



Amended Consolidated General Practice Guidelines

December 20, 2023

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Consolidated Practice Guidelines

1. These Consolidated General Practice Guidelines are to be read in conjunction with the consolidated guidelines listed below, which are posted on the Court’s website (see [Notices](#)).
 - a) [Case and Trial Management Guidelines for Complex Proceedings and Proceedings under the *PM\(NOC\) Regulations*](#);
 - b) [Practice Guidelines for Citizenship, Immigration and Refugee Law Proceedings](#); and
 - c) [Aboriginal Litigation Practice Guidelines \(4th Edition\)](#) .

In the event of a conflict between the guidelines below and the guidelines listed in paragraphs (a) to (c) above, the guidelines listed in paragraphs (a) to (c) above take precedence.

Members of the Court

Addressing Members of the Court

2. Counsel and parties may refer to Associate Judges as “Associate Judge,” along with the family name of the associate judge. Judges of the Court may continue to be addressed as “Justice,” along with the family name of the judge.

Name of presiding judge / associate judge

3. The name of the presiding judge or associate judge will be available upon request through the Registry as of one (1) week prior to the commencement of scheduled hearings. This policy does not extend to the hearing of motions at general sittings and urgent motions. For case managed matters, parties may discuss with the Case Management Judge the name of the member of the Court who will preside on the hearing of the merits.

Changes to the assignments of judges or associate judges may be made at any time. Where counsel and/or parties have been previously informed of the name of the presiding member of the Court, they will be informed of assignment changes.

Use of pronoun and pronunciation of names

4. The Court invites counsel, parties and witnesses to provide information about the correct pronunciation of their names (phonetic or syllabic spelling), titles (Dr., Mrs., Mr., Ms., Miss, Mx., etc.) and pronouns (she, he, they, etc.) prior to and at the outset of proceedings. This information, together with an indication of pronunciation using the syllabic method,

should be included in the requisition for hearing and updated as necessary so as to allow the Registry to supply the information to the Court when preparing the counsel slip.

Land acknowledgements

5. Prior to the commencement of any matter in Court, parties, counsel and witnesses may honour the lands (and peoples) upon which the legal proceeding is taking place by way of a land acknowledgement. While the Court respects the practice of parties, counsel and witnesses expressing a land acknowledgement, the Court must remain neutral, as it is often required to determine the substantive or legal rights of parties involved in litigation surrounding lands and/or rights associated with lands.

Chambers of the Court

6. For many years, the Chief Justice has endeavoured to assign intellectual property, competition, maritime and admiralty and Aboriginal matters to members of the Court who have expertise in those areas. As the number of class proceedings filed in the Court has also increased in recent years, those matters have been assigned to a limited number of judges, with the aim of developing expertise within the Court.
7. To increase transparency and provide greater certainty regarding the manner in which matters in these areas are ordinarily assigned, the Court has launched a pilot project to establish Chambers in the following four practice groups:
 - a) Intellectual Property and Competition Chambers;
 - b) Maritime and Admiralty Chambers;
 - c) Class Actions Chambers; and
 - d) Aboriginal Law Chamber.
8. Members of each Chamber are listed in [Annex A](#) to this Notice. Additional practice Chambers may be established after considering the experience with this pilot project and following consultation with the Bar.
9. The Chambers will be used for assignment of judges to:
 - a) Motions to be heard on a special sitting;
 - b) Case management; and
 - c) Hearings on the merits.

Class Actions

10. **Judicial Protocols.** Counsel and parties shall comply with the Canadian Bar Association's [2018 Class Action Judicial Protocol](#) for the management of multi-jurisdictional Class Actions.
11. **Class Actions Database.** Counsel are reminded to register their class proceeding in order to facilitate the exchange of information about multi-jurisdictional class proceedings. The registration must be submitted in the PDF format to the National Class Action Database at: [Canadian Bar Association - How to Submit Documents \(cba.org\)](#).

Pilot Project on Procedural Bijuralism

12. The pilot project was launched November 28, 2019. It permits the use of Québec's *Code of Civil Procedure*, with the necessary adaptations, in specified judicial proceedings in which all parties are represented by lawyers who are members of the Barreau du Québec.
13. The Court invites parties who are intending to file an action and are in contact with a defendant already represented by legal counsel who is a member of the Barreau du Québec to obtain their consent to be part of the pilot project.
14. The following requirements apply to actions that proceed as part of the pilot project:
 - a) The parties shall be represented by legal counsel who is a member of the Barreau du Québec;
 - b) The parties shall agree in writing that the action be subject to the pilot project;
 - c) A case protocol shall be filed in accordance with section 148 of the Québec's *Code of Civil Procedure*;
 - d) Documents filed in the proceedings shall include " PILOT PROJECT – BIJURALISM QUÉBEC" in bold in their header;
 - e) Each proceeding that is part of the pilot project will be placed under special case management. A case management judge will be appointed. The case management judge may, on application or on their own motion, summon the parties to a case management conference if they deem it necessary and will be responsible for approving the case protocol prepared by the parties or for establishing the protocol if the parties do not cooperate or do not reach an agreement;
 - f) The case management judge will also be responsible for ruling on motions brought in the course of a proceeding. In such a case, the parties shall communicate with the case management judge to determine the method in which

and/or the date on which the motion will be argued during the course of a proceeding. The case management judge may also make this determination in a case management conference, namely any conference that may be held to approve the case protocol;

- g)** In an action that is part of the pilot project, with the exception of registry fees payable to the registry office, the legal costs set out in Québec's *Code of Civil Procedure* shall apply unless the parties agree otherwise in writing;
- h)** In the event that a decision of the Federal Court made in the proceeding under the pilot project is appealed, the pilot project shall also apply in the Federal Court of Appeal. The appeal will also be under special case management;
- i)** At trial and on appeal, the *Federal Courts Act* and the *Canada Evidence Act* continue to apply to actions within the scope of the pilot project.

