



CONSOLIDATED PRACTICE DIRECTION

NORTHWEST REGION

October 18, 2024

This Regional Consolidated Practice Direction should be read together with the Consolidated Provincial Practice Directions.

<https://www.ontariocourts.ca/scj/practice/provincial-practice-directions/>

This Northwest Region Consolidated Practice Direction replaces all previous Notices.

1. Regional variation regarding presumptive mode of proceeding in Family Law cases

This region supports the Guidelines in the Provincial Practice Directions 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.

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, and certain other events that are presumptively to be heard in person in the Guidelines in the Provincial Practice Directions will be held presumptively virtually in this Region.

It is recognized that particularly in family law matters, there can be some considerable benefit to the parties and counsel being able to attend and participate in person. The benefit of in-person appearances must be balanced against the fact that we serve a vast geographic region, and virtual appearances have significantly improved access to justice for those who do not live in Thunder Bay.

Some in-person conferences will be offered on a limited basis in Thunder Bay and Kenora (centres where there are resident judges). The presumptive mode shall remain virtual. An in-person conference may be requested by contacting the Trial Coordinator at the respective e-mail addresses below, provided both parties agree. If the parties disagree, the presumptive mode shall apply unless there are compelling reasons for a request to be made for an in-person or hybrid conference. Those requests shall be made to the LAJ Family (Justice Nieckarz) through the Trial Coordinator.

Unfortunately, we are not able to offer in-person dates in Fort Frances as there is no resident judge. Fort Frances residents and counsel who wish to have an in-person conference may request an in-person date in either Thunder Bay or Kenora. Full access to virtual conference dates remains.

Once an in-person conference is scheduled, it cannot be changed to virtual. Dates that are offered as virtual conferences cannot be changed to in-person. Please be clear with the trial co-ordinator as to whether you are requesting an in-person or virtual conference. You must confirm you have the consent of the other party for an in-person proceeding.

Email addresses for conference requests are:

Thunder Bay Trial Coordinator ThunderBay.SCJ@ontario.ca

Kenora Trial Coordinator Kenora.scj@ontario.ca

2. Regional Motions (Civil and Family – one hour or less)

All motions on the Thursday Regional Motions lists shall be uploaded to Case Center no later than 4:00 p.m. of the Tuesday prior to the Regional Motions Day (i.e. by 4:00 p.m. on November 26, 2024, for motions being heard on November 28, 2024).

Late filing, unless it is an emergency matter, will not be considered a valid reason for receiving authorization to proceed. If your motion is not uploaded to Case Center as directed, the motion shall be automatically adjourned to the following Regional Motions Court unless a different date is provided.

As soon as possible after the filing of your Notice of Motion and paying the requisite fee, Court Services Division will provide you with a Case Center invitation to upload your motion material to a Regional Motions Court bundle. They endeavour to do this within 3

days, however, that is not always possible, so you should bear this in mind when placing a matter on the Regional Motions Court list.

In an effort to ease the congestion of filings in advance of Regional Motions Court, it is strongly recommended that you serve and file your motion materials well in advance of the preferred Regional Motions Court date in order to avoid the motion from being adjourned because you were not able to upload your material to Case Center.

Orders and Endorsements from Regional Motion's Court

After the hearing of the motion, the endorsement or order from the presiding judge will be uploaded to the Regional Motions Court bundle and you will receive notice that the order or endorsement has been uploaded (you must have notifications enabled on Case Center in order to receive the notice). The order or endorsement shall be available on Case Center for a period of 2 weeks. The order or endorsement will be maintained on the actual court file with Court Services Division and will always be available from the court staff.

Please note that the Regional Motions Court bundle is not part of the Case Center folder for an individual proceeding.

Because the Regional Motions Court bundles are not the same folder as the Case Center folder for the main action or application, the Court is not able to provide access to your Regional Motion bundle indefinitely. If for some reason you are not able to locate your order or endorsement, you may request a copy from the appropriate court location at the following email addresses:

Thunder Bay – CSD.ThunderBay.SCJ@ontario.ca

Kenora – Courts.Kenora@ontario.ca

Fort Frances – FortFrances.OCJ.Courts@ontario.ca

Confirmation Forms

It is not sufficient to only file your confirmation form with the court. The form must **also** be uploaded to Case Center whenever a confirmation form is required. (It is always required for motions and for family conferences).

