

# **NOTICE TO THE PROFESSION/PRACTICE DIRECTION AMENDMENT**

## **LONG MOTIONS IN THE CENTRAL WEST REGION**

This Notice to the Profession/Practice Direction Amendment supersedes all previously prescribed procedure for Long Motions in the Central West Region (including the Long Motion Notices for Milton, Orangeville, Walkerton and Owen Sound).

In the Central West Region, a “long motion” is one that is anticipated to take one hour or more.

Many Long Motions are canceled shortly before the hearing date; some are simply not ready to proceed resulting in adjournments and some are simply not confirmed due to settlement or otherwise. As a result, only a small percentage of Long Motions proceed on the dates scheduled. As a result, CW’s limited judicial resources are wasted and obtaining new Long Motion dates from the Trial Coordinator are often well into the future.

This procedure is intended to limit the number of Long Motions which do not proceed on the date scheduled.

Subject to specific directions on a Long Motion from a judge, the following procedure will apply to all Long Motions scheduled in the Central West Region on or after January 1, 2021. Long Motions scheduled prior to December 31, 2020 will continue to be governed by the existing procedure for Long Motions.

### **Scheduling Long Motions**

To schedule and secure a Long Motion hearing date from the Trial Coordinator’s Office in the Central West Region, counsel and litigants must:

1. Unless the Long Motion is *ex parte*, confer with the opposing party to identify possible dates for the Long Motion and to discuss the estimated time required for the Long Motion;
2. The moving party then must obtain a motion date from the Trial Coordinator’s Office from the courthouse where the Long Motion is to be heard. When obtaining a date, counsel and litigants must advise the Trial Coordinator’s Office the estimated time required for the Long Motion;
3. After the Long Motion hearing date has been obtained, counsel and litigants must serve the Notice of Motion and motion materials forthwith on all parties with an interest in the Long Motion.
4. Proof of Service of the Notice of Motion and Motion Record must be filed within 10 days from the date the Long Motion date is obtained from the Trial Coordinator’s Office. Subject to an order from a judge, failure to do so will result in the Long Motion hearing date being vacated.

## **Timetabling the Necessary Steps**

After the motion materials have been served on all interested parties, all counsel and the litigants must agree in writing upon a timetabling schedule for completion of all steps necessary for the Long Motion to proceed on the scheduled date.

Counsel and litigants must file the written timetable scheduling agreement along with their Confirmation Sheet.

If counsel and the litigants are NOT able to agree upon a timetabling scheduling agreement, the party who obtained the long motion date may request from the Trial Coordinator's Office, a telephone conference hearing date, before a judge to set a timetabling schedule by court order for the Long Motion and/or other directions the judge considers appropriate.

In the event the Long Motion does not proceed on the scheduled hearing date and there is no written timetabling 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.

## **Adjournments of Long Motions**

Adjournment of Long Motion are discouraged. Counsel and parties should expect that unnecessary adjournments will attract cost awards. However, the court recognizes there may be exceptional circumstances where an adjournment is warranted.

### *i) Consent Adjournments more than 14 days prior to the Long Motion Hearing date*

If all counsel and the parties agree, at least 14 days prior to the Long Motion hearing date, that the Long Motion is to be adjourned, one of the parties may write to the court (copied to all other parties) setting out:

- a) the request for an adjournment;
- b) that it is on consent of all interested parties; and
- c) setting out the reasons why the adjournment is appropriate or necessary.

Counsel and the parties will be 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 adjournments.

Only one adjournment will be granted on consent.

### *ii) Opposed Adjournments more than 14 days prior to the Long Motion Hearing date*

If counsel or a party seeks an opposed adjournment, at least 14 days prior to the Long Motion hearing date, the party seeking the adjournment shall obtain from the Trial Coordinator's Office a telephone conference hearing date before a judge who will determine whether to grant the opposed adjournment of the Long Motion date or make an order for directions regarding the Long Motion.

*iii) Consent or Opposed Adjournments within 14 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 14 days of the Long Motion hearing date, whether opposed or on consent, shall be made to the motions judge on the scheduled hearing date. A copy of the timetabling scheduling agreement must be provided to the motions judge.

Counsel and parties should be prepared to proceed with the Long Motion in the event the adjournment is NOT granted.

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

### **Confirming the Long Motion**

Unless otherwise directed by a judge:

- a) All Long Motions must be confirmed by all interested parties by filing Confirmations no later than 14 days prior to the hearing date. Failure to file Confirmations will result in the Long Motion hearing date being vacated and made available to other parties on a short notice basis; and
- b) All materials for Long Motions (including factums maximum 20 pages) must be filed no later than as set out in the agreed upon timetable scheduling agreement but in no case less than 14 days prior to the Long Motion hearing date. If all motion materials are not filed within 14 days prior to the Long Motion hearing date, the Long Motion, subject to the discretion of the motions judge, may or may not be heard, may be adjourned, dismissed or directions issued.