



SUPERIOR COURT OF JUSTICE

Court House
5 Court Street
Kingston, Ontario K7L 2N4
Tel: (613) 548-6815 Fax: (613) 548-6209

MEMORANDUM

To: The Legal Profession and Court Users in Kingston, Frontenac and Lennox & Addington

From: Mr. Justice Graeme Mew (Local Administrative Judge, Civil/Criminal)

Date: 2 July 2020

Re: Limited Resumption of In-Court Hearings for Criminal Matters; Continued Use of Electronic Filing and Hearings by Videoconference and Telephone Conference in Civil and Criminal Matters

The purpose of this memorandum is to provide information concerning Superior Court operations in Kingston (Court Street) and Napanee. It should be read in conjunction with the provincial and regional notices posted on the SCJ website and, in particular:

- [Notice to the Profession, Litigants, Accused, Media and Members of the Public \(June 25, 2020\)](#)
- [Notice to the Profession – Court Operations in the East Region during the COVID-19 Health Emergency \(May 12, 2020\)](#)
- [Order of Morawetz CJ Further Adjourning Criminal Matters \(May 5, 2020\)](#)

Further provincial and regional notices may be published in due course.

The continued support and cooperation of the profession is acknowledged. We all share an interest in keeping the wheels of justice turning to the fullest extent reasonably possible under current conditions.

COURTROOMS

Measures have been implemented at the Frontenac County Courthouse to address public health requirements. Courtroom D has been equipped with plexiglass screens. The number of people who can be present in the court at any given time has been significantly reduced. It will be the only operational courtroom available to the Superior Court until at least September for the hearing of civil, criminal and family matters.

The hope and expectation is that limited in-court hearings will be possible on and after 6 July 2020.

The second wave of courtroom openings is scheduled for September and includes the main courtroom in Napanee (Thomas Street).

We do not yet know when additional courtrooms might come onstream in Kingston.

Lawyers, parties and the public attending the courthouse must ensure strict compliance with all health and safety requirements posted throughout the courthouse. Failure to comply will result in that person being denied admission to or required to leave the courthouse. If you are uncertain about the health and safety requirements in the courthouse, please inquire before attending the courthouse (the general enquiries telephone number for the courthouse is (613) 548-6811).

COMMUNICATING WITH THE COURT

All communications with the court in relation to civil and criminal matters should be via email using the [SCJ Kingston](#) and [SCJ Napanee](#) email portals. Documents should also be filed using those email addresses, although there may be capacity limitations which require other arrangements to be made in specific cases.

The court is looking at more advanced electronic filing systems for use in the longer term.

CIVIL MATTERS

Most if not all civil proceedings will be conducted by telephone or videoconference until further notice. The parties in all civil applications and motions that had been scheduled between 17 March 2020 and 2nd July 2020 should have been contacted and asked to reschedule their motions or applications. Many of those motions and applications have now been heard.

All documents must be filed electronically in accordance with the provincial and regional notices.

Already Scheduled Applications and Motions

Applications and motions that had been scheduled on or after 6 July 2020 will be heard as scheduled unless they are adjourned in the usual way.

As a practical matter, requests to adjourn long motions and applications that are made less than 4 weeks before the return date of the motion/application will usually be referred for review by a judge, even when the adjournment request is on consent (this is to ensure optimal use of court resources - it is often not possible to redeploy a judge or find another matter to fill the time slot left by a matter that is adjourned on short notice).

Short Motions and Applications

Short motions and applications will continue to be heard on regular motions days (every other Thursday in Kingston and on ROTA Fridays in Napanee). Although these motions will all be returnable at 10:00 a.m. on any given hearing day, depending on the volume of cases to be heard and the anticipated time required, the court may provide a more precise time for the hearing of particular matters during the course of the day.

Long Motions and Applications

Longer motions and applications (one hour or more) can be scheduled through the trial coordinator via the [SCJ Kingston](#) and [SCJ Napanee](#) email portals.

In-Writing Motions and Applications

In-writing motions and applications are encouraged wherever possible. All consent and unopposed matters should be in writing.

Pre-Trials

Many pre-trials that had been scheduled to be heard between 17th March and 2nd July have now been conducted. Requests to reschedule pre-trials that were adjourned as a result of the suspension of court operations and which have not already been rescheduled by the court should be made to the trial coordinator via the email portal.

Pre-trials that have been scheduled for on or after 6th July will proceed as scheduled and are expected to be pre-trial ready (as would be the case in normal times). As with requests to adjourn long motions and applications, requests to adjourn pre-trials that are made less than 4 weeks before the return date of the scheduled pre-trial will be referred for review by a judge, even when the adjournment request is on consent.

