

ONTARIO
SUPERIOR COURT OF JUSTICE

at London

MEMORANDUM
(effective March 1, 2021)

CONCERNING THE CRIMINAL AND CIVIL OPERATIONS OF THE
ONTARIO SUPERIOR COURT OF JUSTICE IN LONDON, ONTARIO
EFFECTIVE MARCH 1, 2021

A. INTRODUCTION

This memorandum deals only with criminal and civil matters pending in London, Ontario, is **effective** March 1, 2021 and replaces a memorandum that was effective January 4, 2021. 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**; (ii) in respect of civil matters, **the Consolidated Provincial Practice Direction and the Consolidated Practice Direction for the Southwest Region**;¹ and (iii) in respect of criminal and civil matters the **Notice to the Profession and Public Regarding Court Proceedings – January 13, 2021 NEW UPDATE** and the **Consolidated Notice to the Profession: Litigants, Accused Persons, Public and the Media and Southwest Region – Filing Court Documents – effective March 1, 2021**.²

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

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

² Available at https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/#PROVINCIAL_NOTICES.

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. COURTROOM AVAILABILITY/ATTENDANCES and DOCUMENT NAMING PROTOCOL

i. Criminal and Civil Matters

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 further notice from the Court.

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.

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 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 – 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, the court may not have the ability to accommodate requests for in-person attendances.

Courtroom modifications and capacity - To address public safety concerns, modifications have been made to all courtrooms in the London courthouse. However, the number of persons permitted in each courtroom has been and will continue to be significantly reduced. Currently, each courtroom is subject to a ten-person limit.

Daily Docket – Criminal and Civil Matters - 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.

Document Naming Protocol - Effective January 11, 2021 a single, Province wide document naming protocol has been 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**.³ 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, 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

³ Available at https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/#PROVINCIAL_NOTICES.

the next date without a warrant with discretion. Such designations should be sent to the Trial Coordinator at London.SCJ@ontario.ca

Criminal Non-Jury matters – The court intends to hear currently scheduled criminal non-jury matters (trials and non-trial attendances including pre-trials, application and trial readiness, and pre-trial applications) 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 – Those scheduled for March through May 3, 2021 have already been adjourned. The status of criminal jury trials scheduled for May 10, 2021 and beyond is not yet known.

Filings in criminal matters - All filings for criminal matters are to be sent electronically to the Trial Coordinator'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**

Civil Motions Courts and Special Appointments: Short motions (60 minutes or less) will continue to be heard on Fridays. Special Appointments (more than 60 minutes) will continue to be heard on Mondays and Wednesdays.

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.

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.

Motion material is **NO LONGER** to be filed at London.SCJ@ontario.ca.

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.

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.

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 London.Courthouse@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 all matters to be heard by way of special appointment. 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) London.Courthouse@ontario.ca; and (ii) 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.

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 are attached for the reader's ease of reference.



2021 - SCJ
Calendar.pdf

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 – Pre-trial memos are **NO LONGER** to be filed electronically in the Trial Coordinator's drop box at London.SCJ@ontario.ca. They are now 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, pre-trial memos are to be filed electronically at London.Courthouse@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 that 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, unless previously filed electronically, 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 at <https://www.ontario.ca/page/file-civil-claim-online>. There is no filing fee for the trial record if one has previously been filed. As a result, when filing through the online portal, “Exhibit” must be chosen as the type of document to be filed. It is suggested that the filing be accompanied by a short memo to the court (also filed through the portal, choosing “Exhibit” as the type of document being filed) advising that the filing of a copy of the trial record is for the purpose of a pre-trial. However, if the pre-trial date is less than five business days away, the trial record is to be filed electronically at London.Courthouse@ontario.ca. If filing through London.Courthouse@ontario.ca, once again, the court should be advised in the body of the accompanying e-mail that the filing is for the purpose of a pre-trial.

Civil jury and non-jury trials – Civil jury trials scheduled to commence in March through May 3, 2021 have already been adjourned and are to be spoken to at a special assignment court on March 12, 2021. The status of civil jury trials scheduled to commence on May 10, 2021 and beyond is not yet known. Due to the current uncertainty, **consent** adjournment requests in relation to civil jury trials currently scheduled to commence in May or June 2021 may be submitted to the court by letter sent electronically to Joy.Beattie@ontario.ca.

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. If called to trial, a Trial Management Conference with the trial judge will be scheduled through the office of the Trial Coordinator and counsel and any self-represented parties will be notified of the date, time and connection details.

Civil Trial Adjournment Requests - Except as set forth above in relation to certain civil jury trials, trial adjournment requests, even if on consent, are

to be made by way of motion scheduled for hearing before the local administrative judge or his designate through the trial coordinator.

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 Coordinator at Joy.Beattie@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 24th day of February, 2021.



Grace J.,

Local Administrative Judge, London