



## **NORTHWEST REGION NOTICE TO THE PROFESSION**

### **THE NORTHWEST REGION**

This Notice to the Profession should be read together with the [Consolidated Notice to the Profession](#) located on the Superior Court of Justice (SCJ) website effective as of April 19, 2022. The Consolidated Notice to the Profession incorporates the [Guidelines to Determine Mode of Proceedings in Civil, Family and Criminal](#) matters that were issued by Chief Justice Morawetz on March 16, 2022 (the “Guidelines”).

This region supports the Guidelines regarding matters that are presumptively in person and those presumptively virtual, however, some deviation from the Guidelines is necessary in the Northwest Region to maintain the historic means of accessing the Courts in this region.

The distances between court locations, the cost of travel to and within the Northwest Region as well as the vast size of the Northwest Region, has meant that virtual hearings (by video or telephone conference) have always been an accepted method of accessing the Courts. The Guidelines allow for a regional directive where variations are necessary.

The variations and clarifications in this Notice pertain only to the Northwest Region.

Please note that there remain significant COVID-19 infections in the community in this Region, that has the potential to disrupt court operations. Currently, self-screening, masking and social distancing are still encouraged. We will endeavour to ensure matters proceed as scheduled; however, hearings may need to be moved to virtual rather than in person in certain circumstances.

### **REGIONAL CALENDAR**

The SCJ in Northwest Region has court locations in Thunder Bay, Kenora and Fort Frances. There is no resident SCJ judge in Fort Frances. To provide equal access to the SCJ, the Northwest Region has moved to a regional calendar. This means that rather than setting court dates on a limited basis in both Kenora and Fort Frances, counsel and parties may obtain the earliest available date for their event. The result, however, is that many proceedings, in particular family conferences, criminal pretrial applications, motions and civil applications and certain other events that are presumptively to be heard in person in the Guidelines will be held virtually in this Region.

## **ELECTRONIC FILING and CASELINES**

Lawyers and litigants are expected to file documents electronically unless it is impractical to do so. Consideration will be given to self-represented individuals who may not have access to the necessary technology. Directions for filing documents electronically is found on the SCJ web site [here](#).

In addition to filing documents electronically, in most instances parties will also be directed to upload documents for use at a court hearing to CaseLines. In the Northwest Region CaseLines shall be used for the following events:

**Civil:** Subject to a judicial order or endorsement, all scheduled Civil events will use CaseLines, with the exception of Assignment Courts and Regional Motions (Lists) Court.

**Family:** Subject to a judicial order or endorsement, all scheduled Family events will use CaseLines, with the exception of Assignment Courts and Regional Motions (Lists) Court. This does not include child protection appeals or family cases subject to a sealing order.

**Criminal:** Subject to a judicial order or endorsement, all scheduled Criminal events will use CaseLines, with the exception of Assignments Courts, bail estreatments and detention review list courts. Individually scheduled detention reviews will use CaseLines.

For more information about CaseLines please view the following links:

### **Tips for Counsel and Self-Represented Parties**

<https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/supplementary-notice-september-2-2020/caseline-tips/>

**View an 18-minute Caselines tutorial** on how to access, update, invite people and review evidence for cases [here](#).

**A link to a demonstration of CaseLines** may be accessed here:

<https://vimeo.com/448576991>

## **MODE OF PROCEEDINGS**

All matters scheduled on and after April 19, 2022 will be heard consistent with the Guidelines. However, where this Notice differs from the Guidelines, the method of hearing shall be in accordance with this Notice. Matters scheduled prior to April 19, 2022, will proceed as originally scheduled.

In making decisions where counsel or the parties disagree on the mode of hearing, the Court will consider the type of hearing, the cost of attending the hearing in person and access to the court in a timely matter.

## **Criminal Events**

Any party seeking to change the presumptive mode of hearing for an event should raise this request with the court at the earliest opportunity and no later than when scheduling the event.

The request may be raised with the presiding judge at a pretrial, Assignment Court or Case conference.

If Crown and defence consent to change the presumptive mode of hearing from in person to virtual or to a hybrid hearing, the request will be automatically approved by the court. If there is not consent, counsel shall address this with the presiding judge at the time the issue arises or obtain a special date before the Regional Senior Justice or their designate to address the mode of proceeding.

