

# NOTICE TO THE PROFESSION AND PARTIES

## PROTOCOL FOR CIVIL PROCEEDINGS THE SUPERIOR COURT OF JUSTICE, CENTRAL EAST REGION

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Effective June 1, 2022

This Notice to the Profession and Parties applies to civil proceedings in the Superior Court of Justice, Central East Region, commencing June 1, 2022.

This Notice *supersedes* all previous region-specific Practice Directions and Notices to the Profession for the Central East Region issued prior to this date which are hereby revoked unless specifically referenced in this Notice.

Counsel and parties are also advised to refer to the relevant Parts of the following, which are available on the Superior Court of Justice website at: [www.ontariocourts.ca/scj](http://www.ontariocourts.ca/scj):

[Consolidated Provincial Practice Direction](#);  
[Consolidated Practice Direction for Divisional Court Proceedings](#); and,  
[Notice to the Profession, Parties, Public, and the Media - effective April 19, 2022](#)

In addition, counsel should refer to the applicable [Provincial Notices to the Profession](#).

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**OVERVIEW**

This Notice applies to civil matters in the Superior Court of Justice in the Central East Region (“the Region”), until further notice.

It is subject to change from time to time as may be necessary.

**PART 1 - PRESUMPTIVE MODE OF HEARING**

For complete information on the Presumptive Mode of Hearing Guidelines for the Superior Court of Justice Guidelines, please see:

[Guidelines To Determine Mode of Proceeding in Civil | Superior Court of Justice](#)

The chart below lists the presumptive modes of hearing for civil matters in the Central East region.

		In person	Virtual	In writing
<b>Civil</b>	<b>Jury trial</b>	X		
	<b>Non-jury trial</b>	X		
	<b>Civil pre-trials</b>		X	
	<b>Case conferences/case management</b>		X	
	<b>Trial Scheduling Court (CETSC)</b>		X	
	<b>Consent and unopposed Motions</b>			X
	<b>Contested Motions</b>		X	
	<b>Long Motions &amp; Applications</b>		X	

**A. Change to Presumptive Mode of Hearing**

All events that have been scheduled as a virtual hearing prior to the release of this Notice will proceed as scheduled as a virtual hearing despite the Guidelines. As new events are being scheduled, they will proceed in accordance with this Notice and in accordance with the Guidelines

All events that are being scheduled on or after June 1, 2022 will proceed in the presumptive mode of hearing set out above unless a judge or where applicable an associate justice, prior to the hearing, has directed otherwise.

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

The request must be made in writing and emailed to the Trial Coordinator's Office, copied to all other parties. The Trial Coordinator's Office will arrange for a telephone or virtual attendance before a judge.

**Failure to raise this at the first available opportunity will result in the event proceeding in the presumptive mode of hearing. The request will not be considered on the scheduled hearing date.**

## **PART 2 - FILING COURT DOCUMENTS**

The following link contains information regarding standard document naming protocol and the electronically filing of materials for Court and Court fee payments: Documents MUST be electronically filed.

[Notice to the Profession, Parties, Public and the Media - Standard Document Naming Protocol - Electronically filing materials](#)

- Documents filed with the Court must comply with the court filing requirements in Rule 4.01 to 12 of the *Rules of Civil Procedure*;

Court documents which do not comply with these document standards, including the maximum length for such documents, will NOT be accepted (i) for filing, and (ii) cannot be uploaded to CaseLines.

**PLEASE ENSURE STRICT COMPLIANCE WITH TIMELINES and COURT FILING DOCUMENT STANDARDS.**

It is expected that written materials and documents for civil matters will be filed with the court electronically in the manner specified below. If, however, a party is unable to file materials and documents electronically, they may file them in person at the courthouse filing office.

For any documents which counsel will be relying on whether they be for a motion, long motion, pre-trial application, or trial, counsel must first consider whether they intend to refer to such documents during argument. Counsel are encouraged to read the Best Practices Guidelines which have been published by both the Ontario Bar Association and the Advocates' Society which provide helpful guidance on how to conduct a virtual hearing.

Counsel are strongly encouraged to review and follow the [Notice to the Profession, Parties, Public and the Media | Superior Court of Justice](#), Part I sections 3 and 4. for guidance on how to properly prepare and file documents electronically. Please note that the naming convention must be in accordance with the standard document naming protocol set out in Part C of Chief Justice Morawetz's [Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media](#).

