

MANITOBA COURT OF QUEEN'S BENCH

NOTICE TO THE PROFESSION

May 4, 2020

This Notice will confirm that, subject to what must be acknowledged could be sudden developments in the still-fluid COVID-19 situation, all currently-scheduled criminal, civil, family and child protection trials in the Court of Queen's Bench for the period from May 26 to the end of June 2020, will proceed.

While this Notice provides confirmation to counsel and litigants that the previously-scheduled trials for that period will proceed, it should be remembered that pursuant to past notices and court communications to the profession, those May 26 to the end of June 2020 trials have always been described as presumptively set to proceed. In other words, they were never cancelled or adjourned.

The viability of those May 26 to June 30, 2020 trials have been monitored based on the Court of Queen's Bench's staged approach (to cancellations and limitations of service) which involved administrative and assignment lists as well as segmented decisions about scheduled trials respecting discrete periods (March 16 to April 17 and April 20 to May 25, 2020). The subject of this Notice, the period from May 26 to the end of June 2020, represents the last segment of the Court of Queen's Bench spring 2020 term about which the Court still must address its rota and scheduling in the context of a somewhat improved but still uncertain COVID-19 situation.

It will be noted that throughout this COVID-19 period, the Court of Queen's Bench, using its segmented and staged approach, has endeavoured to return, as quickly as reasonably possible, to most of the services it provides in the areas of criminal, civil, family and child protection proceedings. The Court is pleased that in all of those areas of the Court's judicial service, where applicable, pre-trials, case management meetings, case conferences, motions, judicially-assisted dispute resolutions (JADRs) and intake and triage lists are up and running. By May 26, 2020, assuming the subject trials are able to proceed as planned, with the exception of jury trials, the Court of Queen's Bench will be operating at close to 100% capacity in its various areas of criminal, civil, family and child protection judicial service. Although much of its non-trial judicial service is and will continue to be conducted remotely (by teleconference or videoconference), the available service nonetheless provides litigants and counsel access to the Court and any requisite adjudications. The Court thanks all members of the profession for your input, guidance and collaboration in assisting us in making possible the provision of those services that we know the profession sought, and that litigants obviously need.

For those counsel and litigants involved in criminal, civil, family or child protection trials for the period of May 26 to the end of June 2020, the March 13, 2020 Media Notice from the three levels of court which addresses the issue of access to the Law Courts (please see the attached Media Notice re: COVID-19) should be consulted. That Notice is still in effect and should accordingly govern how counsel and litigants plan for their own physical attendance and the attendance and readiness of their witnesses at the Law Courts throughout the trial. While the clear intent of the Notice cannot be ignored and it will govern, specific and nuanced applications of the Notice will in some circumstances be left to the trial judge.

If, in the course or context of a scheduled trial, a witness or otherwise permitted person is nonetheless denied entry by sheriff's officers into the Law Courts Building (for reasons connected to the applicable March Notice or any other health/safety protocol governing access to the Law Courts), the Court/trial judge (and by extension, the parties) will be advised as soon as possible by the sheriff's officers who denied entry. The trial judge would then address the matter with the parties.

Those trials scheduled to take place during the period in question, will obviously take place with the requisite precautions (including the appropriate physical distancing) as overseen by the Court and with the collaboration and support of counsel and all participants. In addition to the obvious precautions, it should be noted that court rooms will be regularly cleaned and sanitized at the completion of each day's proceeding.

The Court is providing this confirmation respecting the period from May 26 to June 30, 2020, so as to ensure that counsel's and litigants' preparation for scheduled trials continue apace. As it relates to the scheduled trials, the Court is sensitive to some of the potential difficulties involved in preparing for the trials in the context of the COVID situation. That said, the COVID reality should not be seen as an inevitably decisive or determinative factor in applications for adjournments if and where they occur. Indeed, if and where necessary, counsel are expected to creatively explore all avenues of preparation and evidence presentation (including videoconferencing presentation) in both the lead-up to trial and at the trial itself.

Separate and apart from this confirmation announcing the May 26 to the end of June 2020 trials are proceeding in person, it should be noted that, as it relates to criminal, civil, family and child protection proceedings, where applicable, the current approach to the scheduling and hearing of pre-trials, case management meetings, case conferences, motions and JADRs will continue **and, accordingly, all those services will proceed remotely by teleconference or videoconference**. In the case of civil matters and family matters, specific Notices were issued on April 7 and April 28, 2020, respectively. Those Notices continue to govern.

Subject to what has been already anticipated and acknowledged in previous Notices as some potential customization, this Notice should be understood as applying to all of the Court of Queen's Bench Judicial Centres.

This Notice will also serve as confirmation that as it relates to the Winnipeg civil uncontested list, effective Monday, May 11, 2020, and for the remainder of this spring term (until the end of June), the list will operate daily by teleconference commencing at 10:00 a.m. Although counsel or litigants will be calling in, the presiding duty judge will be present in Courtroom 115 at which time he or she will be addressing all matters "on the record". The call-in number and details for those matters on the daily uncontested list will remain unchanged and is as follows:

Toll free dial-in number: 1-800-974-5902

Local dial-in number: 416-874-8100

Conference ID: 5148840

The matters will proceed on the basis of their chronological place on the day's list.

