

NOTICE

COURT OF QUEEN'S BENCH OF MANITOBA

Re: **NOTING OF DEFAULT WHERE SERVICE IS BY REGISTERED OR CERTIFIED MAIL UNDER QUEEN'S BENCH RULE 16.03(4)(A)**

Queen's Bench Rule 16.03(4)(a) provides for service of an originating process by sending a copy to the last known address of the person to be served by registered mail or certified mail. To then note default on a statement of claim in reliance on Rule 16.03(4)(a), the Registrar requires proof of service by signature of the person being served. As a result of the COVID-19 pandemic, Canada Post has not been obtaining signatures from recipients. As such, it has not been possible to effect service as contemplated by Rule 16.03(4)(a) and before noting default the Registrar requires personal service of the statement of claim.

Queen's Bench Rule 14.07 provides that where an action is commenced by statement of claim, the statement of claim shall be served within six months after it is issued. There have been some cases where a plaintiff attempts to serve a statement of claim under Rule 16.03(4)(a) and by the time the plaintiff becomes aware that service was not possible because of a lack of an intended recipient's signature by Canada Post, it is impossible or impractical to effect personal service within six months.

Recognizing the unique and unexpected change in practice by Canada Post, governed by a fair and just application of the court rules to both plaintiffs and defendants as informed by principles of access and proportionality, **prior to October 1, 2021**, the Registrar will accept requisitions to note default on a statement of claim where the other requirements to note default are met but the statement of claim was served outside of six months after it was issued and the plaintiff files satisfactory affidavit evidence of the following:

- The statement of claim was sent for service in accordance with Rule 16.03(4)(a) prior to six months after it was issued; and
- Prior to October 1, 2021, the statement of claim was personally served on the defendant.

As noted, this Notice is intended to fairly and practically address this unique and unexpected change in practice by Canada Post. Now, with the knowledge and understanding of this change in practice by Canada Post, it is to be understood that as of **October 1, 2021**, this extension of the six-month period in which to effect personal service of a statement of claim will no longer apply.

This Notice comes into effect immediately.

ISSUED BY:

"Original signed by Chief Justice Glenn D. Joyal"

**The Honourable Chief Justice Glenn D. Joyal
Court of Queen's Bench (Manitoba)**

DATE: August 19, 2021