Where counsel file more than 25 pages of documentary evidence, whether by affidavit or otherwise, counsel must, in addition to the filing of such documentation, file a Compendium which shall only contain those documents and caselaw that counsel will actually refer to in argument.

### **PART 3 - UPLOADING OF MATERIALS (CaseLines)**

#### **A. *Generally***

It is the responsibility of the parties (and former counsel), upon receipt of the CaseLines' invite to invite new counsel or party, if there has been a change in counsel or the contact information of the current counsel/party is incorrect. Similarly, counsel may invite their legal assistant to upload the event materials.

How? You can do so by locating the case (found on your View Case List screen) and selecting Update Case. Next, click on the People tab found in the case file and then on Invite New Participant. Enter the participant's email address and select the bundles you would like to provide them access to (i.e. the event and Orders and Endorsements bundles). Once you click Invite, an automated CaseLines email will be sent to the person containing a link to the case.

Failure to comply with the above may result in the event not proceeding as scheduled and, where appropriate, judicial sanctions and/or terms may be imposed.

**Only court documents which have been accepted for filing are to be uploaded. Should either party upload documents which have not been filed, the party must bring this to the attention of the presiding judge.**

For updated, detailed information and instructions, please refer to the link [here](#).

#### **B. *Civil***

Currently, CaseLines will be used for civil pre-trials and long motions, but may include other events as directed by a judge. Use of CaseLines will expand to all civil events in July 2022.

For full details, refer to the [Notice to the Profession, Parties, Public and the Media | Superior Court of Justice](#).

All material that will be relied upon at a pre-trial or long motion **must** be uploaded to CaseLines in order to be considered at the hearing.

When counsel is preparing a factum, they must hyperlink all references to caselaw to an electronic database such as CanLii. The hyperlink must NOT be to another document which has been filed or submitted online but rather MUST be to an external URL and NOT password protected. [Please see CaseLines Hearings - Tips for Counsel and Self-represented Litigants](#). Counsel MUST NOT file Briefs of Authorities UNLESS the caselaw they intend to refer to is not found on an electronic database like CanLii.

If a self-represented litigant is not able to use CaseLines because of lack of access to technology, they can obtain help through Justice Services Online by contacting 1-800-980-4962 or by email at [info.CaseLines@ontario.ca](mailto:info.CaseLines@ontario.ca)

**In summary**, in addition to compliance with Rule 4 (Court Documents) of the *Rules of Civil Procedure*, it is the responsibility of the parties to:

- a) Upload all **filed** documents to CaseLines **no later than three days before the hearing due**. Rule 4.05.3(4) of the *Rules of Civil Procedure*;
- b) **The parties should expect to receive CaseLines' invite at least 3 days prior to the event**. If you have not received the CaseLines' invite prior to three days before the hearing, it is the party's responsibility to contact the Court Office to enquire and obtain your CaseLines' invite;
- c) **The documents must be uploaded to the appropriate bundle created for the event. The hearing judge will only have access to that specific event bundle**; and,
- d) Ensure that the uploaded documents comply with Rule 4.05.3 of the *Rules of Civil Procedure*.

Failure to comply with the above may result in the event not proceeding as scheduled and, where appropriate, judicial sanctions and/or terms may be imposed.

The following specific directions on what to upload or not upload must also be complied with:

1. **Affidavits of Service** – Upload affidavits of service to CaseLines only where service may be an issue.
2. **Do Not Upload Sealed Documents**.

3. **Motions for Removal as Lawyer** – in civil matters, unredacted motion materials in such motions should not be uploaded into CaseLines. These documents should be emailed to the Trial Coordinator's Office.
4. **Upload Pleadings** – parties must ensure that all pleadings have been uploaded into the Pleadings sub-bundle in CaseLines.
5. **Upload Prior Orders and Endorsements** – Parties must ensure that all previous relevant orders and endorsements in the case have been uploaded into the Orders and Endorsements bundle in CaseLines.

### **C. Release of Orders and Endorsements**

Where an event was heard using CaseLines, court staff may release orders and endorsements to the parties by uploading them to CaseLines instead of sending them by e-mail, subject to any direction from the presiding judicial official.

