



## CHANGES TO THE RULES OF CIVIL PROCEDURE

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In March of 2020, the Covid-19 pandemic brought the world of civil litigation to a halt; however, we may look back on Covid-19 as the precipitating force that brought litigation in Ontario out of the past and into the present.

On January 1, 2021, amendments to the *Rules of Civil Procedure* came into force which permanently implement certain electronic processes that were introduced through the various notices to the profession issued during the Covid-19 pandemic, and that do away with some of the more antiquated Rules.

### **Manner of Hearings**

Parties requesting an appearance must now specify in their request whether the appearance is to proceed in person, by telephone conference or by video conference. Unless the other party objects, the appearance shall proceed in that manner, subject to Court directions otherwise. This includes mandatory mediation and examinations for discovery.

A new consideration for a cost award is whether a party unreasonably objected to proceeding by telephone conference or video conference, which will force parties to seriously consider whether to object to virtual proceedings in an effort to delay or drive up cost for opposing parties.

All motions may now also be heard in writing at the proposal of the moving party, regardless of whether the issues of fact and law are complex.

### **Service of Documents**

Fax machines may no longer be used to serve lawyers of record or to send confirmation forms to opposing parties. Any document that does not need to be served personally or by an alternative to personal service can now be served by email without consent, to the party's email address provided or their last known email address, or to that party's lawyer of record.

The Registrar may now communicate and send documents to counsel via email. For this reason, backsheets are no longer required to have a lawyer's fax number and must include email addresses. Orders removing lawyers of record no longer

require the client's fax number to be included, but rather the client's email address.

### Filing Documents

Rule 4.05.1 was added earlier in 2020 to permanently allow for the filing of Court documents through the Civil Claims Online Portal or the Civil Submissions Online Portal. Any document to be issued can now be issued electronically, either by the registrar or through the Civil Claims Online Portal.

In January, a new rule 4.05.3 will be added to the *Rules of Civil Procedure* which provides for the use of CaseLines for the filing of documents to be used at hearings. Transcripts for use at hearings (other than in the Court of Appeal) no longer need to be filed in hard copy and shall be required to be served and filed electronically.

### Court Processes

The amendments authorize electronic endorsements to be made on separate documents, as opposed to records themselves. They also authorize the electronic issuance of orders and the delivery of an electronically issued order by email or CaseLines.

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