



COVID-19: FREQUENTLY ASKED QUESTIONS RE: MATTERS IN THE SUPREME COURT (GENERAL DIVISION)

3rd Edition – Sunday, May 3, 2020

The COVID-19 global pandemic continues. Just this weekend, the Premier extended the provincial State of Emergency for Nova Scotia.

Decisions surrounding the operation of the courts during the pandemic continue to be guided by the advice of public health officials, including Nova Scotia's Chief Medical Officer of Health. Our goal is to balance the need for the courts to remain open, with the need to ensure that the public and our staff are safe.

Over the past two weeks, the Nova Scotia Supreme Court has worked with the Nova Scotia Department of Justice on ways to expand the services available under its essential services model, without increasing staff. In-person hearings are still limited to urgent and essential matters, as determined by a judge. However, certain non-urgent matters are now proceeding if they can be handled remotely or in writing. This provides greater access to the courts, while protecting the health and safety of staff and the public.

The Department and the Judiciary have also been working to develop virtual court. I am pleased to report that a virtual court pilot project was successfully held in the Supreme Court on April 30, 2020. We hope to have more to share on this initiative soon.

We know that many of you have questions relating to court services during the pandemic. We have endeavoured to answer some of these questions below. We will update this document regularly as more questions arise.

This document should be read in conjunction with the [April 1, 2020](#), and the [April 15, 2020](#), editions of my Frequently Asked Questions, as well as the various directives issued by the Supreme Court in relation to COVID-19, all of which are on the Courts' website at https://www.courts.ns.ca/News_of_Courts/COVID19_Preventative_Measures.htm.

Thank you.

Deborah K. Smith
Chief Justice of the Nova Scotia Supreme Court

Q/ What changes have occurred since the second edition of Frequently Asked Questions came out on April 15, 2020?

There have been several advances made by the Supreme Court over the past two weeks.

On April 17, 2020, the Supreme Court announced that it will permit personal service to be effected by email, with the consent of the person who is being served. For more details, please refer to the [April 17, 2020, directive](#).

On April 21, 2020, the Supreme Court expanded its essential services model to accept filings for certain non-urgent matters during the pandemic. Those documents include Motions by Correspondence; non-urgent written Applications (where all parties and the judge agree that the matter can be dealt with solely in writing); uncontested divorces (in the General Division); and Consent Orders. For more details, please refer to the [April 21, 2020, directive](#).

On April 22, 2020, the Supreme Court expanded service in the Probate Court to allow new applications for Grants of Probate and Grants of Administration. The full directive is available online [here](#).

Commencing May 4, 2020, the Supreme Court (General Division) will conduct Telechambers in Halifax, with the judge and judicial assistant both participating remotely by telephone. This new setup for General Chambers is a first step toward entirely remote court proceedings. Once Telechambers has been tested successfully in Halifax, it will be implemented in the districts. For full details, please refer to the [April 29, 2020, directive](#).

Counsel are reminded that, unless a judge directs otherwise, filing deadlines outlined in the Civil Procedure Rules for civil and family matters in the General Division remain suspended. Accordingly, there will be restrictions on which matters can proceed.

Cases best suited to Motions by Correspondence, written Applications or Telechambers will include those cases that were ready to proceed in March 2020 but were adjourned when the court moved to an essential services model, *ex parte* matters, and cases in which all parties consent to the matter being dealt with.

Q/ How is the virtual court pilot project going?

The Supreme Court has developed a virtual court setup using Skype for Business and the existing court audio recording system. Training for judges and judicial assistants is continuing, and as I mentioned above, the first virtual court proceedings were held on the record on April 30, 2020, as part of a pilot project. One was a motion in a civil matter, the other a criminal pre-trial hearing. Both matters went smoothly from a technological standpoint.

Virtual court hearings will be piloted in Halifax, to start. The initiative will be expanded as more judges and judicial staff are trained and set up to work remotely, and as more cases are brought forward for consideration. To date, the Supreme Court has offered virtual hearings to counsel in six civil matters, but counsel in only one case agreed to proceed virtually.

We expect to have an update soon on virtual court, as well as virtual Judicial Settlement Conferences and virtual criminal Resolution Conferences. In the meantime, some judges have agreed to hold Judicial Settlement Conferences by telephone. For a list of these judges, please contact the Provincial Prothonotary, Caroline McInnes, at Caroline.McInnes@courts.ns.ca or the Supreme Court Prothonotary, Timothy Morse, at Timothy.Morse@courts.ns.ca.

Q/ Have there been any changes in how civil matters are being dealt with?

As noted in the [April 15, 2020, edition](#) of my Frequently Asked Questions, the Supreme Court was reviewing civil cases three weeks in advance of the anticipated hearing date to determine whether the case would be proceeding. Due to the uncertain nature of the pandemic, we did not want to adjourn cases too far into the future, only to find out that we could resume normal operations sooner than we anticipated.

At the Supreme Court Bench/Bar Liaison Committee meeting held on April 16, 2020, it was suggested that counsel may appreciate longer notice of adjournments. The Nova Scotia Barristers' Society was kind enough to survey its members, which confirmed that the majority would prefer four weeks' notice instead of three. The Court was happy to accommodate this request and as such, we are now reviewing civil cases four weeks out.

We recognize that with certain cases, counsel will want to know more than four weeks in advance whether their matter will be proceeding. If you have such a case, please write to the Prothonotary and request that the file be reviewed sooner.

Q/ Have Date Assignment Conferences been reinstated yet?

No. As previously indicated, a decision has been made not to schedule any new matters until further notice, to help deal with the *Jordan* issues we are expecting once this crisis is over. We will try to resolve those criminal scheduling issues as soon as possible after the court returns to normal operations, so that we can once again start scheduling civil matters. However, for the time being, any Date Assignment Conferences that are presently scheduled will not be proceeding.

Q/ I have a question that I want answered. Who do I submit my question to?

The Supreme Court is holding regular meetings of its Bench/Bar Liaison Committee during the pandemic. The next meeting is scheduled for Thursday, May 14, 2020. If you have a question you would like answered, please contact one of the following Bar representatives on the Committee:

Bob Carter, Q.C. (co-chair)
John Nisbet
Bryna Hatt
Geoff Newton
David Hutt
Mark Rieksts
Rob Pineo
Michelle Kelly
Angela Caseley
Karen Bennett-Clayton
Matthew Moir

Q/ When will the courts resume normal operations?

Our goal is for the courts to return to normal operations as soon as possible. We will be meeting with public health officials again this week to discuss when it may be safe to do so. We anticipate any further expansion of our present services will be gradual and that extra precautions will have to be taken to help reduce the risk of spreading of the virus.

Q/ When can we expect further updates?

Further updates will be communicated publicly. All public notices from the Nova Scotia Courts will be posted on the COVID-19 updates page of the Courts' website at: https://www.courts.ns.ca/News_of_Courts/COVID19_Preventative_Measures.htm.