

**REMARKS TO THE
CANADIAN BAR ASSOCIATION
ANNUAL MEETING**

- June 15, 2023 -

The Court of King's Bench is grateful for the opportunity to address the Canadian Bar Association, Saskatchewan Branch, once again, on the occasion of its annual general meeting. The Court values its relationship with the CBA and expresses its sincere appreciation for the role it takes to enhance the administration of justice by taking on many initiatives including providing appropriate responses in situations where judges are unable to comment.

Coming out of the Covid-19 pandemic, the Court was able to turn its focus to new initiatives to improve access to justice within the Province. The palpable forward momentum that was gained during the pandemic continued, and judicial innovation continues at an all time high.

Before canvassing the various accomplishments and initiatives this past year, I would be remiss if I did not acknowledge the passing of Her Majesty Queen Elizabeth II. Her passing marked great significance for the Court, having been named "Her Majesty's Court of Queen's Bench for Saskatchewan". As constitutional scholars have noted, the "royal dignity remains perpetual" and our Court carries on – albeit under a different name. The transition to the "Court of King's Bench for Saskatchewan" has been significant for all.

The Court continues to make the many necessary changes to transition all necessary aspects to reflect the new monarch. With the assistance of the Government of Saskatchewan, it is anticipated that a bilingual revision of *The Queen's Bench Rules* will be completed in the very near future.

Immediately upon the death of Queen Elizabeth II, we became the "Court of King's Bench

for Saskatchewan”. While that transition was automatic by virtue of our governing legislation, the Act, Regulations, Rules of Court and Practice Directives, all needed to be formally changed.

As most of you know, effective May 17, 2023, the provincial government has passed *The King’s Bench Act* that replaces the word “Queen’s” with “King’s” throughout. Also of significance, the new statute performs a number of housekeeping measure by eliminating repealed sections and folding in sections that have been added.

This produces an *Act* that is easier and cleaner to read. Further, the numbering system has been revised. The system is similar to our Rules with each Part having a number and each provision in that Part would have the Part number, followed by the section number. For example, previous Rule 3(1) will now be section 2-1(1). *The Queen’s Bench Rules* have not, as yet been revised and translated. It is expected that *The Queen’s Bench Rules* will be revised and translated for an effective date of September 1, 2023.

Therefore, for the time being, we will be the “Court of King’s Bench”, governed by *The King’s Bench Act*, applying *The Queen’s Bench Rules* (until September 1, 2023, when they will become *The King’s Bench Rules*).

I am grateful for your co-operation as the Court navigated the once in a lifetime (for many) transition from the Court of Queen’s Bench to the Court of King’s Bench.

As mentioned in my annual update in 2022, the federal government previously announced funding to create a new Associate Chief Justice position and increased the judicial complement by two additional judges. This boosted the statutory contingent in Saskatchewan to 36 puisne judges, a Chief Justice and an Associate Chief Justice, for a total of 38.

Over the last number of months, the Court has benefited from six judicial appointments following the announcement of the increased contingent. Justices Norbeck, Drennan (who has since been appointed to the Court of Appeal), Stahl, Morrall, Bergbusch and Kuski Bassett were welcomed to the Court. There are currently three vacancies, all of which are in Regina.

I would encourage anyone who is interested in being a Justice of our Court to go to the website of the Office of the Commissioner for Federal Judicial Affairs to check out the particulars and, if interested, submit an application. While the position of a Justice of a Superior Court is not for everyone, it can be the best job in the world for those who enjoy the notion of utilizing their legal talents to solve legal issues and advance the law.

In other news, the Court continues to take steps to increase inclusivity. Consistent with the direction of other courts across Canada, including the Saskatchewan Court of Appeal, our Court issued an Administrative Notice with respect to the preferred form of address for judges of the Court. To increase gender inclusivity, the use of “My Lord” and “My Lady” is no longer required. Pursuant to the Administrative Notice, the preferred form of gender-neutral address is “Chief Justice”, “Associate Chief Justice” or “Justice”, either with or without the judge’s last name. While the use of “My Lord” and “My Lady” is no longer required, counsel may still choose to use those forms of address, unless a judge directs otherwise.