Trials

As of 1st September 2020, the court will resume hearing civil trials using remote technology. Virtual trials will allow a great number of cases to proceed. Parties to any trial set to commence in Kingston or Napanee in 2020 will be contacted by the court so that a case management conference can be convened. A case conference will be obligatory unless the parties indicate that the matter has been settled. At the case conference, the parties will be asked to provide a brief overview of the case and its status and to advise:

- If a jury notice was served, whether the parties agree that the trial could proceed with a judge alone;
- Whether a pre-trial conference or motion could lead to the complete or partial resolution of the case;
- If there is any practical impediment to a virtual trial; and
- The availability of the parties, counsel and witnesses for a trial proceeding on or after 1st September 2020.

If the judge at the case conference determines that the case may proceed to a virtual trial, the parties will be given a new trial date. They may in the alternative be directed to a pre-trial conference or further case management.

Parties do not need to arrange for a case conference prior to being contacted by the court. They must however confer with each other prior to the case conference with respect to the issues that should be addressed at the conference.

Case Conferences

For any matter, a party may request that a case conference be convened pursuant to Rule 50.13, that a judge be appointed to hear all motions pursuant to Rule 37.15. A brief outline of the reasons for the request should be provided. Requests will be considered having regard to both need and the availability of judicial resources.

CRIMINAL MATTERS

To reduce the number of personal attendances at courthouses and facilitate use of remote technology, all counsel are strongly encouraged to have their clients sign a Superior Court designation and file it via the [SCJ Kingston](#) or [SCJ Napanee](#) email portal (as applicable).

Some trials and other criminal proceedings requiring in-court hearings will be proceeding, commencing 13 July 2020.

Matters Scheduled to be Heard in July, August and September

Kingston has criminal trials scheduled in July, August and September. Those trials will remain on the trial lists. Where the original election was non-jury, or where counsel have indicated an intention to re-elect, trials will proceed, subject to courtroom availability.

When for whatever reason, a scheduled trial does not proceed, efforts will be made to find another trial-ready matter to replace the time that has been vacated. We want to avoid having our one operational courtroom empty on sitting days, if at all possible. **If counsel have any trial-ready matters that could be slotted into the schedule on short notice in place of another matter that is not proceeding, please let the trial coordinator know.**

For applications and other criminal proceedings scheduled to be heard in July, August and September, consideration will be given on a case-by-case basis, to the suitability of using technology, for example remote hearings or proceeding in writing. Counsel involved in such matters are encouraged to confer with each other and to advise the court whether or not all or part of the application or other proceeding could be heard virtually.

Matters Scheduled to be Heard Between 17 March 2020 and 3 July 2020

All matters which had been scheduled to be spoken to or heard in March, April, May or June have, by dint of successive orders made by the Chief Justice, now been formally adjourned until 15, 16, 17 or 18 September unless the court orders otherwise (see Part F of the [Notice to the Profession, Litigants, Accused, Media and Members of the Public \(June 25, 2020\)](#)).

Nevertheless, these matters can be spoken to during the week of 6 July 2020 by Zoom videoconference or via telephone as follows:

- Adjourned Kingston matters which were scheduled to be spoken to or heard in March can be spoken to on Monday 6 July 2020 commencing at 10:00 a.m.
- Adjourned Kingston matters which were scheduled to be spoken to or heard in April can be spoken to on Tuesday 7 July 2020 commencing at 10:00 a.m.
- Adjourned Kingston matters which were scheduled to be spoken to or heard in May can be spoken to on Wednesday 8 July 2020 commencing at 10:00 a.m.
- Adjourned Kingston matters which were scheduled to be spoken to or heard in June can be spoken to on Thursday 9 July 2020 commencing at 10:00 a.m.
- Adjourned Napanee matters which were scheduled to be spoken to or heard in March, April, May or June 2020 can be spoken to on Friday 10 July 2020 commencing at 10:00 a.m.

It is not anticipated that parties or their counsel will appear in person. Nor will it be possible to connect by telephone or video with parties who are in custody. Accordingly, defence counsel will be required to have designations filed or arrange to have their out-of-custody clients connect to the hearing by telephone or video.

Particulars of the Zoom link for each To Be Spoken To court can be obtained upon request via the appropriate SCJ portal.

Counsel may wish to speak to each other in advance about possible resolution or whether (if applicable) a further JPT would be beneficial.

Matters which are not spoken to on 6, 7, 8, 9 or 10 July, will remain adjourned to the applicable September dates set out in Part F of the [Notice to the Profession, Litigants, Accused, Media and Members of the Public \(June 25, 2020\)](#).

Feedback and comments on these arrangements and suggestions for improvement are welcomed and should be channelled through one of the local lawyers' associations (the Frontenac Law Association, the Lennox & Addington Law Association, the applicable local Criminal Lawyers' Association director, or the Kingston Criminal Defence Lawyers Association) or through the Crown Attorneys in Kingston or Napanee.

A handwritten signature in green ink, appearing to read 'Graeme Mew', with a stylized flourish at the end.

Graeme Mew