



## SUPREME COURT OF YUKON

### **Notice to Profession April 7, 2020**

#### **Supplement and update to Notices of March 17 and April 7, 2020**

As the situation related to COVID-19 evolves, the Supreme Court of Yukon is adjusting its practices to ensure that access to justice is maintained to the extent possible in these circumstances. The following measures are put into place to address the safety of all who work in and use the services of the Supreme Court of Yukon.

The Supreme Court of Yukon will post its daily court schedule (dockets) on its website at [www.yukoncourts.ca](http://www.yukoncourts.ca), the day before the appearance.

Please check this site for future updates.

#### **Filings**

The Supreme Court of Yukon will now accept filings by email at the following email address: [courtfilings@gov.yk.ca](mailto:courtfilings@gov.yk.ca) for matters that have been approved to be heard on an urgent basis. As well, the Court Registry will accept email filings for new matters that do not require applications to be heard in the short term. Case Management Conferences or Family Law Conferences by telephone remain available for new matters.

Where materials are filed by email, counsel or the self-represented individual undertake to file the same materials in paper, with the required filing fee, at the Court Registry once regular court operations resume.

The procedure for filing via email will be as follows:

- Once the Registry staff receive your documents by email, they will print, review, file stamp and place them on the file.
- The staff will acknowledge your message, by email, and include a scanned copy of the filed first page of each of your documents for your file.
- If the staff is unable to file your documents because of a deficiency, they will email you stating the reason why they are unable to file.

#### **Criminal Matters**

- There will be no jury trials or judge-alone trials in April, May or June, 2020.
- The next Criminal Chambers is scheduled for June 2, 2020. Accused persons in custody will appear by videoconference. Counsel will appear by telephone. The judge will participate by telephone and the proceedings will be recorded.

- Hearings currently scheduled in Whitehorse including sentencing hearings, applications, summary conviction appeals, bail reviews may proceed with the accused appearing by videoconference or telephone and counsel appearing by telephone or videoconference, subject to the judge's discretion. If anyone else needs to appear, such as sureties or witnesses, they will appear by telephone or video conference, subject to the judge's discretion.
- Pre-trial conferences may be scheduled and will be conducted by telephone. Pre-trial conference memoranda shall be emailed to the Trial Coordinator in advance of the pre-trial.
- New contested matters will be scheduled and heard if urgent. A judge will determine if a matter is urgent. Counsel shall advise the Trial Coordinator by email of the matter sought to be scheduled and provide reasons for the urgency of the request. Generally the following matters may be considered urgent, subject to the judge's discretion:
  - bail review, bail pending appeal, plea
  - matters where there is a risk to the fair adjudication of the matter due to the passage of time and there is consent to proceed by video and/or telephone
- Other than urgent matters, no new hearing dates are being scheduled at this time. Scheduling will resume as soon as it is possible to do so.

### **Family Matters**

- There will be no Family Law Chambers in April, May, or June 2020 except for previously scheduled matters.
- Applications currently scheduled in Whitehorse may proceed by telephone, subject to the judge's discretion. Counsel and their clients shall appear by telephone and the judge will participate by telephone. The proceedings will be recorded.
- Any matters requiring in person testimony will be rescheduled when it becomes possible to appear in person.
- Judicial settlement conferences will be rescheduled when it becomes possible to appear in person.
- Family law case conferences, both currently scheduled and newly requested, may proceed as long as all counsel and their clients are by telephone.
- New contested matters will be scheduled and heard if urgent. A judge will determine if the matter is urgent. Counsel or self-represented party shall advise the Trial Coordinator by email of the matter sought to be scheduled and provide reasons for the urgency of the request. Generally the following matters may be considered urgent, subject to the judge's discretion:

- where there a risk of violence or other imminent harm to one of the parties or a child
- where there is a risk of the removal of a child from the jurisdiction
- where the matter is related to the custody of or access to a child that cannot be delayed
- Other than urgent matters, no new hearing dates are being scheduled at this time. Scheduling will resume as soon as it is possible to do so.

