

Sir Louis Henry Davies  
Law Courts



Supreme Court of  
Prince Edward Island

PO Box 2000  
Charlottetown, PE C1A 7N8

## NOTICE TO MEMBERS OF THE LAW SOCIETY

**Date:** May 14, 2020  
**From:** Krista J. MacKay, Q.C., Prothonotary/Registrar  
**Re:** Director of Child Protection matters

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Given the current restrictions under which the court continues to operate, it is essential to streamline matters wherever possible. In an effort to make the best use of time at Pre-trial Conferences in Director of Child Protection ("DCP") matters, and to provide for efficient scheduling of DCP trials in the upcoming months, the court has determined that until further notice, the filing of the attached modified Form 50A will be required by the parties prior to all DCP Pre-trial conferences. Time lines for filing this document will be as set out in Rule 50.

Any questions regarding this may be directed to my attention.

A handwritten signature in blue ink that reads "Krista J. MacKay".

Krista J. MacKay, Q.C.

Prothonotary and Registrar of the Court of Appeal  
and Supreme Court

**FORM 50A (MODIFIED)**  
**PRE-APPLICATION CONFERENCE MEMORANDUM**  
**FOR DIRECTOR OF CHILD PROTECTION**  
**MATTERS**

(General heading)

(Cause no.)

(Date)

**PRE-APPLICATION CONFERENCE MEMORANDUM**  
**FOR DIRECTOR OF CHILD PROTECTION**  
**MATTERS**

This pre-application conference memorandum is prepared on behalf of the (party):

**PART I**

STATE THE NATURE OF THE ACTION, THE RELIEF CLAIMED AND THE THEORY OF THE PARTY PREPARING THE MEMORANDUM:

**(include reference to applicable sections of the Child Protection Act, and any relevant time lines)**

**PART II**

**PLEADINGS:**

1. Are the pleadings complete? \_\_\_\_\_
2. Are any amendments required? \_\_\_\_\_
3. Are any preliminary motions being contemplated? Please explain. \_\_\_\_\_
4. Are productions complete? \_\_\_\_\_
5. When will you be ready for the hearing? \_\_\_\_\_
6. Please indicate if there are any times when the case cannot proceed because of the availability of witnesses or for other good reasons. \_\_\_\_\_
7. How long should the hearing last? \_\_\_\_\_
8. Are there any Rules of Court which you or other parties have not complied with? Please explain. \_\_\_\_\_

**PART III**

**ISSUES:**

1. What are the legal issues to be determined?
2. What facts must the applicant prove?
3. Are there any issues which place the onus of proof on the respondent? If so, please identify.

**PART IV**

**PROOF:**

1. Please list any relevant facts that are admitted.
2. Please identify any fact of which the court will be asked to take judicial notice.
3. Will any affidavit evidence be tendered?
4. Will cross-examination be sought?

5. Will an agreed statement of facts be filed?
6. Will any business records be tendered and has the appropriate notice been given?
7. Please list the documents to be introduced and opposite each, state the purpose for introducing it.
8. What evidentiary problems, if any, do you foresee?
9. Please list the name of each non-expert witness you plan to call and opposite the name, briefly indicate the nature of the witness' testimony. *(Leave of the court will be required to call witnesses not identified. The court may also fix deadlines for serving and filing Summonses to Witness).*
10. Please list the name of each non-expert witness for whom you intend to rely exclusively upon affidavit evidence. Will cross-examination be sought by the opposing party?
11. Please list the name of each expert witness you plan to call and opposite the name, list the witness' field of expertise and the issue on which the expert will be testifying. Indicate whether or not expert reports have been filed and all required notices given.

PART V

**RELIEF:**

1. Please provide the details of the Director's proposed plan of care.
2. Will any alternative plan of care be proposed? What is the anticipated time line for this?

