated and affected matters are adjourned to the September 18, 2020 assignment court to be spoken to.

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. Due to the current uncertainty, consent adjournment requests in relation to civil non-jury trials currently scheduled to commence in September or October 2020 may be submitted to the court by letter sent electronically to London.SCJ@ontario.ca.

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.

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 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 2nd day of September 2020.

A handwritten signature in blue ink that reads "Grace J." with a stylized flourish at the end.

Grace J.,

Local Administrative Judge, London