When orders and endorsements are released and updated to CaseLines, the parties will receive notification that CaseLines has been updated. Parties can then obtain these documents by accessing the Orders and Endorsements sub-bundle in CaseLines. In some cases, where the court has reserved, the presiding judge may also send a copy of the reasons or endorsement to the parties via email.

## **PART 4 – CIVIL PROCEEDINGS**

### **A. Motions to Transfer a Civil Proceeding**

All requests for a transfer of a civil proceeding from one judicial region to another must comply with Rule 13.01.02 of the *Rules of Civil Procedure*.

All such motions by the parties must be brought in the judicial region to which the proceeding is sought to be transferred.

The court may, on its own initiative, at a motion or other hearing, transfer of the proceeding to another judicial region where appropriate.

### **B. Designated Counties for the Commencement of Mortgage Proceedings**

Pursuant to Rule 13.1.01(3) of the *Rules of Civil Procedure*, which came into effect on March 31, 2015, Barrie or Oshawa are designated as the places for where mortgage

proceedings may be commenced for property located anywhere in the Central East Region.

**C. *Motions in Writing***

Where all interested parties agree that a motion may be decided on written materials and by written submissions (without an attendance in person or virtually) under Rule 37.12.1, then the parties must agree on a timetable and when all court documents are ready, file same with the court in accordance with Part 2.

**Uploading to CaseLines is NOT required.**

Motions in writing will be forwarded to a presiding judge to be dealt with as expeditiously as possible.

**D. *Consent, Without Notice, and Unopposed Motions (Basket Motions)***

All basket motions in writing must be filed with the court office in accordance with the [filing requirements above](#) and payment of the applicable filing fee made. They will be put before a judge in chambers for review in the normal course. Basket motions may not be “filed” by delivering them to the Trial Co-ordinator for a judge to review, or by sending them by email or otherwise directly to a judge of the court.

**Uploading to CaseLines is NOT required.**

Simple, procedural, consent, and uncontested matters must be as a basket motion. A draft Order must be filed in Word and PDF format.

Where these are brought on a regular or short motions list, the motion judge will direct the party to file the “basket motion” and may make a cost award against the party bringing the regular motion.

Contested motions (and those anticipated to be opposed or unknown whether they will be opposed) should not be heard as basket motions. These motions should be scheduled and heard in a motions court.

The judge or associate judge reviewing the “basket motion” may ask for further submissions or refer part or all of the matter to a *viva voce* hearing. The judge may also direct that notice of the motion be served on other side or direct that the motion be heard in open court (on notice to all other interested parties).

**E. *Short Motions (One hour or less)***

**i. Scheduling the Short Motion**

Motions that are expected to take one hour or less must be scheduled on a regular motions day by contacting the Trial Office, filing the motion material at the court office at the location where the motion is to be heard.

Filing a cross-motion(s) does NOT extend the estimated time for the motion to be heard (the estimated time remains less than one hour otherwise a long motion date must be obtained).

The presiding judge may adjourn a short motion where a reasonable estimate of time for the short motion exceeds one hour to deal with all the issues.

Parties must serve and file the short motion materials including the Affidavit of Service. Although currently CaseLines is not being used for short motions, a judge may direct it to be used. When the judge directs, parties must upload the filed motion materials to CaseLines. Full expansion of all events to CaseLines is expected in the next few months.

## **ii. Filing and Uploading Motion Materials**

The moving and responding parties must comply with the filing requirements set out above in [Part 2](#). The parties must comply with the Uploading of Documents set out above in [Part 3](#). As set out above, **uploading of all motion materials must be done on or before the day and time for filing a Confirmation**. See [information above relating to hyperlinking caselaw in CaseLines](#).

Late filing of short motion documents, or filing documents that fail to meet document standards under Rule 4 of the Rules of Civil Procedure, will not be accepted by the court staff and, therefore, are not permitted to be uploaded to CaseLines.

A party's request to allow late-filed or late-served motion materials shall be addressed by the presiding motions judge who will determine whether the motion will proceed with or without the late materials or if it will be adjourned. If adjourned, cost consequences may result.

## **iii. Confirmations**

**A Confirmation (Form 37B or 38B) must be filed:**

- By the moving party by 2:00 pm, five (5) days before the hearing;
- The responding party by 10:00 am three (3) business days before the hearing; and/or,
- The parties may file a Confirmation jointly on or before 2:00 pm, five (5) days before the hearing.