PART VI

**AUTHORITIES:**

1. What statutory provisions apply to this case?
2. Please list the main authorities on which you intend to rely and indicate which issues they relate to. *(It is not necessary to cite authorities for the well-known basic legal concepts. It is only necessary to cite authorities that have peculiar reference to this case).*

*(Date)*

*(Name, address, telephone number  
and email address of lawyer or  
party)*

TO: *(Identify party)*



Supreme Court of  
Prince Edward Island

## NOTICE TO MEMBERS OF THE LAW SOCIETY

**Date:** April 20, 2020

**From:** Krista J. MacKay, Q.C., Prothonotary/Registrar

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### **Triage Process for Supreme Court Hearings**

Further to my Notice provided on April 1, 2020, we continue to hear only those matters that are deemed urgent, essential, or an emergency. The attached form has been developed to assist parties in making requests for urgent, essential or emergency hearings. Instead of sending an email to the trial co-ordinator or to me, as directed in my previous Notice, we are now asking parties to complete and file the attached document containing their submissions regarding how the matter is urgent, essential or an emergency. A fillable version of this form can be found on the court's website at [www.courts.pe.ca](http://www.courts.pe.ca). We remind counsel that if your request has been determined by a judge to have met the threshold and will be heard, any filings regarding the matter should include a note to the deputy registrars that it has been approved for hearing. They can then ensure the documents get to the judge hearing the matter in a timely way.

### **Clarification on Filing**

Further to Update Notice from the Chief Justices on April 7, 2020, we wish to clarify that the court is amenable to receiving Consent Orders or Notices of Discontinuance for filing at this time, given that they will serve to complete actions which can then be removed from the active file roster of the court.

Krista J. MacKay, Q.C.

Prothonotary and Registrar of the Court of Appeal  
and Supreme Court



## **NOTICE TO MEMBERS OF THE LAW SOCIETY**

**Date:** April 1, 2020  
**From:** Krista J. MacKay, Q.C., Prothonotary/Registrar

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### **Filing of Documents**

We continue to work with a skeleton staff and appreciate those lawyers that are reflecting on whether a document needs to be filed at this time before forwarding them for filing. We appreciate the use that is being made of e-filing and filing by fax pursuant to Practice Direction 46, and encourage continued use of these formats where appropriate. For larger bound documents, the newly implemented drop-box method is available and may be more suitable.

### **Triage Process for Supreme Court Hearings**

We continue to hear only those matters that are deemed urgent, essential, or an emergency. The court has implemented a triage process for parties wishing to have hearings on matters that the parties believe are urgent, essential or an emergency. Parties requesting a hearing should forward an email containing their request, supported by their submissions regarding how the matter is urgent, essential, or an emergency, to either the trial Co-coordinator, Shelley Young Brennan ([sdyoung@gov.pe.ca](mailto:sdyoung@gov.pe.ca)) or to me ([kjmackay@gov.pe.ca](mailto:kjmackay@gov.pe.ca)). Your request will be forwarded to the court for consideration and you will be advised whether or not a hearing will be granted at this time. The court may require additional documents to be filed. Should the court determine that the matter does not meet the threshold to be heard at this time, parties may file their documents and a hearing date will be assigned in due course once restrictions are no longer in place. Please note that if your matter has met the threshold and will be heard, any filings regarding the matter should include a note to the deputy registrars that it has been approved for hearing. They can then ensure the documents get to the judge hearing the matter in a timely way.

### **Original Wills**

Under normal circumstances, the original will must be provided at the time of the Petition for Probate. At this time, however, where lawyers are using e-filing, the court will accept the following:

- a. The Proof of Will and a scanned copy of the Will shall continue to be filed, along with confirmation by the lawyer that the scanned version is a true and complete copy of the original, which is currently in their possession, subject to clause (b) below.

- b. The original Will may thereafter be provided via the drop-box system, or by mailing it to the court. Lawyers should be cautioned, however, that they continue to be responsible for the Will until such time as it reaches the courthouse. Alternatively, the lawyer can choose to hold the original Will in their possession until such time as the court requires it be provided.