- 15.** For more information about the pilot project, please refer to the consent form and information document found on the websites of the Federal Court and Federal Court of Appeal.

Official Court Record

- 16.** As of December 20, 2023, the official Court record under Section 4 of the *Federal Courts Act* shall be comprised of electronic and paper documents that have been filed, any physical exhibits that have been filed and documents issued by the Court, such as judgments, orders, reasons and directions, whether in paper or electronic form.

Filing documents

- 17.** Pursuant to Rule 71 of the *Federal Courts Rules (Rules)*, a document may be sent to the Registry for the purpose of filing by delivery, mail, fax or electronic transmission.

E-filing

- 18.** Parties shall use the Court's [E-Filing portal](#) to file all electronic documents that do not contain confidential information. (Confidential information is subject to the special provisions in paragraph c) below.) For more information regarding electronic filing, please consult the Court's E-Filing Portal [webpage](#), as well as the E-Filing Resources [webpage](#), which includes an Electronic Guide for preparation of Digitized Court Documents.
- a)** Paper copies: Parties wishing to file paper copies may do so in the usual manner. Parties who file documents electronically are exempted from any requirement under the *Federal Courts Rules* to file paper copies (as required by Rule 71(5) or 72.2), unless otherwise directed by the Court.

- b) Electronic Payment of Court filing fees: the E-Filing portal now offers secure online payment.
- c) Confidential Documents: Confidential materials filed pursuant to a confidentiality order or direction must be filed in a manner that preserves the confidentiality of the document. For electronic versions, one acceptable procedure is to submit a password-protected PDF or a secure electronic file transfer to the appropriate e-mail address set forth in the [Annex B](#). The password or instructions shall be provided separately to the Registry by email or telephone, as appropriate. Such documents must be clearly identified as confidential and broken down into separate files not exceeding 18 MB, or by such other means as may be directed by the Court. Paper copies of confidential documents may be filed at the Registry.
- d) Page numbering and pinpoints: Electronic files must display page numbers on each page in the file, consecutively numbered, and beginning with the first page of the PDF file, so that PDF page numbers correspond with the electronic document page number. Pinpoint references to those page numbers shall be provided when referring to such materials in written submissions.
- e) Bookmarks: Bookmarks shall be included in all electronic files that contain more than one document. Each such document, each highlighted passage and each appendix, exhibit or schedule shall be separately bookmarked. Many PDF conversion tools include a setting to automatically generate bookmarks from heading styles that are formatted in the document. Parties shall verify that their bookmarks are accurate. Documents shall be formatted in a manner that permits the Court to add its own bookmarks.
- f) Hyperlinks: The Memorandum of Fact and Law or Memorandum of Argument shall include hyperlinks to all cases, articles, statutes and other materials available on public and free websites, where possible. If parties file their documents electronically and provide hyperlinks (including pinpoint citations) for all cases that are included in their Memorandum, along with an alphabetical index to the list of cases cited, this shall be deemed to constitute a book of authorities, and parties are thereby relieved from the obligation to prepare a separate book of authorities pursuant to Rule 70(1)(g) of the [Federal Courts Rules](#).
- g) Optical Character Recognition (OCR): Before filing electronic documents that include scanned content or images, parties shall process the document with an OCR application – this allows other parties and the Court to search the document using key words. If possible, documents should be converted directly from digital format to PDF, rather than being printed and then scanned to PDF. However, if a

document is scanned, the OCR process should be completed before submitting the document to the Court.

- h)** Selection of Local Office in E-Filing Portal: Parties are requested to select their local office in the appropriate drop-down menu when E-filing a document. However, where the file is case managed by an Associate Judge, the parties should select the local office where the case management judge is located. For documents submitted for an upcoming in-person hearing, the document should be directed to the office where the hearing is scheduled to take place.
- i)** Inability to Submit Documents Electronically: Parties who are not able to submit documents electronically as described above may submit a paper copy to the Registry (see [office addresses](#)). Alternatively, they may contact the Registry by phone at 1-800-663-2096 (or see this [Telephone List](#) for local office telephone numbers) or by email (see e-mail list in [Annex B](#)) for assistance.

Online Access to Court Record

- 19.** The Court launched a [pilot project on online access to Court records](#) on September 12, 2022. As part of the first phase, only records in the following categories will be made available online:
 - a)** Pleadings (e.g., statements of claim and defence, notices of application, notices of motion, notices of appeal) and written arguments (written representations, memoranda of fact and law) filed by parties through the Court’s E-filing portal in matters that are:
 - i. Commenced on or after September 12, 2022;
 - ii. In the areas of Maritime and Admiralty, Class Actions, Aboriginal Law, and Intellectual Property; and
 - iii. Not subject to a confidentiality or other sealing order.
 - b)** Court-generated documents (e.g., orders, directions, reasons, judgments) in the foregoing matters.
- 20.** Documents filed in proceedings commenced prior to September 12, 2022 will not be available via online access. The public may continue to obtain access to such documents through the Registry, provided they are not subject to a confidentiality Order. Documents meeting the foregoing criteria will be available for online access three (3) business days after they are filed, to allow for document processing and to limit the potential for inadvertent posting of confidential documents. Copies will continue to be available from

the Registry before and after they are posted. Future phases of the project will provide for additional records being available in these and other areas of the Court's jurisdiction.