The parties or their counsel should consult with each other prior to filing their Confirmations unless the parties are self-represented and prohibited from communicating by court order.

Where a Confirmation has not been filed by either party, the short motion will not be proceed and the date will be vacated.

The Confirmation must list only the specific issues that are to be decided at the event. They should also indicate which materials the judge should review with clear reference to the specific volume, tab and page numbers. Referring to “all” prior affidavits or documents is not appropriate and will be ignored. Referring to documents that the party does not intend to refer to in submissions is discouraged and may be a factor in determining costs.

The Confirmation must also include an appropriate time estimate for submissions on all issues in the motion including time required by the other party. If a party chooses not to make submission on an issue, the court is entitled to consider that the party has abandoned that specific issue.

#### **iv. Uploading to CaseLines**

Only motion materials for short motions directed by a judge that CaseLines be used must be **uploaded to CaseLines at least three days before the hearing**. As noted above, full expansion of all civil events in CaseLines is expected in the next few months.

#### ***F. Long Motions (More than one hour) and Applications***

Summary judgment motions, long motions (one hour or more), and Applications are referred to in this Notice compendiously as Long Motions.

Long motions are placed on the regional Running Civil Long Motions List (running list) in one of two ways, either on consent of the parties or by order of a triage judge. Once a motion has been placed on the running list, the parties will be provided a minimum of two (2) days’ notice as to the specific date and time the motion is scheduled to be heard. The parties are expected to be available, unless the motion date is no longer required.

Fixed dates are not assigned for long motions unless directed by the triage judge.

#### **i. Scheduling a Long Motion**

Counsel and parties must discuss the estimated time required for the long motion/Application prior to completing the online request.

Counsel who have multiple long motions on the running list will NOT be expected to appear on back-to-back long motions. Counsel will be permitted a minimum of 10 days between appearances of long motions on the running list.

**a. Motions with all parties' consent to be added:**

The moving party completes an online submission request through Calendly at <https://calendly.com/ce-civil> to have the consent long motion added to the running list.

Completion of the Calendly request and the subsequent email confirmation notification confirms that the matter has been placed on the running list. **Note:** The online request will trigger an automated confirmation email. **It is the requestor's responsibility to forward the confirmation email and any subsequent automated information emails to ALL active parties in the action.**

**b. Motions with one or more parties opposing its being added:**

The moving party completes an online submission request through Calendly at <https://calendly.com/ce-civil> to have the consent long motion added to the running list.

The following process must be followed in order for your motion to be considered to be added by the triage judge:

- a. The party seeking to be placed on the running list shall send a letter of request to [CErunninglist@ontario.ca](mailto:CErunninglist@ontario.ca) (copied to all parties) with the subject line: Request to Schedule long motion - OPPOSED - \*File Name and Number, Originating Court Location\*, together with a memorandum not to exceed two pages in length detailing the history of the case and the reasons why it should be placed on the running list.
- b. Any party who opposes its being placed on the running list shall provide their position in a responding memorandum not to exceed two pages in length, sent to [CErunninglist@ontario.ca](mailto:CErunninglist@ontario.ca) no later than five days after receipt of the requesting party's email.
- c. If no responding memorandum is received before the expiry of the five days, the triage judge will deal with the request as an unopposed request.
- d. Parties will be advised by email as to the triage judge's decision to add the contested motion to the list.

**ii. Timetabling the Necessary Steps**

After the motion materials have been served on all interested parties, all counsel/litigants must agree in writing upon a schedule for completion of all steps necessary for the long motion to proceed on the scheduled date. This will include filing of all responding materials, reply materials, cross-examinations (if needed) and filing of facta.

Counsel/litigants must file the scheduling agreement/email or other documentation along with their Confirmation Form for motion.

If counsel and the litigants are NOT able to agree to a timetable within 30 days, the moving party must request a telephone attendance before a judge to set a timetable and/or other directions the judge considers appropriate. The court may consider costs if a party is withholding agreement to a reasonable timetable proposal or is deliberately delaying the hearing of the motion.

In the event the long motion does not proceed on the scheduled hearing date and there is no timetable agreement or order, the court will consider this a significant factor in determining whether to grant an adjournment and/or to award costs and the quantum of costs of the aborted long motion hearing date.