### **Original Birth and Marriage Certificates**

Under normal circumstances, the original birth and marriage certificates must be provided and they are copied and returned to the lawyer. At this time, however, the court will accept a scanned notarized copy of the applicable certificate OR a scanned copy that is not notarized, but is accompanied by the lawyer's undertaking to provide the original within a reasonable time via drop-box or mail.

### **Contact Information**

Please ensure that current contact information of the lawyer is provided so that if there are any issues with documents attempting to be filed, registry staff can quickly and efficiently contact the lawyer to discuss. We are receiving documents with only law firms' main reception lines provided, and are not able to reach the lawyer directly in most cases with many lawyers working from home.

### **Requests for Documents**

Any requests to the court for copies of documents or FACTS printouts should be made to [scfiling@courts.pe.ca](mailto:scfiling@courts.pe.ca), and not to individual deputy registrars, who may or may not be working on any particular day.

We appreciate the continued co-operation of the Bar in these matters as we continue to navigate the current health crisis.



Krista J. MacKay, Q.C.

Prothonotary and Registrar of the Court of  
Appeal and Supreme Court



Supreme Court of  
Prince Edward Island

## NOTICE TO MEMBERS OF THE LAW SOCIETY

Date: March 20, 2020  
From: Krista J. MacKay, Q.C., Prothonotary

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### **Filing of Documents**

We are now working with a skeleton staff and would appreciate if lawyers would, before attempting to file documents, consider if the filing is necessary at this time. If the document can wait to be filed until we have more fulsome staffing situation, we would encourage and appreciate lawyers hanging onto their documents until that time.

### **Filing by Email**

Later today, you will be receiving a Practice Direction regarding email and facsimile filing of documents. We are encouraging all counsel to file by email where possible. This will reduce the volume of in-person attendance at the courthouse and will also limit the number of faxes being received by the court. We are also in the process of establishing an email address for e-transfer of filing fees and will advise when that is ready to accept e-transfers of funds. Until then, payment should be made by cheque mailed to the appropriate courthouse.

### **Filing of Affidavits**

In the usual course, affidavits are required to be sworn in person prior to being filed. Due to the current health situation, and until further notice, the Court will accept insufficiently sworn affidavits provided that the lawyer filing the affidavit undertakes to file, prior the hearing date, an original affidavit that complies with the formal requirements, failing which the party would not be entitled to rely on it or may be required to withdraw it.

### **Netlegal and Requesting copies of judgments, Satisfaction, Letters Probate, etc.**

Please be advised that Netlegal is up and running for judgment searching online.

If you require a copy of a judgment, Satisfaction, Letters Probate, etc., please fax the Registry Office in Charlottetown at 902-368-0266 with the Court File number and name of document

you are requesting and we will email or fax a copy to you. Please indicate where you would like it sent (fax or email) and please provide a contact number so that we can call you with any questions we may have.

### **Interoffice Mail at the Courthouse**

Instead of attending in person, please contact the Commissionaire's desk in Charlottetown at 902-368-6000 or Summerside office at 902-888-8187 to inquire if you have mail in your mail box. If you do have mail, the Commissionaire (or Summerside staff) will obtain and provide it to you upon your arrival.

### **Law Library After Hours**

Please contact me to arrange in advance if you need to visit the Law Library after hours. If you have not received prior approval you will not be permitted into the library after hours.

### **Contact Information**

When filing documents, please ensure to provide contact information so that court staff can reach you, if needed.

### **Writ Enforcement by Sheriff's office**

We will not be accepting payments on writs in person until further notice. We are issuing a Notice advising anyone wishing to make a payment is to contact the Sheriff's office at 902-6203573 (Charlottetown) to make a payment via credit card, by mail or to set up direct deposit. We appreciate your co-operation in these matters as we work through the current health crisis.



Krista J. MacKay, Q.C.  
Prothonotary of the Court of Appeal and Supreme Court