Civil – Confirmation forms are due five (5) business days prior to the event.

Family – Confirmation forms are due three (3) business days prior to the event.

Your matter may be struck from the Regional Motions court list or removed from the schedule if the confirmation form is not filed on time.

The court staff require confirmation forms to determine whether a matter is proceeding, and the time required for the event. The court staff do not upload the confirmation form to Case Center nor do they forward the filed confirmation to the hearing judge.

Judges require the confirmation form to ascertain what issues are in dispute and which documents they should be reviewing. For example, if a motion is being placed on the Motion List as a consent motion, it is imperative for the judge to have this information in the confirmation form on the Case Center bundle for the motion, otherwise, the judge will spend unnecessary time reviewing the entire file to consider the issues presumed to be in dispute.

When a special date has been provided for a long motion or other proceeding, the hearing date assigned may be adjourned or vacated if the confirmation form is not uploaded to Case Center.

3. Long Motions (Civil and Family – more than one hour)

Civil and Family Motions requiring more than one hour of hearing time are to be scheduled directly with the trial coordinator. Motion material to be uploaded to the appropriate motion folder of the Case Center Bundle.

4. Pre-Trials and Early Resolution Conferences in Civil Proceedings

Changes to the Rules of Civil Procedure require that:

1. Prior to scheduling a pretrial, the parties must have received and served all their expert reports (Rule 53.03);
2. Parties are to complete and file a Certificate of Readiness 30 days prior to a pretrial conference. The Certificate of Readiness relates to the calling of experts by a party and confirming that the expert reports have been obtained and served, and if not, why (Rule 50.03.1);
3. Pretrial conferences will only be scheduled if the trial date is not more than 120 days and not less than 30 days after the pretrial conference, or on the first day of the sitting during which the trial is expected to be held, ***which in the Northwest would be the earliest available Running List*** (Rule 50.02 (2.1));
4. A judge on their own initiative or at a party's request, at any time, may direct that a pretrial conference be held (Rule 50.02(3)); and,
5. A judge may order costs to be immediately payable against a party where they determine a pretrial conference was unproductive for reasons relating to that party's conduct (Rule 50.12).

In consultation with members of the Civil Bar (both plaintiff's counsel and defence counsel), the Northwest Region offers early resolution conferences after a trial record has been served and filed, either on the consent of the parties or by court order, should a

judge determine that such a conference would be beneficial in narrowing the issues or resolving the litigation. Before an early resolution conference date will be provided to counsel, they must submit to the RSJ or designate, a summary of the issues they wish to address and why an early resolution conference would be beneficial.

In the Northwest Region, the early resolution conference shall proceed under Rule 50.02(3) of the *Rules of Civil Procedure* and the usual pretrial conference form shall be served and filed, with the additional information that the conference is proceeding as a pre-resolution conference.

Pretrial and early resolution conference briefs shall not exceed 15 pages. Any additional documents that counsel wish the pretrial judge to review must be hyperlinked. They must also be filed and uploaded to Case Center. Even if hyperlinked, it is preferable that each additional document is uploaded to Case Center individually. This enables the judge and opposing parties to quickly locate the material.

The Rules require that pretrial conference briefs are required to be filed 5 days in advance of the pretrial. This Rule also applies to early resolution conference briefs. Once your pretrial conference brief has been filed in the court file, an invitation will be sent to counsel to enable you to upload your materials to the relevant Case Center bundle. At times there is a delay between filing the pretrial brief in the court and receiving the invitation to upload to Case Center.

To minimize delays in uploading your material to Case Center, counsel and parties are encouraged to file their briefs in the court more than 5 days prior to the scheduled pretrial. This will assist the court staff in processing your materials and providing the Case Center invitation so that your materials may be uploaded to Case Center in sufficient time for the assigned judge to prepare.

