

A SAMPLE OF ELECTRONIC FILING COMPLAINTS RAISED WITH FOLA

London

Documents get rejected from the portal for reasons that are not legitimate (i.e., no Affidavit of Service for service on a party where a dispense order was previously granted), but it has taken too long to be processed that it becomes too late to re-file and then they get rejected for being late, or otherwise require multiple filing attempts.

There is often a considerable delay in having new Applications and status review applications issued – at times over one month, which causes delay in being able to have the necessary parties served, etc., early enough before the first appearance for anything meaningful to occur. At times, applications are not even issued before the first appearance date, despite having been filed more than 30 days in advance. When filing was previously done in-person, applications would be issued on the spot.

Documents which have been properly filed are often not available to the judge at hearings – this occurs even when the necessary steps and deadlines have been adhered to (and even further in advance than required), which requires further adjournments. This occurs for all types of appearances – motions, final orders, settlement conferences, etc. This has occurred repeatedly on one file (i.e., adjourned because the judge did not have the materials the first time and then at the next appearance, they still do not have them, despite everything having been re-filed, confirmed, etc.).

Issued orders are not received back from the court for several months. In one case, lawyers are still waiting for an Order from a March trial decision, despite multiple follow-ups.

Efforts to follow-up with court staff are often either not responded to at all or with a response saying simply to wait and that we will be notified when the document is issued, etc., only to find out later that it had been misfiled and never would have been located and dealt with without that follow up.

Toronto

Documents were e-filed in February 2021 to complete a simple divorce on consent. The lawyer heard nothing for months. In May 2022, the lawyers received an email from the client asking if the lawyer had a copy of the divorce order, which they thought they had simply misplaced. The lawyer followed up with the court. It was only then that the lawyer learned from a clerk at the court that the filing had been rejected, with no reason provided nor notice given. The documents were refiled, only to have then rejected yet again because the forms were not in the new format. The client had to revisit the lawyer's office to sign the new forms only to be told after filing yet again that they would have to call them back in August for an update. This was not good as the client has plans to remarry in August so the lawyer had to write a letter to get the matter expedited. A lot of wasted time and expense for little purpose.

Brampton

This court's staff are notorious for making up their own family law rules. The lawyer has been trying to get a client divorced in that court for over two years now. The case finally resolved on consent. The consent was filed to obtain a final order in June 2021. The lawyer can never get anyone on the phone to follow up and the lawyer's process server has not had any luck either.

To this day, the lawyers still have no idea as to the status of that order despite their process server attending at the court in person to make inquiries. Documentation was also filed under separate cover to obtain the divorce, which was severed from the corollary issues some time back.

Also on consent, a filing was rejected on the basis that the client had not filed an Answer (at least that was the reason provided). An Answer had actually been filed back in 2016 when the matter started. The lawyer had no way to access the court staff to challenge this rejection as they never answer their phone. The process server was sent in person and it has taken the process server over a month to address this issue because apparently now they can only address one matter at a time at the counter before having to take another ticket and wait in line. When the process server was finally able to address this matter, they were told that they would have to order the court file from storage.

Inefficiencies such as these are commonplace and are contrary to the Family Law Rules, which are supposed to mandate cost effective and efficient court operations to benefit party litigants.

Central West Region

When documents are rejected but a fee has been paid – the turn around time for a refund is quite long. That means, in order to file the corrected documents – you have to pay again while you are waiting for the refund. If your documents get rejected 3 or 4 times that can cause an issue because these are typically client's trust monies that are being disbursed.

Northwest Region

There is inconsistency with what court email addresses are to be corresponded with for trial coordination, Court Services, and filing. This should be standardized for all courthouses.

There is also inconsistency between which types of matters require email filing and which require filing using the online portal.

Court staff are not confirming receipt of email filed materials, meaning that counsel have no confidence that materials were received by the court. On the court date, when material is not before the judge, there is no mechanism to correct this even when counsel can provide the materials were submitted in accordance with the rules by the deadline.