### **Civil Matters**

- There will be no Civil Chambers or Appearance Days in April, May or June 2020.
- Applications or other hearings, such as summary trials, currently scheduled in Whitehorse may proceed by telephone, subject to the judge's discretion. Counsel and their clients shall appear by telephone and the judge will participate by telephone. The proceedings will be recorded.
- Any matters requiring in person testimony will be rescheduled when it becomes possible to appear in person.
- Judicial settlement conferences will be rescheduled when it becomes possible to appear in person.
- Case management conferences, both currently scheduled and newly requested, may proceed as long as all counsel and their clients, if permitted to attend, are by telephone.
- New contested matters will be scheduled and heard if urgent. A judge will determine if the matter is urgent. Counsel or self-represented party shall advise the Trial Coordinator by email of the matter sought to be scheduled and provide reasons for the urgency of the request. Generally the following matters may be considered urgent, subject to the judge's discretion:
  - injunctions, where there is *prima facie* urgency, including refusal of treatment/end of life matters
  - requests for civil restraining orders
  - requests for preservation orders
  - emergency Adult Guardianship and Trusteeship Orders, where there is a risk of harm to an individual or their property
  - other commercial matters where there are immediate and significant financial consequences which may result if there is no judicial hearing, including bankruptcy and insolvency matters such as stays of proceedings and applications for court-appointed receivers

- Other than urgent matters, no new hearing dates are being scheduled at this time. Scheduling will resume as soon as it is possible to do so.

### **Public and Media Access to proceedings**

The Court remains committed to the open court principle during the COVID-19 pandemic.

Any accredited member of the media or the public who wishes to hear a remote proceeding by telephone may email their request to the Trial Coordinator in advance of the hearing, with their name, their contact information and the hearing they wish to hear. Every effort will be made to provide the member of the media or public access to the hearings by telephone as long as there are no court orders, legislation, rules, practice directions, or technical issues restricting access by media or the public to the hearing.

### **Affidavits**

If counsel or self-represented parties cannot obtain sworn or affirmed affidavits because it is not possible for the affiant to attend before a lawyer or notary public, an unsworn or unaffirmed affidavit may be sent by email to the Registry to be received. A brief explanation of the reason why it cannot be sworn and the phone number of the affiant should be provided.

A judge will review the affidavit and allow it to be filed if appropriate. At the hearing or on review of the desk order, the judge may require the affiant to swear or affirm the affidavit by telephone.

A properly sworn or affirmed affidavit must be filed once COVID-19 restrictions are lifted and the courts are fully operational.

### **Service By Email**

Counsel or self-represented parties are permitted to serve documents by email when service is required, and the email address is known.

### **Orders**

Orders and judgments of the Court are effective as of the date they are made, unless the order or judgment states otherwise. The issuing and entering of a formal order, if it requires physical attendance at the Registry, is not recommended, unless it is necessary for enforcement purposes, such as a restraining order. Orders may be sent by fax, email or regular mail.

### **Desk Orders and Consent Orders**

Judges are available to review and approve desk orders and consent orders on a regular basis. Counsel are encouraged to deal with as many matters as possible by way of consent or desk orders at this time.

### **Inherent Jurisdiction of the Court**

Strict adherence to the *Rules of Court* may be difficult or impractical during the COVID-19 pandemic. The Rules were drafted without contemplation of the need for physical distancing and the resulting effects on many aspects of court process including but not limited to service, filing, swearing of affidavits and court appearances.

Where process issues have not been otherwise addressed during the extenuating circumstances of this emergency, the inherent jurisdiction of the Court may be utilized, sparingly and with caution, to relieve compliance with procedural rules, regulations and statutes when it is:

- Just, fair and equitable to do so,
- Reasonable and necessary to control and prevent abuse and obstruction of the Court's own process during this emergency,
- Required to secure convenience, expediency and efficiency in the administration of justice,
- Necessary to maintain the rule of law.

Chief Justice R.S. Veale  
April 7, 2020