- 21. Protecting privacy interests – Exemption from online access.** The open court principle requires that records filed in Canadian courts, including the Federal Court, be available to members of the public. Given the importance of the principle, exceptions to it are limited and rare. In the Federal Court, open access to court proceedings has long included the availability of court records through modern means, including obtaining documents from the Registry by fax or email. The introduction of online access is a logical extension of this historical practice. It provides a new and practical method to obtain court records that have always been available in other ways. The Court recognizes that making records that are already available through the Court registry available online may in exceptional circumstances raise concerns about security or privacy because of the loss of “practical obscurity”: *Sherman Estate v Donovan*, 2021 SCC 25 at para 80. As a result, it may be appropriate in some cases that information that is not subject to a confidentiality or sealing order is nonetheless not available online.
- 22. Request for exemption.** Consistent with the foregoing, parties may file a request that all or part of certain records be exempt from online access. Parties and counsel filing documents through the E-filing portal will be required to indicate whether a request for an exemption from online access is being made and, if so, to file their request with the document. Such requests may be made by informal request in letter format. Other parties may respond. Given the importance of the open court principle, parties seeking an exemption will bear the onus to demonstrate that it is justified in the circumstances. The request will be referred to a member of the Court for determination before the document is made available online. If granted, the Court may require a party to file a version of the document that can be posted online.
- 23.** The Court member determining the request will have full discretion to decide the matter. However, the Court anticipates that parties will be required to show that there is a serious risk that making the document available through the Court's online platform, in addition to being available from the Registry, will result in a material adverse impact on the personal dignity or security of an individual. Relevant considerations in this assessment may include, but are not limited to, the nature of the information and the proceeding; the extent to which the concerns raised exceed the usual discomfort or potential embarrassment inherent in involvement in litigation and the disclosure of information in open court; and the relationship between any concerns identified and the values underlying the open court principle.
- 24.** For clarity, nothing in this notice or the potential exemption from online accessibility affects the availability of, or requirements for, a confidentiality or sealing order, which remain subject to the conditions set out in the jurisprudence, notably *Sierra Club of*

Canada v. Canada (Minister of Finance), 2002 SCC 41. Parties are reminded that documents containing confidential information should not be filed through the E-filing portal.

Naming in originating documents

25. When submitting originating documents to the Court, a party's name or names should be typed with capital letters. If a party is using an alias, it should be indicated in addition to their legal name.

Designation of “His Majesty the King”

26. Where the Crown is a party to a proceeding, parties should designate “His Majesty the King”. With respect to matters initiated before the passing of Her Majesty the Queen, the designation is considered to have been so altered and parties are not required to bring a motion to amend the style of cause.

Notice of Constitutional Question

27. When a notice of constitutional question is served pursuant to section 57 of the *Federal Courts Act*, the proof of service and the notice of constitutional question should be filed in the Registry immediately following service. A list of addresses for service on the Crown and Attorneys General of the provinces and territories is available [here](#). This list has only been prepared for convenience of reference and has no official sanction.

Service of documents

28. A party may serve a document electronically pursuant to the following *Federal Courts Rules*: Rules 139(1)(e), 141, 143, and 146(1) and forms 141A (Notice of Consent to Electronic Service), 141B (Withdrawal of Consent to Electronic Service), and form 146A (Affidavit of Service).
29. **Deemed consent to electronic service.** Parties shall provide an email address on each document filed with the Court. Exceptions will be made for self-represented parties who do not have access to the necessary technology to receive and send documents electronically. If a party or their counsel has provided an email address on a document filed in Court, that party shall be deemed, until further notice, to have consented pursuant to Rule 141 to electronic service of documents at the email address on the last document filed. Where multiple email addresses are listed on a document, counsel are encouraged to include all of those email addresses when serving materials. The Court will use the “reply all” feature to ensure that documents it sends are sent to all of those e-mail addresses. Parties who change their email address must update the Registry of their new email address. Pursuant to Rule 148, on informal request by a party who did not have notice of a served document or did not obtain notice of it at the time of service, the Court may set aside the consequences of default or grant an extension of time or an adjournment.

30. **Originating documents.** Personal service of an originating document filed electronically by a party, other than the Crown, in proceedings brought under the *Immigration and Refugee Protection Act* or the *Citizenship Act* shall be effected by the Registry on the Crown, the Attorney General of Canada or any other Minister of the Crown in accordance with the practice under Rule 133 of the *Federal Courts Rules*. Service effected in this fashion will relieve an applicant from the requirement to effect personal service.
31. Until further notice, the Registry may issue an originating document electronically. This shall be deemed to meet the requirements for issuance under the *Rules*.
32. Where service of a document that is required to be served personally cannot practicably be effected, parties may apply informally by letter (sent electronically) for an order for substituted service (Rule 136) or to validate service (Rule 147).

Filing Proof of Service

33. Pursuant to Rule 73, no document required to be served, other than an originating document, shall be filed without proof that it has been served within the time and in the manner provided for by the *Rules*.
34. Where service is effected by email, a copy of the email must be attached to the affidavit of service or solicitor's certificate of service in order for the Registry to verify that service was effected before 5:00 p.m. at the recipient's local time (Rule 143).

Virtual Commissioning

35. Pursuant to s. 53(2) of the *Federal Courts Act*, and subject always to the discretion of the Court to apply the best evidence requirements, affidavits sworn or affirmed remotely using modes deemed acceptable in any Superior Court of any province or territory will be accepted for filing until further notice. For greater certainty, all affidavits must be sworn or affirmed. A scanned version of an affidavit may be accepted for filing, provided that the original version is filed with the Court if specifically ordered or directed by the Court.