### **iii. Adjournment of Long Motions/ Applications**

Counsel and parties will be given a minimum of two days' notice of the long motion being heard. It is the expectation of counsel and the parties that they will be ready and prepared to proceed for the date called. Adjournments of long motions are discouraged, and counsel and parties should expect that unnecessary adjournments will attract cost awards.

#### **a. Consent adjournments**

If all parties consent in writing that the long motion is to be adjourned, one of the parties may email the court at CErunninglist@ontario.ca (copied to all other parties) with the subject line: Request to ADJOURN long motion - CONSENT - \*File Name and Number, Originating Court Location\* setting out:

- i. the request for an adjournment;
- ii. that it is on consent of all interested parties; and,
- iii. the reasons why the adjournment is appropriate or necessary.

Only one adjournment will be granted on consent.

Counsel and the parties will be placed back in the queue given the next available long motion date. Counsel and litigants should not expect to be given an earlier date as a result of the consent adjournment.

#### **b. Opposed adjournments more than 5 days prior to the long motion hearing date**

If counsel or a party seeks an opposed adjournment, the party seeking the adjournment shall:

- i. Send a letter of request to CErunninglist@ontario.ca (copied to all parties) with the subject line: Request to ADJOURN long motion - OPPOSED - \*File Name

and Number, Originating Court Location\* together with a memorandum not to exceed two pages in length detailing the history of the case and the reasons why an adjournment should be granted.

- ii. Any party who opposes its being adjourned shall provide their position in a responding memorandum not to exceed two pages in length, sent to [cerunninglist@ontario.ca](mailto:cerunninglist@ontario.ca) no later than five days after receipt of the requesting party's email.
- iii. If no responding memorandum is received, the triage judge will deal with the request as an unopposed request.
- iv. Parties will be advised by email as to the triage judge's decision to adjourn the contested motion.

**c. Consent or opposed adjournments within 5 days of the long motion hearing date**

Unless otherwise dealt with by a judge in advance of the long motion hearing date, any adjournments sought within 5 days of the long motion hearing date, must be made to the presiding judge on the scheduled hearing date.

A copy of the timetable agreement must be provided to the motions judge.

Counsel and parties should be prepared to proceed with the long motion on the scheduled date in the event the adjournment is NOT granted. Counsel should not assume that an adjournment request will be granted.

If an adjournment is granted, all counsel and parties must bring and have available their Costs Outlines to permit the presiding judge to deal with the issue of costs of the adjournment and to make any other order for directions.

**iv. Cancellation Policy**

The parties may remove the motion from the running list if the date is no longer required to remain on the list (e.g. the matter settles). The "cancel" button is available in the confirmation email to remove the matter from the running list. **IMPORTANT** – the Court may order costs against any party who removes a matter from the running list that should not be removed.

**v. Confirming the Long Motion**

Unless otherwise directed by a judge:

- All **LONG MOTIONS** must be confirmed by emailing **Confirmations (revised form 37B) no later than 2pm, 5 days prior to the hearing date**, unless otherwise directed by the Regional Senior Justice or his/her designate
- All **APPLICATIONS (revised form 38B)** must be confirmed by emailing a confirmation no later than 2:00 pm, five (5) days prior to the hearing date.

Failure of both parties to file a Confirmation will result in the long motion/Application hearing date being vacated and made available to other parties on a short notice basis.

#### **vi. Filing and Uploading the Long Motion and Application materials**

The moving party must serve and file the motion or Application materials (Notice of Motion/Application, supporting affidavits, and a draft order) along with the Proof of Service **within 10 days** of being added to the Running List. Subject to an order from a judge, failure to do so will result in the hearing date being vacated. A copy of the Calendly confirmation email must be included with the material in order for the filing to be accepted.

All long motion and application materials are expected to be uploaded **to CaseLines upon receipt of the CaseLines invite.**

#### **vii. Facta and Compendiums**

A factum (or Summary of Argument) is required on all long motions and Applications. If the moving party does not file a factum where required, the motion/Application will not be scheduled.

The factum of the moving party and the responding party shall be served and filed then uploaded to CaseLines as agreed to between the parties in an agreed upon timetable. Regardless of the timetable agreed to by counsel and/or the parties, the factums of all parties shall be filed and uploaded to CaseLines no later than seven (7) days prior to the hearing of the motion/Application.