Trial Coordination Emails:

Thunder Bay – ThunderBay.SCJ@ontario.ca

Kenora – Kenora.SCJ@ontario.ca

Fort Frances – FortFrances.SCJ@ontario.ca

5. Trial Dates for Civil and Family Trials

If a date for a civil (jury or non-jury) trial was obtained prior to the pretrial conference, the date shall be confirmed at the pretrial. If a date for a civil (jury or non-jury) trial was not obtained prior to the pretrial conference, the date shall be obtained at the pretrial. In either

case, the pretrial judge shall place or confirm the trial on the appropriate Running List and make directions with respect to further trial management conferences as required.

Dates for Family trials shall be obtained at the trial scheduling conference and the presiding judge shall place the trial on the appropriate Running List and make directions with respect to further trial management conferences as required.

All matters on a Running List shall be spoken to two months prior to the commencement of the Running List to determine trial readiness and, where possible, to confirm commencement date within that Running List. Additionally, there will be a Trial Confirmation Date the Wednesday prior to the commencement of the Running List to confirm all matters proceeding to trial. The Running List will be distributed to counsel prior to these dates. The 2024 & 2025 Running Lists, the Speak to Date, Trial Confirmation Date and Zoom connection details have been distributed by the Thunder Bay Trial Coordinator. These dates and details will be distributed annually.

6. Criminal Proceedings in the Superior Court of Justice in the Northwest Region

The Consolidated Provincial Practice Direction for Criminal Proceedings (*CPPD-CP*) (effective June 15, 2023): <https://www.ontariocourts.ca/scj/practice/consolidated-criminal-pd/> will apply unless otherwise stated.

It is expected that counsel will advise the Trial Coordinator of the status of their matters before “Speak To Date” court.

Where possible, judge alone trials less than five days will be assigned to the third week of the Running List and “stacked” as required.

All matters on a Running List shall be spoken to two months prior to the commencement of the Running List to determine trial readiness and, where possible, to confirm commencement date within that Running List. Additionally, there will be a Trial Confirmation Date the Wednesday prior to the commencement of the Running List to confirm all matters proceeding to trial. The Running List will be distributed to counsel prior to these dates. The 2024 & 2025 Running Lists, the Speak to Date, Trial Confirmation Date and Zoom connection details have been distributed by the Thunder Bay Trial Coordinator. These dates and details will be distributed annually.

Pre-trial Conferences

Upon committal for trial, the parties shall contact the trial coordinator to schedule a date for the pre-trial conference. The date for the pre-trial conference shall be confirmed at the next assignment court immediately following the filing of the indictment.

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 not necessary for counsel to gown for judicial pre-trials in the Northwest Region.

Trial Scheduling

Following the pre-trial, the parties shall contact the trial coordinator to set dates for trial and applications, if any, in accordance with the direction of the pre-trial judge. The dates shall be confirmed at the next criminal assignment court immediately following the pre-trial. Failure to contact the trial coordinator as directed may result in the adjournment of the matter at assignment court with delay attributed to the non-complying party.

Trials, both jury and non-jury, will be assigned to a Running List and it is expected that matters will proceed when called. Matters are to be spoken to at 9:00 a.m. on the Wednesday preceding commencement of the Running List to confirm readiness.

Bail Hearings, Bail Reviews and Detention Reviews

A party seeking a Bail Hearing, Bail Review or Detention Review (based on grounds other than delay) shall first obtain an appointment for a pre-hearing conference from the trial coordinator. The purpose of the pre-hearing conference is to determine the issues and the evidence required and address any other hearing management issues. Upon completion of the pre-hearing conference, the pre-hearing judge will direct the parties to obtain a date for the hearing from the trial coordinator and provide directions for the hearing.

Regional Detention Reviews and Bail Estreatments are conducted regionally via ZOOM commencing. Connection details will be available on the Various Scheduled Dates for the Northwest Region which will be distributed by the trial coordinator annually.