Access to Paper Copies of Court Records

36. The Federal Court case index may be searched and individual case information (the "case history") viewed [here](#). Information available includes a record of each document filed in Court. Before contacting the Registry to request a document, please review this online case history to determine which document(s) you require.
37. Members of the general public seeking access to documents on the Court record may request copies of non-confidential documents by writing to their local Registry office (see list of e-mail addresses in the [Annex B](#). Members of the media may request copies at this address (fc_reception_cf@cas-satj.gc.ca).

- 38. Fee.** For documents only available in paper format, there is a tariff under the *Federal Courts Rules* of \$0.40 per page for the Registry to prepare a copy of documents on the Court record.

Access to Electronic documents

- 39. Limit.** Due to resource limitations, the Registry reserves the right to restrict the number of documents requested by any person.

Informal requests for interlocutory relief

- 40. General.** Interlocutory relief includes a request for extension or abridgement of time, leave to amend a pleading or the style of cause, bifurcation, consolidation of proceedings, security for costs and relief in respect of other procedural matters.

- 41. Request to be relieved from filing a motion.** Where the *Rules* provide for interlocutory relief only upon the filing of a motion, a moving party may seek leave, by way of letter, to be relieved from the requirement to bring a formal motion if the following requirements are met. The letter must:

- a) Confirm that all parties either consent to the request or do not oppose the request;
- b) Set out all facts relevant to the request;
- c) Provide the parties' submissions relevant to the request; and
- d) Include a recital of the exact relief sought by the parties and attach a draft order.

- 42. Motion Record, Further Information, or Case Management Conference Required.** Upon considering a request made pursuant to paragraph 41 above, the Court may, for any reason, require a formal motion record or further information. For example, if any party opposes a request for interlocutory relief, the moving party will be required to bring a formal motion. It is the moving party's obligation to confirm that the request is made on consent or unopposed by all other parties. The Court should not be expected to infer a responding party's position (e.g., from the absence of a response). Nor is it the role of the Court or Registry to seek out the other party's position.

In a case-managed proceeding, the Court may require the moving party to requisition a case management conference before bringing any motion.

- 43. Requests that Require Adjournment of a Hearing on the Merits.** If the interlocutory relief could affect the orderly hearing of a scheduled matter, the Court will ordinarily require that a formal motion for adjournment be made.

Hearings

Early requests for a hearing

44. Except with respect to applications made under the *Immigration and Refugee Protection Act, SC 2001, c 27* [[IRPA](#)] or the *Patented Medicines (Notice of Compliance) Regulations*, SOR/93-133 [[PM\(NOC\) Regulations](#)], parties may, on consent or through case management, seek a hearing date prior to the filing of their application records by writing to the Judicial Administrator. The letter must:
- a) Include a copy of the schedule agreed to by all of the parties;
 - b) Indicate whether a notice of constitutional question will be required;
 - c) Indicate the place at which the hearing should be held;
 - d) Set out the maximum number of hours or days required for the hearing;
 - e) Provide a list of the dates on which the parties are available and not available during the 90 days following the date on which the application will be ready for hearing;
 - f) Include the name, address for service and telephone number of each solicitor or, where a party is unrepresented, the address and telephone number of the party; and
 - g) Indicate whether the language used in the application will be English, French or both.
45. The Court will endeavour to accommodate early requests for hearing dates whenever possible.
46. Paragraph 44 above is not intended to replace the current practice for abridging timelines pursuant to Rule 8.

Scheduling Practice

47. For Applications (Part V of the *Rules*), the requisition for hearing under Rule 314 shall “list any dates within the following 90 days on which the parties are not available for a hearing”. Upon review of the parties’ non-availability, the Court will schedule hearings as follows:
- a) If the parties are available on a certain date and the parties would have one month’s notice, the Court will simply issue an order setting down the hearing for that date;

- b) If the Court is not available on the dates that the parties are available, the Judicial Administrator will contact the parties to confirm their availability for an alternate date; or
- c) If the Judicial Administrator cannot confirm a date available for all parties, the matter will be referred to the Chief Justice for direction.

Adjournments

- 48. The Federal Court operates on a guaranteed, fixed-date system, meaning that when the Court has fixed a date for a hearing, parties are expected to proceed on that date. Adjournments of hearings cause inconvenience and expenses. Court resources are not used efficiently as there often is not sufficient time to schedule another matter to take the place of the adjourned hearing.
- 49. Nevertheless, the Court recognizes that there may be exceptional and unforeseen circumstances, including those that are outside the control of a party or its counsel, in which it may be reasonable to request an adjournment.
- 50. **Request.** Requests to adjourn must be made by way of a motion to the Court, addressed to the Judicial Administrator and copied to the other parties. In proceedings that are case managed, such requests must be made to the case management judge and copied to the Judicial Administrator. Such requests must be made in a timely manner, as soon as the relevant facts are known.
- 51. **Informal request by letter.** Where the unforeseen circumstances arise within five (5) days of the scheduled hearing date, a request for an adjournment may be sent by way of a letter to the Judicial Administrator, addressed to the attention of the hearing judge, copied to the other parties.

Draft Orders

- 52. Parties may be directed by the Court to provide electronic draft orders to the Registry by submitting them electronically in Word format by email to their [local office](#) or on the Court's website: [Federal Court - Online Access - E-Order \(fct-cf.gc.ca\)](#).

