

Wellington Law Association – SCJ Civil/Family/Estates Bench and Bar Committee

Minutes

September 11, 2018, 4:45 pm, Wellington County Courthouse

Present: Mark Muir Rodenburg (chair), Justice G. Lemon, Justice N. Mossip, Trenton Johnson, Teresa Pearson, Don Kidd, Angela Vincenzo

Regrets: Cherolyn Knapp, Jacquie Rodden Yetman

1. Agenda approved.
2. Minutes of January 23, 2018 meeting approved.
3. **Business Arising from the Minutes:**
 - None.
4. **Court Operations and Staffing:**
 - Angela Vincenzo, Supervisor at 74 Woolwich reported that they have hired four new court staff who are currently in training. They will eventually be working in either 74 Woolwich or 36 Wyndham. The Ministry of the Attorney General (MAG) is proceeding ahead with plans to expand the Unified Family Court (UFC) to Kitchener.
5. **SCJ Court Scheduling**

Teresa reiterated yet again that confirmation forms and the Trial Scheduling Endorsement Forms are still not being completed properly (this was referred to in detail in the November 21, 2017 minutes and repeated in the January 23, 2018 minutes).

The minutes of November 21, 2017 will be circulated to all members of the Bar so hopefully this situation will improve. All family and civil lawyers should refer to the Central West Practice Direction at <http://www.ontariocourts.ca/scj/practice/practice-directions/central-west/cw/> and, in particular, with regards to confirmation forms for family matters Part I A, paragraphs 2 through 6, and with regards to confirmation forms for civil matters Part II H, paragraphs 66 through 70.

With regards to long motion dates availability, these are currently being booked in the spring and summer of 2019. If both counsel are agreed that they require an earlier date because the matter has some urgency then they are advised to call Teresa and she may be able to arrange for the motion to be heard in the trial sittings. Trent will draft up something and circulate it to Teresa setting out how this should work in practice. This will then be reviewed by Justices Lemon and Mossip and, once approved, will be circulated to the Bar as a “Notice of Bar” and will be posted on the WLA website.
6. **Update from the Bench**

Nothing to report.

7. **Civil E-filing Pilot project**

This went live in Guelph on November 27, 2017. See attached Fact Sheet which provides information on the next phase (you can now file a Statement of Defence online!!).

8. **Small Claims Court**

Don had nothing to report.

9. **Update from WLA**

The Library/Lounge renovation has been completed. An Open House will be held at the Library/Lounge on Thursday, September 27, 2018 from 5:00 p.m. to 7:00 p.m.

Jonathan Krashinsky and Cherolyn Knapp of the WLA Board met with our MPP Mike Schreiner a couple of weeks ago. They briefed him on the problems with the Guelph Courthouses – particularly 36 Wyndham. They are going to arrange for him to tour 36 Wyndham and he is going to invite the current AG to visit Guelph. Cherolyn will provide further updates as there are developments.

The WLA Board asked as follows:

“On motions to change, right now, the practice is to have these proceed by way of the case conference, settlement conference, trial management conference and trial route. At the OCJ level, unless a party asks for a trial or there needs to be a trial due to credibility issues, these are resolved by way of what is the equivalent of a long motion. Can arrangements be made to have motions to change at the Superior Court level resolved by a less involved process than going through all of the conferences? For example, might there be a combined case and settlement conference with the matter then proceeding to a hearing including motions court for matters under 1 hour or to long motions court or the trial assignment court? Any information or suggestions from the committee would be welcome.”

Justices Lemon and Mossip indicated that if both lawyers agree the matter can proceed on the basis of a paper trial (ie. no viva voce evidence but instead all evidence provided in affidavits). That being said Rule 15(26) of the Family Law Rules sets out that the court can provide directions, including directions for a trial, usually if credibility issues are in play.

The WLA Board also asked as follows:

“Finally, again for the issue of default, in the OCJ, if a party does not file responding material, the other side has the option of going straight to a default hearing on affidavit evidence. In the Superior Court, my experience is that the practice has been that the matter has to be set down for a case conference. On the failure of a responding party to file any material, the matter is then put on the Assignment Court list and scheduled for a hearing with viva voce evidence. Can

a practice be developed to allow a party to go directly to a default hearing on affidavit evidence if the other side does not respond? Again any insight would be appreciated.”

Justices Lemon and Mossip referred to Rule 17(2) of the Family Law Rules which provides that, if the matter is not defended, a party can request 1) a case conference; or 2) set a date for an uncontested trial.

10. **Other Business**

There was none

11. **Next Meeting: Tuesday, January 15, 2019** at 4:45 p.m. Wellington County Courthouse.

12. **Meeting adjourned.**

FACT SHEET

CIVIL CLAIMS ONLINE FILING SERVICE

MAG is enhancing the service that enables the online filing of documents to initiate civil claims in the Superior Court of Justice (SCJ). In May 2018, the civil claims online filing service will expand to enable the filing of some defence documents. The expansion follows the successful provincewide launch of the service in November 2017. Below is more information about this multi-year, multi-phase initiative.

What does the service currently enable?

The service enables online filing of the following documents for initiating a claim:

- Statement of Claim
- Notice of Action
- Affidavit of Litigation Guardian of a Plaintiff under a Disability
- Request for Bilingual Proceedings
- Consent to File Documents in French

The service also enables the delivery of statements of claim and notices of action by email, and online payment.

Users can save draft submissions which can be completed at a later time. A history of their submissions can also be viewed online.

What will be included in the May 2018 expansion?

In addition to being able to file a statement of claim or notice of action, users of the service will be able to file:

- Proofs of Service
- Notices of Intent to Defend
- Statements of Defence.

What have been the results of the service so far?

The initial pilot of the service was launched in five locations in April 2017. Since then, over 4500 civil cases have been initiated online. Uptake of the service has increased monthly.

What are the benefits of this service for court staff?

The civil claims online filing service reduces the time court

staff spend manually entering information from paper court forms into the court case management database, FRANK, issuing court documents and taking payments at court counters.

How will this service impact staffing at courthouses?

MAG continues to move towards a modern electronic work environment. Online filing means less manual data entry. It streamlines and modernizes processes. Court staff will continue to perform critical roles in delivering court services.

Who is using the civil claims online filing service?

The service is being developed for use primarily by legal professionals, who account for approximately 90% of all civil filings. Self-represented litigants are also able to use the service.

Why is the implementation of this service important for our clients?

MAG is committed to providing more accessible and responsive justice services for the public and our partners. This user-friendly service provides our clients with 24/7 access to the online filing of civil claims.

Who is developing the civil claims online filing service?

The service is being developed as a partnership project between Justice Technology Services, the Court Services Division and the Modernization Division.

Will there be further updates to the service?

Improvements and expansions to the service will be ongoing.

These updates will continue to improve the user experience and will enable users to file additional documents.

We will provide more information as we implement further updates to the service.

Why is the initiative being rolled out in phases?

This multi-phase approach enables us to create and test the technology in stages, building foundational components that can be used in later phases. By rolling out the service gradually, we will be able to make changes based on feedback, ensuring a convenient, tailored user experience. This incremental approach also allows us to prepare for changes to business processes.

Project Inquiries

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