No facta may exceed 20 pages without leave of the court and must comply with Rule 4 of the *Rules of Civil Procedure* with respect to document standards and formatting.

Failure to do so may result in the document being rejected for filing and, therefore, prohibited from being uploaded to CaseLines.

A Compendium containing the court-filed documents and evidence that are essential to the hearing shall be provided for long or complex motions. A party wishing to file a Compendium should file it with their factum. A joint Compendium may be filed with the respondent's factum. Factums shall be hyperlinked to the cases referenced in the factum. Factums shall also be hyperlinked to the documents referenced and found in the Compendium. See [information above relating to hyperlinking caselaw in CaseLines](#).

### ***G. Emergency Motions or Applications***

Counsel and parties who wish to schedule an urgent motion must contact the Trial Coordination Office.

Counsel will have to provide a letter setting out:

- why the matter is urgent;
- the nature of the relief sought;
- whether the matter will be on notice or not;
- whether the motion materials are ready to proceed;
- a time estimate for the motion; and,
- a draft order.

The triage judge will determine whether the Long Motion should be assigned an early fixed hearing date or placed on the running list. The moving party will be advised accordingly.

Requests should be emailed to the appropriate Trial Coordination office, as follows:

Barrie, Bracebridge, Orillia	<a href="mailto:Barrie.SCJ.TC@ontario.ca">Barrie.SCJ.TC@ontario.ca</a>
Newmarket	<a href="mailto:Newmarket.SCJ.TC@ontario.ca">Newmarket.SCJ.TC@ontario.ca</a>
Oshawa	<a href="mailto:Oshawa.SCJ.TC@ontario.ca">Oshawa.SCJ.TC@ontario.ca</a>
Peterborough, Lindsay, Cobourg	<a href="mailto:Peterborough.SCJ.TC@ontario.ca">Peterborough.SCJ.TC@ontario.ca</a>

### ***H. Costs in Civil Motions and Applications***

Rule 57.01(6) of the *Rules of Civil Procedure* requires that, unless the parties have agreed on costs:

every party who intends to seek costs for that step shall give to every other party involved in the same step, and bring to the hearing, a costs outline (Form 57B) not exceeding three pages in length.

This permits the presiding judge, where feasible, to summarily determine the issue of costs. The overriding principle is that “the court shall devise and adopt the simplest, least expensive, and most expeditious process for fixing costs...” Rule 57.01(7).

Counsel are frequently attending motions and applications without costs outlines. When judges ask for the outlines or bills of costs, counsel often seek to file written submissions as to costs. This is contrary to the intention of the Rules, delays the determination of the issue, and requires judges to determine costs issues for motions and applications that were often decided weeks or months before.

All counsel appearing on motions and applications must attend the hearing with their costs outline in accordance with Rule 57.01 and be prepared to provide the cost outlines to the presiding judge. If a cost outline is not available to be given to the presiding judge, the judge may decline to make any costs award in favour of the defaulting party.

### ***I. Setting Down for Trial***

Once the trial record is set down for trial pursuant to Rule 48, Rule 48.04 sets out the consequences of setting the action down for trial. Rule 48.04 provides that a party who sets an action down for trial or consents to placing the action on the trial list cannot initiate or continue any form of discovery or interlocutory motion without leave of the court. Leave will be granted only in rare circumstances.

### ***J. Pre-trials***

Civil pre-trials are held for actions outstanding in all centres in the Region. There is NO requirement that the parties certify that the case is capable of settlement.

Pre-trials can be scheduled one of two ways depending upon whether the parties are able to consent to a date. **Note:** it is the responsibility of counsel with carriage of the file to initiate a booking request for a pre-trial in accordance with this Protocol. The Court will *not* initiate scheduling of a pre-trial.

### **viii. Pre-trial with Consent Date of all Parties**

Any party may schedule a pre-trial **on consent** of all counsel and self-represented parties through Calendly at: <https://calendly.com/ce-civil-pretrials>. Upon selecting the preferred date/time, **it is the responsibility of the scheduling party to ensure that email addresses of all parties are included in the "Add Guests" feature in Calendly.** This ensures that all parties will receive all automated confirmation and scheduling notifications related to the pre-trial event. Upon completion of the Calendly scheduling process, the requestor and all parties indicated in the “Add Guests” section will receive an automated email confirming the date and time of the pre-trial.