Request to Observe a Court Hearing

- 53. Hearings of the Federal Court, other than pre-trial or dispute resolution conferences, are generally open and accessible to the public and media. Members of the public and the media who wish to observe a remote hearing are encouraged to notify the Court of their interest at least 24 hours in advance of the hearing. It may not be possible to accommodate last-minute requests. The Court will provide these individuals with a webinar or YouTube link to connect to the hearing. See the [Hearing Lists](#) page for a national listing of hearings and to register to observe a hearing held by video conference.

Access to Recordings

54. Court hearings are recorded unless the Court has ordered otherwise.
55. Except with leave of the Court, livestreaming the hearing is not permitted, and everyone is expressly prohibited from making a recording of a hearing. This is subject to the Court's [Policy on Public and Media Access](#). The Registry will retain an official audio recording of Court hearings.
56. Parties, representatives of the media and members of the public may request copies of audio recordings. Subject to the discretion of the Presiding Judicial Officer, copies of audio recordings will be made available upon request to one representative of each of the parties and each media organization. In the case of requests made by members of the public, including third-parties with no direct interest in the proceeding, the final decision as to whether the recording will be made available will rest with the Presiding Judicial Officer. Where there are access restrictions applicable during the hearing, the protected information will, where practicable, be redacted from the audio recording so as to allow for access. It will not be released if it is impracticable to redact the protected information.
57. **Request process.** The form in the [Notice](#) should be completed and submitted to the local Registry (see [Annex B](#)). Subsection 1(4) of Tariff A provides that a person requesting a digital recording of all or part of any day of a proceeding shall pay \$15 per recording.
58. **Restrictions on use.** Copyright in audio recordings shall vest in and remain the property of *His Majesty the King in Right of Canada*. Broadcast or distribution of any audio recording of Federal Court proceedings without the Court's written consent is prohibited.
59. **Transcripts.** If a party intends to have a transcription of a hearing prepared in order to place it on the Court record for an appeal, a qualified transcription service should be used. The party requesting a transcript normally bears the cost. If a court reporter was present at the hearing, the court reporter should be contacted to prepare the transcript. If no court reporter was present, a transcription from the DARS recording may be prepared by a qualified audio transcriber.
60. Except with leave of the Court and a request made at least ten (10) days before the hearing, access to video recordings will not be provided.

Mode of Hearing

61. **In-Person Presumption for Hearings.** All hearings on the merits are presumptively scheduled to be heard in-person. The option to request a remote hearing is addressed in paragraphs 65-67 below.
62. All non-urgent motions with an estimated duration in excess of two (2) hours are presumptively scheduled to be heard in-person.

- 63. Remote Hearing Presumption.** Effective February 1, 2024, only applications under the *Citizenship Act* and motions scheduled to be heard for a duration of two (2) hours or less (including motions scheduled for General Sittings and urgent motions) will remain presumptively scheduled to be heard remotely.
- 64. Use of electronic records.** The Court encourages parties to all modes of hearings to proceed on the basis of an electronic record, subject to the availability of any electronic equipment (including extended monitor screens) required for the hearing. The parties' preferences as to whether they wish to proceed on the basis of an electronic or paper record should be provided within the same timelines as set out below:
- a) **Remote Hearings: Electronic Documents Requirement.** The Court will require electronic copies of all documents that are necessary for any telephone or videoconference hearing. As noted in the section on [E-filing](#) above, when electronic documents are filed, parties will be exempted from the requirement to file paper copies of those documents unless otherwise directed by the Court. An exception to the requirement to file documents electronically may be made where a party is unable to file documents in that manner. Where documents have previously been filed in paper only, electronic copies of those documents may be required to be filed at the request of the Court at least 10 days prior to a hearing that is conducted remotely.
 - b) **In-Person Hearings: Equipment Requirement for Electronic Record.** The Court is in the process of adapting its facilities across the country to ensure that parties have the option of conducting in-person hearings on the basis of either a paper record or an electronic record. To facilitate this process, many of the Court's courtrooms have been equipped with monitors on the bench and counsel tables and many other courtrooms are now fully electronic. Mobile VC carts are also available to accommodate hybrid hearings. In addition, Wifi is now available in all of the Court's facilities.

Although some Courtrooms are equipped for electronic hearings, others have only an electrical outlet at counsel tables. Until such time as the adaptation of all of the Court's facilities has been completed, parties who prefer to proceed by way of electronic materials should inform the Court of their preference and their anticipated requirements. This should include whether they require a full electronic courtroom or simply an extended monitor screen to connect to their laptop / tablet during the hearing. Among other things, a full electronic courtroom would permit counsel to display documents on a large screen that may be viewed by all participants in the Courtroom. In addition, the Court, counsel and witness would see the same document on their respective screens. In contrast, simply having a single extended monitor screen would permit counsel to privately view

one or more additional documents during the course of the hearing. Neither the Court nor other counsel would see those documents, unless they brought them up on their own monitor screens.

The Court will endeavour to accommodate parties' equipment needs. However, for the time being, this will be subject to the availability of the equipment required for the hearing. No later than three weeks before the hearing, parties should contact the office where the hearing will be held to confirm the equipment set-up available for their hearing. If the assigned hearing room has no extended monitors available, counsel may wish instead to consider bringing their own portable monitor screens. If counsel is unable to bring an extended monitor screen in such circumstances, the hearing will need to be conducted on the basis of a paper record.

