



Supreme Court of Newfoundland and Labrador

The Honourable Raymond P. Whalen
Chief Justice

Chief Justice's Chambers
Court House, 309 Duckworth Street
St. John's
Newfoundland and Labrador
A1C 5M3

May 26, 2020

The Law Society of Newfoundland and Labrador
196-198 Water Street
PO Box 1028
St. John's, NL A1C 5M3

Dear Mr. Patey,

RE: ACCESS TO JUSTICE

I write further to your email of May 20, 2020 attaching the May 19, 2020 correspondence of Stewart McKelvey, McInnes Cooper and Cox & Palmer to the Law Society of Newfoundland and Labrador and the Canadian Bar Association. In that letter concerns were raised regarding the need to maintain access to justice during these difficult times. The particular concerns were the need for the Court to clearly communicate its re-entry plan, to expand the types of hearings that are proceeding as restrictions are loosened, and to address the backlog of cases that has resulted from the Court's suspension of normal operations. I agree that these are of paramount importance and the Court has been actively working towards a plan to address each of them.

Re-entry/In-Person Hearings

The Court has been consulting with the Chief Medical Officer, Occupational Health and Safety officials and the Department of Transportation and Works in order to find ways in which in-person hearings could safely be held in our current facilities. This will likely involve the installation of plexiglass in some of the courtrooms, limiting the number of people in courtrooms and the courthouse, as well as adopting screening measures. All our courthouses are under review to map out a plan to operate the courtrooms recognizing the physical distancing requirement of 2 meters. We have and continue to explore alternative sites for holding jury trials which the Court is looking to recommence by September, 2020.

At this point, we are unable to provide a firm date for the full resumption of in-person hearings. When we know the Province is moving to alert level 3 and the restrictions that apply to that level, we are hopeful to resume some in-person sentencing hearings through late June and other matters over the summer. Compounding this uncertainty is the

difficulty the Court has faced in arranging adequate workspaces to allow for physical distancing and securing personal protective equipment and supplies for staff members.

With this said, the Court is committed to resumption of in-person hearings as soon as possible and will attempt to communicate with all stakeholders regarding our progress. For the near future, however, remote appearances will likely be the norm, and in-person hearings the exception.

Expansion of Hearings

On May 13, 2020, the Court issued a Notice to the Profession indicating that we were expanding the types of appearances that would be proceeding by teleconference and videoconference including: civil and family settlement conferences, criminal case management conferences, family case management hearing and certain criminal, civil and family applications more particularly identified in the Notice. The Court continues to identify additional appearances that can proceed in this manner. Part of this process has and will continue to involve discussion with counsel and parties to identify applications that can be heard remotely or by paper hearing, so we can minimize the number of matters that must be postponed.

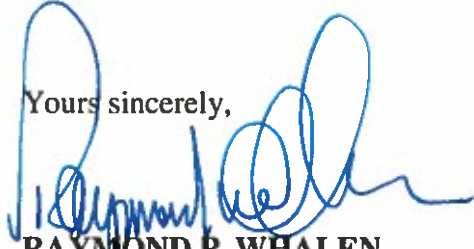
Back Log

At this time, we cannot provide a date by which the backlog will be entirely dealt with. We are now rescheduling matters from our recovery civil, criminal and family dockets and we hope to recover all matters in the General and Family Divisions, except for trials, by end of August. The rescheduling of some matters is driven by the availability of counsel and therefore may be conducted on a later date. The Court will remain in session for the summer term and will be attempting to deal with as many matters as possible, given the current constraints that we face.

The Court recognizes that particular law firms are specialized more towards a civil, criminal or family practice. As we move from the critical services model to reopen the Courts with due consideration to current professional health recommendations we must take into account the materiality of the case and the capacity of the Court while minimizing the risk of infection. The goal of the reopening will be to process as many cases as possible until the health situation is normalized. Our focus is to continue the schedule of the Court in all judicial centres and recover the matters missed since March 18. To do this we will examine if any particular case should be prioritized.

Allow me, in advance, to thank all members of the Society for their cooperation and continued consideration.

Yours sincerely,



RAYMOND P. WHALEN
Chief Justice

CC: Canadian Bar Association
Attention: Christian J. Hurley

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