The parties acknowledge that they will be in compliance with Rule 50.03.1(1) on the date of the pre-trial.

If one or more of the parties has not consented to the date and time scheduled, the pre-trial will be cancelled by the court.

**ix. Pre-trial with Parties Unable to Agree to Consent Date**

Counsel/parties should make every effort to agree to a consent date for their civil pre-trial. Failing which, parties may email [newmarket.civilpretrial@ontario.ca](mailto:newmarket.civilpretrial@ontario.ca) to assist with fixing a pre-trial date, with the subject line: Request to SCHEDULE pre-trial – OPPOSED - \*File Name and Number, Originating Court Location\*. The email requesting the opposed/unable to consent pre-trial must include the

Opposing counsel shall have 48 hours from the date and time of the email request to respond setting forth the reason not to exceed two typed pages why a pre-trial should not be scheduled. All counsel on the matter must be copied on the email.

The requesting email and responding email message will be submitted to a triage judge, who will determine whether a pre-trial will be scheduled. Counsel for all parties will be advised of the decision in writing.

Counsel/parties will be required to attend on the date scheduled by the court.

Pre-trial dates will, where possible, be scheduled within 120 days of the trial date or the commencement of the sittings.

Counsel and parties must comply with Rule 50 including that parties with authority to settle must attend pre-trial hearings. The court expects that counsel with carriage of the case and who will be trial counsel will be in attendance at the pre-trial.

To make pre-trial conferences productive, counsel and any self-represented party are required, at least seven days in advance of the pre-trial conference, to consult and fill out a Rule 50.08 Pre-Trial Conference Report form (or a Rule 76 Report to the Trial Judge form) with the required information respecting witnesses and any other portions of the Report on which the parties agree, for example, that summaries of the proposed evidence of witnesses or opening statements will be exchanged.

After the parties have consulted, and partially completed the Report, it must be served, filed, **AND uploaded to CaseLines by the plaintiff.**

The fact that the parties agree on certain matters does not bind the pre-trial conference judge to accept the agreement with respect to the process to be followed or completion of the Report.

The parties must comply with the provisions of Rule 53.03 with respect to expert reports and deliver the Certificate referred to in Rule 53.03. Failure to deliver all expert reports in accordance with the timelines set forth in Rule 53.03 will likely attract a cost sanction and other directions and terms may be imposed by the pre-trial judge including an order prohibiting expert testimony by any expert whose report was not served in compliance with this Rule.

#### **x. Pre-trial Memorandums**

No pre-trial memos shall be filed unless and until counsel are notified that the request for a pre-trial has been granted.

Pre-trial memos may not exceed 15 pages. Any additional documents that counsel wish the pre-trial judge to review must be hyperlinked or filed and uploaded in CaseLines. Materials are not to be emailed.

All pre-trial memos must be filed electronically through the Justice Services Online platform via [ontario.ca/page/file-civil-claim-online](https://ontario.ca/page/file-civil-claim-online). Once accepted for filing, the pre-trial memos must be uploaded to CaseLines to the appropriate bundle as soon as counsel and/or the parties receive the CaseLines invite and no later than five (5) days prior to the scheduled pre-trial.

Pre-trial memos that do not adhere to these requirements will not be accepted by the Court.

#### **xi. Virtual Hearing Information**

A Zoom link will be attached to the hearing, available through CaseLines approximately one to two days prior to the event.

The only individuals who may be present for the pre-trial are counsel who have carriage of the file, a litigant who has authority to settle, any party who is self-represented, and the pre-trial judge.

No recording may be made of the pre-trial by any participant. The exception is where a party is self-represented, in which case a recording of the pre-trial will be made by court staff at the direction of the presiding judge, for the assistance of the Court. Neither the recording nor a transcript of it may be released to anyone without an order of a judge of the Court.

#### ***Fixing Trial Dates and Central East Trial Scheduling Court (CETSC)***

If the pre-trial judge is satisfied the case is ready for trial, that judge will assign the matter to either the May or November sittings or any other time that may be available. If

the pre-trial judge determines the case is not ready for trial, it will be the responsibility of counsel to comply with any order made by the pre-trial judge and thereafter to request either a further pre-trial or an attendance in CETSC to fix a trial date.

If the anticipated length of a trial is greater than four (4) weeks, counsel will have to request a fixed trial date by writing to the Regional Senior Justice.