As of May 11, 2020, the approach for having an emergency or urgent matter heard will return to the former and longstanding process by which a request must be made to the motions coordinator, Ms. Cheryl Laniuk, to have the defined matter added to the uncontested list at which leave will be sought for any eventual expedited hearing.

As it relates to the Family Division, there are several unique aspects that require clarification:

- a) Child protection intake dockets and triage hearings will continue to be conducted via teleconference. The practice will continue whereby the presiding judge notifies counsel in advance of each docket of the details with respect to time allotted for each matter and the information with respect to teleconferencing. Following the May administrative lists, child protection intake and family triage lists will be once again scheduled on their usual Thursdays and Mondays respectively. As already specified, those lists will be conducted remotely.
- b) Matters that had been previously scheduled for the time period from May 25 to June 26, 2020, which were set down prior to the April 28, 2020 Notice to the Profession, will proceed on the basis of Acting Associate Chief Justice Dueck's Notice dated April 28, 2020, such that counsel/litigants will be subject to all those same requirements as if the matter had been set down post-April 28, 2020.
- c) The most recent Notice to the Profession dated April 28, 2020, did not include any reference to appointments before a Family Division judge, more particularly, appointments to settle the terms of a previously-pronounced court order. In keeping with the Court's desire to expand services, these appointments are available through a similar process as detailed in the April 28, 2020 Notice with the following procedural qualifications:

1. A 70DD is not the appropriate form to request such a hearing. The established practice of writing to a judge explaining the circumstances surrounding the inability to enter the order will continue; and
2. The judge will respond in writing and, if a hearing is required, counsel will be required to email Ms. Sharon Phillips at Sharon.Phillips@gov.mb.ca to secure a date.

Again, as it relates to civil and family matters, while Court of Queen's Bench Masters will be providing their own Notice clarifying the details concerning areas of renewed service respecting civil proceedings, this Notice will serve as a preliminary indication that within days, subject to details to be announced by Senior Master Lee, where required, counsel and litigants will have access to the Masters for the purpose of addressing those customary procedural matters that may arise prior to engaging in the Court of Queen's Bench civil litigation pretrial process and Family Division triage process.

ISSUED BY:

"Original signed by Chief Justice Glenn D. Joyal"

**The Honourable Chief Justice
Glenn D. Joyal**

DATE: May 4, 2020



**MANITOBA COURT OF APPEAL
MANITOBA COURT OF QUEEN'S BENCH
MANITOBA PROVINCIAL COURT**

MEDIA NOTICE

March 13, 2020

Re: COVID-19

The Manitoba Courts have been meeting with Manitoba Justice, Courts Administration and various stakeholders in the justice system to address the issues arising out of COVID-19. The Courts will be taking measures, which are pro-active and preventative in order to protect the participants in the justice system and to reduce the spread of COVID-19. The Courts recognize the seriousness of the situation and prioritize the health and safety of all court participants, while balancing the need to maintain judicial operations.

Effective Monday, March 16, 2020 access to the courthouses, including circuit court locations in Manitoba will be restricted to only those persons who are necessary to the proceedings before the courts. This will include counsel, litigants, accused, witnesses and victim service workers. While the general public will not be allowed in the courthouses, in order to honour the open court principle, the press and media will still be allowed to attend. We do ask that no one who is experiencing any COVID-19 related symptoms attend the courthouses.

Effective immediately, all trials scheduled to proceed by judge and jury prior to June 30, 2020 will not proceed with a jury. Rather, they will proceed by judge alone or will be rescheduled to proceed at a later date. Jury Selections are therefore also cancelled during this time. The one jury trial currently in progress will continue until its final disposition.

Further, all public tours, including school visits and mock trials will be postponed until further notice. Subject to the evolving issues arising out of COVID-19, Court of Queen's Bench and the Provincial Court, the trial courts, will be prioritizing the matters that appear before them. Each level of court will keep the court stakeholders and its participants apprised of the effect of this prioritization and the potential impact on any hearings. The Court of Appeal intends to go ahead with its hearings as scheduled.

The Manitoba Courts will continue to actively monitor this situation and will continue to work on contingency planning. We recognize this situation is fluid and subject to rapid change. Each level of Court will continue to provide information on any changes to its operations by updating the Manitoba Courts Website - <http://www.manitobacourts.mb.ca/> on an ongoing basis.

Lastly, the Manitoba Courts encourage all court stakeholders and individuals required to appear before it to follow precautions that can avoid the spread of infection, including COVID-19. Information can be found here - <http://www.manitoba.ca/health/coronavirus/index.html>

Richard Chartier
Chief Justice of Manitoba

Glenn D. Joyal
Chief Justice
Court of Queen's Bench

Margaret Wiebe
Chief Judge
Provincial Court

Contact: Aimee Fortier, Executive Assistant to the Chief Justices and Chief Judge
Tel: (204) 945-8043; Fax (204) 945-5751; email: aimee.fortier@gov.mb.ca