### ***Deviation from the Guidelines in the Northwest Region, Criminal:***

In the Northwest Region, criminal pretrial applications/motions that do not involve calling evidence shall be presumptively virtual. Counsel may request that they proceed as a hybrid hearing or in person, depending on the circumstances.

Requests for counsel and/or the accused to appear virtually for guilty pleas, sentencing submissions or any time a judge is delivering an oral decision, shall be considered on a case-by-case basis. The court will consider the cost of travel to the Northwest Region or the specific court location, the nature of the proceeding and any other relevant factor in reaching a determination.

### ***Gowning for Judicial Pre-Trials***

Counsel are only required to gown for judicial pre-trials when a plea is expected to be taken at the pre-trial. In all other instances, it is no longer necessary for counsel to gown for judicial pre-trials in the Northwest Region.

## **Family Events**

Family conferences and other types of proceedings in the Northwest Region have historically been held either virtually, by telephone conference or on a hybrid basis as well as in person. No prior consent by a judge has been required for counsel or parties to attend court by an alternate method to appearing in person for many years for the reasons set out in the preamble to this Notice.

With the use of zoom for virtual hearings, the court may utilize technology to provide breakout rooms for counsel and their clients and to provide the judge the opportunity to caucus with individual lawyers and their clients as needed.

Regardless of the method of hearing, counsel are reminded that they are required to hold meaningful discussions in advance of conferences to ensure that the time spent in Court is well spent. (See new Rules 17(3.1) and new subsection 17(3.3) of the *Family Law Rules*).

***Deviation from the Guidelines in the Northwest Region, Family:***

- In keeping with the regional scheduling, many events in family, including conferences and long motions will be scheduled presumptively virtually in order to provide a timely date. Counsel may request an in-person appearance at the time the event is scheduled, however, the event may be delayed as a result.
- When all parties consent to a virtual case or settlement conference, the conference shall proceed virtually.
- In those instances where one of the parties is unable to attend in person, the conference shall proceed virtually to permit the judge to utilize the breakout rooms and to enable the party unable to attend in person to have the same access to their counsel, the courtroom, and the judge as if appearing in person.
- If either party objects to a virtual appearance, they shall raise this with the court at the earliest opportunity and set out their objection in writing by emailing the Trial Coordinator's office setting out the basis for their objection. The Trial Coordinator will seek the input of the presiding judge or the Regional Senior Justice or their designate.
- Notwithstanding that a conference was first heard virtually, either party may request, or the judge presiding may order, a second conference to be held in person to assist with resolution or narrowing of issues.
- Hybrid conferences are to be discouraged, however, may be provided if requested by counsel or the parties by writing to the Trial Coordinator's office setting out the basis for a hybrid hearing. The Trial Coordinator will seek the input of the presiding judge or the Regional Senior Justice or their designate.

**Civil Events**

The court will maintain a flexible approach to scheduling civil matters in person, virtually or as hybrid proceedings. The goal is to ensure that civil proceedings move forward in a timely and cost-effective way for all parties while ensuring that the integrity of the proceeding is maintained.

Where the Guidelines indicate a proceeding is presumptively in person, counsel or self represented parties may change the hearing to virtual or to a hybrid hearing on consent of the parties by informing the Trial Coordinator in writing that the matter will be proceeding virtually or as a hybrid hearing.

Where there is disagreement regarding the method of proceeding, counsel or self represented parties may seek the direction of a judge by sending a written request to the Trial Coordinator who will put the request to the presiding judge or the Regional Senior Justice or their designate.

In responding to requests for virtual or hybrid proceedings, the court will consider the cost for counsel or parties to attend in person, the event in question and the importance of moving matters forward in a timely fashion.

### ***Reminder of Rule Changes Effective April 23, 2022***

Confirmations are now required to be filed **5 days prior to the motion/application**. Confirmation forms shall be sent to the appropriate court office via email (not fax) by 2:00 pm (increased from three days). (Rule 38.09.1)

For all matters where CaseLines is required, all materials, including the confirmation form, are to be uploaded to CaseLines only after having been filed in the appropriate court location, **a minimum of 3 days prior to the motion and application**. (Rule 4.05.3).