The CETSC will be scheduled on the last Thursday of each month. Attendance at the CETSC will only be conducted virtually. Counsel will be assigned a six-minute appointment during one of the following time slots:

9:00 a.m.  
10:00 a.m.  
11:30 a.m.  
12:30 p.m.  
1:30 p.m.  
2:30 p.m.  
3:00 p.m.

The purpose of the CETSC is to allow counsel to deal with the following:

- A) To fix a trial date (where the pre-trial judge has not already assigned the matter a trial date);
- B) To fix a pre-trial date where a second pre-trial is required;
- C) To adjourn a trial;
- D) To adjourn a pre-trial; and/or,
- E) Any other matter related to the scheduling of a pre-trial or trial.

A further purpose of the CETSC is to canvass whether there is any reason why a case cannot be tried at any of the courthouses in the region, so that courtroom and judicial resources can be maximized. Counsel and the parties will be required to show good reason why a case must be tried at a particular courthouse.

Commencing July 4, 2022, the moving party completes an online submission request for an appointment through Calendly at: <https://calendly.com/ce-civil>. Upon selecting the preferred date/time, **it is the responsibility of the scheduling party to ensure that email addresses of all parties are included in the "Add Guests" feature in Calendly.** This ensures that all parties will receive all automated confirmation and scheduling notifications related to the CETSC. Upon completion of the Calendly scheduling process, the requestor and all parties indicated in the "Add Guests" section will receive an automated email confirming the date and time of the CETSC.

Prior to the attendance, counsel shall upload into the CaseLines CETSC bundle a one-page memorandum with the court at least three days before the CETSC, setting forth the history of the action and the order being sought from the presiding Justice. It is counsel's responsibility to ensure that the Trial Record has been uploaded into the CaseLines Trial bundle at least three days before the CETSC.

### **Regional May and November Sittings**

Civil trials will be conducted during the May and November sittings over a period of three (3) weeks. Counsel should also note that Central East will also have a continuous civil trial list running throughout the year as detailed below. Once a case is scheduled for/adjourned to one of these sittings, counsel and parties are expected to keep those dates available to conduct a trial scheduled to be heard in that time frame. If counsel have multiple trials on the trial list, they will not be expected to be in two places at the same time. However, if a matter is adjourned once due to counsel's non availability due to other trial commitments, then counsel will be expected to attend on the next scheduled trial date. No further adjournment will be allowed due to counsel's other trial commitments absent exceptional circumstances.

Cases on the trial list will be called in order of their age with the oldest cases being called first. Cases that were not reached in an earlier sittings will be given priority.

Counsel should not expect that their trial (whether jury or non-jury) will necessarily be called in the court location where a claim was issued. Counsel and the parties should expect to travel to other court locations. Where such travel creates a real problem for either counsel, the parties, and/or the witnesses, this is an issue that should be discussed in advance with the pre-trial judge and/or at the CETSC.

Counsel and the parties should be ready to start their trial when called by the trial coordinator. Once a matter is on a trial list for the May or November sittings, it is deemed ready for trial. Adjournments will only be granted in exceptional circumstances.

### **Civil List**

Commencing September 1, 2022, the Region will have assigned five (5) judges (" the civil team") who will be assigned exclusively to civil matters, including long motions, pre-trials, and trials. Counsel may elect to have these types of matters assigned to a specific date subject to the availability of an applicable judge.

In order to have a matter heard by the civil team, counsel may seek a case conference with the civil team lead (Justice Sutherland) or his designate by submitting a 2-page memoranda to [CERunninglist@ontario.ca](mailto:CERunninglist@ontario.ca). The memo should provide a brief history of the matter, whether the request is opposed or on consent, the anticipated length of the hearing, and when counsel are seeking to have the matter heard. If the matter is opposed, a responding memoranda should be submitted within five (5) business days of the original request with an explanation as to why the request is opposed. Counsel will be advised by email of the decision regarding the scheduling of the case conference.

Once an assigned date is assigned to a civil team judge, the matter will proceed on the assigned date. Adjournments will only be granted in exceptional circumstances. It is the responsibility of counsel to notify the court forthwith if a matter resolves.

To be clear, this does not replace the May and November Trialittings.

Dated: June 1, 2022

Mark L. Edwards  
Regional Senior Justice  
Superior Court of Justice  
Central East Region