Bail Estreatments

Bail Estreatments will be monthly on Thursdays @ 3:00 p.m. EST / 2:00 p.m. CST
The Kenora and Fort Frances dockets will be addressed first at 2:00 pm CST / 3:00 pm EST, followed by the Thunder Bay docket.

Detention Reviews

Detention Reviews will run twice a month on Thursdays @ 2:00 p.m. EST / 1:00 p.m. CST
The Kenora and Fort Frances dockets will be addressed first at 1:00 pm CST / 2:00 pm EST, followed by the Thunder Bay docket.

Regional Detention Reviews

The following procedure will be followed for Detention Reviews:

1. Court Services Division will prepare the docket and email Counsel for inmates the following generic email:

Good Day

On the attached docket, you represent an accused that is scheduled for a ninety day detention review pursuant to s. 525 of the Criminal Code.

Please reply to this e-mail, copying Crown(s) if your client's detention review is being waived, and please include the following:

Name of the Accused:

Name of Counsel:

Reason for waiver:

If not waived counsel to appear at Detention Review Court on _____ to set date for a detention review hearing.

Zoom Coordinates: (will be available in the e-mail)

2. Defence counsel are to respond no later than 4 PM on the Wednesday before the Detention Review List and copy the applicable Crown office indicating whether the Detention Review is waived or not.
3. If not waived, counsel are to appear at Detention Review Court. A date for the Detention Review will be set by the trial coordinator and a prehearing endorsement will be made at that time for the conduct of the Detention Review.

7. Case Center Tips for Motions, Applications, and other Proceedings:

1. Please remember that the Case Center folder is the only access to the court file that the judge hearing your motion, pretrial or other proceeding has before them. It is imperative that you upload all material that is needed for the proceeding. For example, the pleadings should always be uploaded into a Pleadings bundle, even if your event is a long motion or a pretrial/or family conference. Judges rely on reviewing the pleadings to obtain a full picture of the nature of the proceeding before the court.
2. Confirmation forms, when required, must be filed in the court file and uploaded to Case Center. The confirmation form must include every document that the judge is expected to review. ***Confer with the other side means confer.***
3. Ensure that all prior orders and endorsements have been uploaded into the Orders and Endorsements bundle and if not, you must upload them. The court staff will endeavour to upload recent orders and endorsements; however, it is the lawyer's responsibility to upload historical orders and endorsements. It is helpful when you are relying on a prior order or endorsement in your motion or other proceeding, that you include them as separate documents in the Motion (or other) bundle as well as ensuring they are in the Orders and Endorsements bundle.
4. In addition to the tips and processes for Case Center provided in the Consolidated Provincial Practice Direction, the tips set out below are of specific importance to the judges in the Northwest Region.
5. Turn on Notifications on your Case Center account. By doing this, you will receive a notice every time a new document is filed by any party, or an Order or Endorsement is uploaded.
6. Upload as separate numbered documents in the Case Center bundle:
 - a. Notice of Motion or Pretrial/Conference Brief;
 - b. Affidavit(s);
 - c. Every exhibit or other document being relied upon should be uploaded individually and properly described. In other words, as a document separate from the affidavit itself or the pretrial or conference brief (for example: as "Exhibit A – Consent dated xxx", "Expert Report of Dr. X");
 - d. Financial Statements and Net Family Property Statements in Family proceedings should always be uploaded as separate items in motions and conference bundles;

- e. Affidavit(s) of Service **do not** have to be uploaded to Case Center unless service is an issue;
 - f. Facta must have hyperlinks to authorities and hyperlinks to source documents i.e.) paragraph of affidavit or specific exhibit.
 - g. Cases in a compendium of authorities shall be hyperlinked in an Index;
 - h. If not filing a factum, do not upload a case brief as a PDF. Instead, provide a compendium of the cases and statutes, with an index that is hyperlinked to the source **and** to the specific paragraph number of the case;
 - i. Include your proposed Draft Order or Consent Order as a separate document (this is helpful for the judge to focus on the issues to be addressed and if uploaded separately, the draft may easily be downloaded by the judge and signed if approved);
7. Responding material shall follow the same process as above.



Regional Senior Justice Newton

Dated: October 18, 2024