65. Option to request an Alternative Mode of Hearing. Parties to a proceeding will have the option to request an alternate mode of hearing where circumstances warrant:

- a) A party wishing to make such a request shall first consult the other party or parties, with a view to making a joint request.
- b) In any event, a party seeking a remote hearing shall submit a letter to the Judicial Administrator to explain the basis for their request in writing. Subject to any views that may be expressed by another party, the Court expects that requests will be granted when made on medical grounds, where counsel are located in different cities, or where distance or the time/cost associated with travelling to the Court would otherwise be particularly significant. Before making a request based on the location of their client, counsel should keep in mind that they can participate in person while their client participates remotely, subject to the availability of equipment.
- c) A party who does not agree with another party's request shall provide a written explanation in support of its position no later than the applicable time set forth below.
- d) The Court will remain open to conducting hybrid hearings, subject to the availability of the required equipment. Such hearings permit some participants to appear in person and others to appear remotely.

66. Change Mode of Hearing before a matter is scheduled. A party who does not wish to proceed in accordance with the presumptive mode of hearing shall communicate their position no later than the following times:

- a) **Hearing on the merits for actions** – In their pre-trial conference memorandum (or during the pre-trial conference.
- b) **Hearing on the merits for applications (T files)** – In the Requisition for Hearing, preferably by way of a joint proposal. The Respondent may submit a separate letter within three (3) days of the effective date of service of the Requisition for Hearing if it is unable to agree with the Applicant.
- c) **Hearing on the merits for applications (IMM files)** – By letter filed no later than the due date for the Applicant’s Reply.
- d) **Motions** – For urgent motions, in the request for the motion or in the response thereto. For non-urgent Special Sittings motions, the mode of hearing should be addressed in the Rule 35 letter setting out a joint proposal. The responding party may submit a separate letter within three (3) days of the effective date of service of the Notice of Motion if they take a different position than the moving party.

67. Change Mode of Hearing after a matter is scheduled. In general, once the hearing has been scheduled, any party may request the opportunity to participate by way of a different mode, i.e., the opportunity to have a hybrid hearing. They may also request a change in the mode of hearing as a whole, based on unforeseen or exceptional circumstances. For each of these two types of request, the Court will make its determination after considering any submissions that the other party or parties may make, as well as the availability of court staff and equipment. To make such a request, the party shall submit a letter explaining the basis for their request to the Judicial Administrator via the Registry as soon as possible. They shall set out the position of the other parties, all facts relevant to the request and the party’s submissions relevant to the request. The request shall be submitted no later than:

- a) For applications filed pursuant to the IRPA, within 21 days of the date of the Order granting the application for leave; or
- b) For all other matters, at least 4 weeks prior to the hearing.

Oral Advocacy

68. Counsel are encouraged to be prepared to highlight their arguments and direct the Court to relevant jurisprudence, instead of simply reading a prepared script or repeating their written submissions. In addition, they should be prepared to answer questions and to reply to the submissions of opposing counsel. Counsel or self-represented litigants who wish to observe Court hearings at which experienced counsel are appearing before the Court may consult the [Hearings List](#) and register to observe a hearing. At the [Court Files](#) tab, the Federal Court case index may be searched and individual case information viewed, including the name of counsel under the “Parties” icon.

- 69.** While the decision as to who speaks on behalf of a client in a particular case belongs to counsel and their clients, the Court welcomes hearing from less experienced counsel and counsel who are members of communities underrepresented in the legal profession, and encourages senior counsel to share opportunities for oral advocacy with their less experienced colleagues. This practice enhances training and mentorship for advocates, fosters diversity and inclusion in the justice system, and inspires greater public confidence in the administration of justice.

Preparation of a Compendium for a Court Hearing

- 70.** For the hearing on the merits of an application (in both T-files and IMM files), parties are encouraged in appropriate cases (such as where the record is large) to prepare a short compendium containing key excerpts from their record on which they intend to rely at the hearing. When a compendium is prepared, a copy shall be provided to both the Court (submitted electronically via the E-filing portal) and opposing counsel no later than three (3) business days before the hearing. For actions, the topic of a compendium should be discussed at the pre-trial conference.

Gowning for counsel

- 71. Gowning Requirement and Exceptions.** Unless the presiding judge or associate judge otherwise directs, counsel are required to gown for all in person hearings before the Court except the following:
- a) Hearings on any motion other than for summary judgment, summary trial, or contempt;
 - b) Case management conferences;
 - c) Dispute resolution conferences;
 - d) Pre-trial conferences;
 - e) Trial management conferences.

For the exceptions listed above, counsel are nonetheless required to wear business attire.

- 72. Accommodation.** Counsel with personal circumstances, such as pregnancy, a medical condition or disability, are free to modify their traditional Court attire in order to accommodate those circumstances. This includes by dispensing with a waistcoat and tabs, with the following proviso: modified attire must be dark in colour and in keeping with Court decorum. Counsel wearing altered attire are requested to advise designated Court personnel in advance of the appearance to ensure that counsel do not need to discuss their personal circumstances or modified attire on the record or in open court.

- 73. Gowning and Decorum for virtual hearings.** Until further notice, the requirement to gown for an appearance in Court remains suspended for all hearings that proceed by video conference. Counsel are expected to dress in appropriate business attire. Parties and witnesses must be appropriately attired for Court.

Counsel and Witnesses shall ensure that they have a professional background – *whether actual or virtual* – when appearing for a Court hearing by video conference. A blurred background is acceptable.

Where there is any risk of background noise, Counsel and Witnesses shall use a headset with an integrated boom microphone, a tabletop conference or gooseneck directional microphone.