*Please note the revisions to Form 37B Confirmation of Motion and Form 38B Confirmation of Application. The revised Forms 37B and 38B are available on the [Ontario Court Forms website](#). The amended forms provide court staff more time to create files in CaseLines following receipt of the confirmation, and more time for parties to upload their materials into CaseLines in advance of motions and applications.*

### **REGIONAL MOTIONS COURT**

Regional Motions Court, Thursdays at 10:00 am EST, will continue and shall be held virtually. Commencing June 1, 2022, motions of up to 1 hour may be scheduled on a Regional Motions Court date. The purpose of this change is to enable shorter matters to proceed without the need for a special date. The judge presiding on the Regional Motions Court shall determine if any motions scheduled will not proceed due to time constraints.

Regional Motions Court will be reduced to alternate weeks during the months of July and August.

### **REGIONAL ASSIGNMENT COURT**

Regional Assignment Court for criminal matters will continue to be held via zoom on the last Monday of every month.

There will be no regular Civil or Family Assignment Courts. Trial dates for civil and family matters shall be obtained at the pretrial or settlement conference or through communication with the Trial Coordinator. A special date may be obtained to address trial scheduling for civil or family matters where the parties are unable to resolve trial scheduling between themselves.

## **CHAMBERS MATTERS**

As soon as practical the Northwest Region will reinstate hearing chambers matters. We are consulting with the Bar to determine the most effective way these may be dealt with given that most files are now on-line rather than in paper.

## **COSTS**

Counsel and parties should be mindful of the cost of accessing justice, particularly when the cost of appearing at an event or proceeding requires significant travel and accommodation expenses. It may be that a party who insists on an in-person event that results in increased and unnecessary travel costs may not recover their costs of travel or may be subject to a costs order if the matter may have reasonably been dealt with via videoconference. This may also include expenses incurred for examinations for discovery and questioning in certain circumstances.

## **NEW LAWYERS and GAINING EXPERIENCE**

It is important that new lawyers gain experience in the courtroom in all types of hearings. In the Northwest Region, the court will consider any request by counsel who seek to appear in person in any matter that is presumptively virtual on a case-by-case basis. Requests for an in-person appearance may be made through the Trial Coordinator.

## **CONTACT EMAILS:**

### **Thunder Bay:**

Trial Coordinator / Judicial Assistant: [ThunderBay.SCJ@ontario.ca](mailto:ThunderBay.SCJ@ontario.ca)

Court Services/Registrars' Office: [CSD.ThunderBay.SCJ@ontario.ca](mailto:CSD.ThunderBay.SCJ@ontario.ca)

### **Kenora:**

Trial Coordinator / Judicial Assistant: [Kenora.SCJ@ontario.ca](mailto:Kenora.SCJ@ontario.ca)

Court Services/Registrars' Office: [Courts.Kenora@ontario.ca](mailto:Courts.Kenora@ontario.ca)

### **Fort Frances:**

Trial Coordinator / Judicial Assistant: [FortFrances.SCJ@ontario.ca](mailto:FortFrances.SCJ@ontario.ca)

Court Services/Registrars' Office: [Courts.FortFrances@jus.gov.on.ca](mailto:Courts.FortFrances@jus.gov.on.ca)

**SUPERIOR COURT OF JUSTICE, NORTHWEST REGION  
PRESUMPTIVE MODE OF HEARING**

**Note: All Presumptively In-Person Hearings may proceed as a Hybrid Hearing if the parties consent or the Court makes an Order to that effect.**

AREA OF RESPONSIBILITY	EVENT TYPE	IN PERSON	VIRTUAL	IN WRITING	
Criminal	Jury Trial	X			
	Non-Jury Trial	X			
	Pre-trial Motions/Applications	X	X		
	Guilty Pleas	X	X		
	Sentencing Hearing	X	X		
	Regional Assignment Court		X		
	Summary Conviction Appeal		X		
	Judicial Pre-trials		X		
	Bail Reviews/Applications/Estreatments		X		
	Detention Reviews		X		
	Case Conference / To be Spoken to		X		
	Civil	Jury Trial	X		
		Non-Jury Trial	X		
Civil Pre-trials			X		
Case Conferences/Case Management			X		
Regional Assignment Court			X		
Consent and Unopposed Motions				X	
Regional Motions Court			X		
Long Motions and Applications			X		
Family	Case Conference, Settlement Conference, Trial Management Conference		X		
	Regional Motions Court		X		
	Assignment Court /Trial Scheduling Conf		X		
	Procedural & Consent Motions		X	X	
	Long Motions	X	X		
	Trials	X			
	Judicial Dispute Resolution	X	X		