Other steps have been taken to increase gender neutrality. When opening court, court clerks have been instructed to use “The Honourable Chief Justice”, “The Honourable Associate Chief Justice” or “The Honourable Justice” (as the case may be), followed by the judge’s last name. Mr. and Madam will no longer be used routinely. Relatedly, Mr. and Madam have been removed from orders and judgments. These changes were implemented in recognition of the fact that we, as a Court, need to adjust our processes to ensure that all justice system participants are respected.

On a more practical note, a number of changes have been implemented over the past year that alter the processes that litigants must follow. Rule changes were introduced that require parties to not only serve, but also **file** their application, supporting affidavits and a draft order at least 14 days before the date set for hearing the application. When complied with, this assists in ensuring that material is before the judge in an appropriate time frame.

Notably, the Court also undertook a significant project to improve access to justice in family law matters by introducing mandatory Judicial Case Conferences for many family matters in the Saskatoon and Regina judicial centres. The Court views the Judicial Case Conference process as a way to address efficiency concerns and to reduce potential harm caused by family conflict.

The cornerstone of the process is to engage in triage and case management before a court application and affidavit material are filed and served. Judicial case conferences provide an opportunity for parties to discuss areas of consensus, issues in dispute and options for settlement before affidavits are exchanged. These discussions take place before, and with the assistance of, a judge of the Court.

Thanks to funding from the federal government as part of the Justice Partnership and Innovation Program, the Saskatchewan Ministry of Justice and Attorney General welcomed two full-time Family Law Screening Officers to assist with Judicial Case Conferences. In addition to supporting the Judicial Case Conference process, the Family Law Screening Officers are trained to screen for family violence and to identify possible risk factors. If family violence is suspected, they will assist with guiding individuals to appropriate resources within their respective communities.

While this is currently a four-year pilot project in Saskatoon and Regina, the Court is hopeful that the initiative will be expanded beyond the four years and across the Province.

The Court also launched a new publication ban repository. For quite some time, members of the media had been asking the Court to create a central location where information relating to current publication bans is posted. A publication ban webpage has now been created for the Court of King's Bench. The webpage contains a general description of what a publication ban is, and the difference between mandatory and discretionary publication bans in criminal matters. It also includes a list of matters where a discretionary publication ban has been issued by the Court.

Looking ahead, there are a number of exciting additional changes that can be expected in the near future.

As I previously reported, the Court embarked on a master scheduling project called J-STAR, which was rolled out by the provincial government's Court Services Division on August 17, 2020. Phase I of the rollout is now complete and Phase II has commenced. Phase II will introduce a public online portal, which will include electronic filing. It is anticipated that this project will be completed by the end of 2024. This project has and will continue to modernize the Court's scheduling and filing systems, which will provide significant benefits to all users of the legal system in Saskatchewan and the judiciary for years to come.

The Court has also commenced work to revise the Tariff of Costs. The Tariff of Costs was last revised in 2015. Since that time, no adjustments have been made to account for inflation or increased costs. I therefore established a King's Bench Tariff Committee, which is tasked with determining whether adjustments to any of the tariff amounts are necessary or desirable in order to continue to provide an appropriate level of indemnification to litigants. In April, the Committee reached out to members of the Saskatchewan Bar to provide comments and feedback on whether adjustments are required. Comments are due by June 16, 2023, at 5:00 PM. The Committee will consider the

comments received and may recommend revisions to the tariff at the December *en banc*.

Additionally, in an effort to modernize and simplify Part 16 of *The Queen's Bench Rules*, which relates to probate and administration of estates, I formed a new Committee to update this part of the Rules. When the Rules were last revised in 2013, the only parts that were not completely overhauled were Part 15 which relates to family rules and Part 16 which relates to probate rules. Part 15 was revised in its entirety in 2015. Part 16 is now the only part of the Rules that has not been updated. In April, the Committee reached out to the members of the Saskatchewan Bar for input on the Rules. The Committee is now considering the input received and intends to recommend wholesale revisions at the December *en banc*.

I am grateful as always to have the opportunity to update the CBA on the activities of the Court this past year.

Respectfully submitted,

The Honourable M.D. Popescul
Chief Justice
Court of King's Bench for Saskatchewan