Costs

- 74.** During the hearing of a motion, application or action, the parties should be prepared to inform the Court as to whether they have agreed on the disposition and/or quantum of costs. If the parties have not settled the disposition and/or quantum of costs, they should be prepared to make submissions on those issues to the presiding judge or associate judge before the end of the hearing.

Books of Authorities

- 75.** Subject to the provisions of paragraph 18(f) above, relating to the filing of electronic documents with hyperlinks to jurisprudence, parties are encouraged to file books of authorities containing copies of the authorities to which the parties intend to refer at the hearing. In addition to the requirements applicable to electronic documents:
- a)** Books of authorities should include only the cases to which the parties have referred in the factum. The particular passages in the cases to which the parties wish to refer should be clearly marked.
 - b)** References to judgments or other documents relied on, in a memorandum of fact and law, should identify a precise paragraph or page number. Where possible, citations of case law are to be made to a neutral citation (ex. 2008 FC 2345).
 - c)** Rule 70(2) requires that extracts of federal statutes and regulations be reproduced in both official languages.
 - d)** Rule 70(2.1) requires that in respect of reasons for judgment, the book of authorities shall contain:
 - i.** in the case where the book is filed in paper copy and the reasons are available from an electronic database that is accessible to the public at no charge, the relevant extracts of the reasons — including the head note, if

any, and the paragraphs immediately preceding and following the extracts — with a reference to the database clearly marked on the page containing the extract;

- ii. in any other case, the reasons for judgment in full with the relevant extracts clearly marked.
- e) Books of authorities shall indicate whether they are filed by the applicant or the respondent. Where possible, there should be consultation between the parties to avoid duplication of the authorities included in their respective books of authorities. A joint book of authorities is acceptable.
- f) Books of authorities shall have a tab for each case (either numerical or alphabetical) and include an index of the authorities. The index should indicate the tab where the authority is reproduced. For paper copies, it is not necessary to number the pages in the book of authorities so long as the photocopies show the page or paragraph numbers of each authority.
- g) Books of authorities shall be filed, if possible, no later than by the Friday of the week preceding the related hearing.

76. Authorities in the Memorandum of Fact and Law. Parties are encouraged to consider the following best practices in the preparation of memoranda of fact and law:

- a) References to judgments or other documents relied on in a memorandum of fact and law, should identify the location of the citation by referring to a precise paragraph or page number.
- b) Where possible, citations of case law are to be made to a neutral citation (ex. 2008 FC 2345). Parallel citations to reported or other versions of the judgment may be added after the neutral citation.
- c) The paragraphs in the authorities relied on in a memorandum of fact and law should be highlighted, underlined or sidelined in the book of authorities.

Security Screening

- 77.** The Courts Administration Service (CAS) conducts security screening of court visitors and their belongings, and has equipment in its locations across the country to ensure the Court remains a secure environment for Members of the Court, parties, witnesses, members of the legal profession, employees and the public in attendance.
- 78.** All visitors, including lawyers, parties, witnesses, media and observers attending proceedings will be subject to [security screening process](#) and will need to consent to

screening to have access to the Court. It is recommended to arrive at least 30 minutes before the scheduled start time of the proceeding.

Orders, Judgments, Reasons and Directions

- 79.** The official version of any order, judgment, reasons or direction issued by the Court shall be electronic or paper depending on the form of the signatures on the document and will be kept in the place or places designated by the Chief Justice.

Publication of Court decisions

- 80. Final Decisions.** Final decisions on the merits are published on the Court's web site, with the exception of decisions issued following consent between parties, which are usually of no precedential value. Unless issued simultaneously in both official languages as required by the *Official Languages Act*, each final decision will be issued in the first instance in one of the official languages and thereafter, at the earliest possible time, in the other official language.
- 81. Interlocutory Decisions.** If an interlocutory decision is considered by the Court to have precedential value, it may be assigned a neutral citation number, translated, and then published on the Court's website in both official languages. Otherwise, interlocutory decisions are not published on the Court's website.
- 82. Timing of Posting of Decisions.** Decisions are posted on the Court's website as soon as possible after the Registry has sent a copy thereof to the solicitors of record and, in any event, no later than two (2) days thereafter. Where a party is not represented by a solicitor of record, decisions are posted as soon as possible after the Registry has sent a copy thereof to the party and, in any event, no later than ten (10) days thereafter.
- 83. Publication on Third-Party Websites.** Third-party websites will continue to have access to all decisions that are published on the Federal Court website. Effective June 1, 2018, the Court also provides CANLII with access to the following categories of decisions that are not published on the Court website:
- interlocutory decisions that are issued with formal reasons for decision;
 - interlocutory decisions that are issued on a motion for stay of removal.
- 84. Access to decisions on the Court Record.** An entry is made in the online Court Index and Docket that provides the outcome of each decision issued by the Court. You can contact your [local Registry Office](#) to request a copy of any decision on the public record. There is a fee of \$0.40 per page to get a print/fax copy of a decision.

Articling students

85. Section 11 of the *Federal Courts Act* provides that only a barrister or an advocate in a province, or an attorney or a solicitor in a superior court of a province may practice in the Federal Court. Although a strict reading of this provision may suggest otherwise, the clear intent behind this provision was to adapt to the practise in place in such provinces and territories in which the Federal Court is called upon to sit.

Consequently, articling students may appear in the Federal Court where they are permitted to do so in the province or territory in which the hearing takes place. In brief, the Court defers to the professional regulations of the law societies of each province and territory, subject to the discretion of the presiding judge or associate judge to suspend or postpone a case if the interests of the party so represented are not adequately protected. An articling student appearing before the Federal Court must identify themselves as an “articling student”.

Replacement of past Practices, Notices and Documents

These guidelines consolidate and replace the following Practice Directions:

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| Consolidated Covid-19 Practice Directions | all |
| Pilot Project Expansion: Chambers of the Court (Aboriginal Law) | October 24, 2023 |
| Pilot Project: Chambers of the Court | March 2, 2023 |
| Practice Direction – Designation “His Majesty the King” | September 9, 2022 |
| Pilot Project: Online Access to Court Records | September 7, 2022 |
| Launch of the procedural bijuralism pilot project | November, 28, 2019 |
| Class Action Judicial Protocols | November 8, 2019 |
| Scheduling Practice for the Hearing of Applications | October 24, 2018 |
| Publication of Court decisions | June 1, 2018 |
| Informal Requests for Interlocutory Relief | August 25, 2017 |
| Security Screening of court Visitors and their Belongings | March 27, 2017 |
| Gowning for counsel | February 6, 2017 |
| Pilot Project for Access to Digital Audio Recording | February 6, 2015 |

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| <u>Adjournments</u> | May 8, 2013 |
| <u>Books of Authorities</u> | May 7, 2013 |
| <u>Electronic legal service and electronic filing & Annex</u> | March 1, 2013 February 26, 2013 November 18, 2010 |
| <u>Early Hearing Dates for Applications in the Federal Court</u> | |
| <u>Transmission of Orders, Judgments, Reasons, and Referee's Reports</u> | October 22, 2010 |
| <u>Costs in the Federal Court</u> | April 30, 2010 |
| <u>Authorities Cited in Memoranda of Fact and Law</u> | October 1, 2009 |
| <u>Online confirmation of motions and submissions of draft orders</u> | October 1, 2009 |
| <u>Addressing the Judicial Officers in Court</u> | September 3, 2009 |
| <u>National Database of Class Proceedings</u> | January 11, 2008 |
| <u>Designation of the Surname / Family Name of a Party</u> | November 22, 2007 |
| <u>Filing Proof of Service</u> | February 17, 2005 |
| <u>Name of the presiding judge or prothonotary</u> | May 5, 2004 |
| <u>Notice of Constitutional Question: Contact information for the Attorney General of Canada and the Attorney General of Each Province</u> | June 26, 2001 |

Document Retention

- 86.** The Practices, Notices and Documents listed above shall be removed from the Court's Website. The Registry will retain electronic copies of these Practices, Notices and Documents for a period of ten (10) years, after which they may be destroyed. Requests for a copy shall be made to the Registry before the expiry of the retention period.

ANNEX A

PILOT PROJECT – CHAMBERS OF THE COURT

| <u>INTELLECTUAL PROPERTY and COMPETITION</u> | <u>MARITIME and ADMIRALTY</u> | <u>CLASS PROCEEDINGS</u> | <u>ABORIGINAL LAW</u> |
|--|--|--|---|
| <ul style="list-style-type: none"> • Chief Justice Crampton • Associate Chief Justice Gagné • Justice O’Reilly • Justice Zinn • Justice Manson • Justice Roy • Justice McVeigh • Justice St-Louis • Justice Brown • Justice Fothergill • Justice Gascon • Justice Southcott • Justice McDonald • Justice Lafrenière • Justice Grammond • Justice McHaffie • Justice Fuhrer • Justice Pallotta • Justice Little • Justice Furlanetto • Justice Ayles • Justice Régimbald • Justice Tsimberis • Justice Whyte • Justice Nowak | <ul style="list-style-type: none"> • Justice Heneghan • Justice Strickland • Justice Southcott • Justice Pamel | <ul style="list-style-type: none"> • Chief Justice Crampton • Associate Chief Justice Gagné • Justice Zinn • Justice Kane • Justice Manson • Justice Strickland • Justice McVeigh • Justice St-Louis • Justice Fothergill • Justice Gascon • Justice Southcott • Justice McDonald • Justice Favel • Justice Pamel • Justice Little • Justice Ayles | <ul style="list-style-type: none"> • Chief Justice Crampton • Associate Chief Justice Gagné • Justice Heneghan • Justice Zinn • Justice Roy • Justice Strickland • Justice St-Louis • Justice Brown • Justice McDonald • Justice Lafrenière • Justice Grammond • Justice Favel • Justice Pamel • Justice Go • Justice Régimbald • Justice Blackhawk |

ANNEX B

LOCAL REGISTRY OFFICES EMAIL ADDRESSES

British Columbia and Yukon

- Vancouver: VAN_reception@fct-cf.ca
- Whitehorse: VAN_reception@fct-cf.ca

Alberta and Northwest Territories

- Calgary: CAL_reception@fct-cf.ca
- Edmonton: EDM_reception@fct-cf.ca
- Whitehorse: EDM_reception@fct-cf.ca

Manitoba and Saskatchewan

- Winnipeg: WPG_reception@fct-cf.ca
- Regina: WPG_reception@fct-cf.ca
- Saskatoon: WPG_reception@fct-cf.ca

Ontario

- Toronto: TOR_reception@fct-cf.ca
- Ottawa: fc_reception_cf@cas-satj.gc.ca

Quebec and Nunavut

- Montréal: MTL_reception@fct-cf.ca
- Québec: QUE_reception@fct-cf.ca
- Iqaluit: MTL_reception@fct-cf.ca

Atlantic Region

- Halifax: HFX_reception@fct-cf.ca
- Charlottetown: CHA_reception@fct-cf.ca
- Fredericton: FRE_reception@fct-cf.ca
- St. John's: STJ_reception@fct-cf.ca