

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

- June 16, 2022 -

The Court of Queen'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.

Throughout 2021, matters related to Covid-19 continued to monopolize a considerable amount of the Court's time. The Court was required to manage and adjust our continuous response to Covid-19, and to pivot quickly to respond to the risks associated with the pandemic. I remain grateful for your co-operation and willingness to work with the Court to implement workable solutions to the ongoing health risks posed by Covid-19.

With the continued focus on responding to the ever-changing risks associated with the pandemic, it would be too easy to lose sight of the Court's many other accomplishments and initiatives this past year. As we are now hopefully coming out of the Covid-19 pandemic, the forward momentum we have gained is palpable. Covid-19 has taught us a number of things and has become an impetus for judicial innovation. In the words of Chief Justice Wagner, "there is no turning back now".

One of the focuses of the Court coming out of the pandemic is on the business of Chambers. Throughout the course of the pandemic, the manner in which Chambers is conducted was modified. Changes throughout the various stages of the pandemic included time limits on argument, designated Chambers times for specific matters, and the presumption of telephone appearances.

In light of some of the lessons we have learned from the pandemic experience, I created a committee composed of judges, lawyers and other stakeholders to carefully examine whether there is a better way to conduct and schedule Chambers. The “Re-Imagining Chambers in a Post-Pandemic Era” Committee was struck. After consideration, the Committee was asked to make recommendations to me on how the Chambers process could be improved.

The Committee worked diligently to put together a number of helpful suggestions and finalized a thoughtful and thorough report, which was provided to me in November of 2021. Some of the recommendations made by the Committee require governmental assistance and resources to implement. However, the Committee also made a number of recommendations that can be implemented by the Court on its own initiative, should the Court choose to do so. These recommendations were discussed at the Court’s business meeting earlier this month.

On the basis of the Committee’s recommendation, the Court will soon require Chambers appearance memorandums for all civil and family law matters. This memorandum will contain vital information pertaining to scheduling and efficient use of Chambers resources. It will also include substantive information concerning the pending application or applications before the Court in order to assist both counsel and the Court. The memorandum will focus counsel on the issues and assist the judges in identifying the salient facts and issues to be considered. The memorandum will need to be filed with proof of service within two days of the scheduled Chambers date.

Second, the Committee recommended implementing time limits on oral arguments in Chambers. Time limits can help guide litigants and counsel to focus on what is truly important. What was discussed is that each applicant be limited to thirty minutes of argument, with five additional minutes for reply. Respondents would similarly be entitled to thirty minutes of argument. The default time could be extended or abridged at the

discretion of the Chambers judge, when appropriate.

Third, the Court considered changing filing deadlines. Presently, in non-family proceedings, a full application may be filed with the Court two business days ahead of the Chambers date. This leaves the Court with virtually no time to complete data input, pull the physical file, get the paper on the correct file, and permit someone to check to see whether the file is ready to proceed.

Rule changes will be implemented that would require parties to not only serve, but to also **file** their application, supporting affidavits, **and** a draft order at least 14 days before the date set for hearing the application. This will assist with ensuring that material is before the judge in an appropriate time frame.

We also welcomed two new judges to the Court in 2021 – Justice Kilback and Justice Gerecke. It is helpful to have these vacancies filled, and critical that the Court retain the capacity to hear all matters that come before it in a timely fashion. The Court has already benefitted from the contributions of its new judges.

Also, I am very pleased to announce that in the federal budget released in early April of this year, the federal government announced funding to create a new Associate Chief Justice position for the Saskatchewan Court of Queen's Bench. The proper functioning of a modern court in today's day and age requires significant attention to administrative issues that frequently arise. The Associate Chief Justice position is unquestionably a step in the right direction to ensure that there are sufficient resources to address these administrative issues.

I am also pleased to advise that I have been told by Justice Minister Lametti that Saskatchewan has been allotted two more Queen's Bench positions in the 2022 budget. This is in addition to the two new judicial positions that were announced last year, in the

spring 2021 federal budget.

The statutory contingent of the number of Queen's Bench judges for Saskatchewan had previously remained constant for decades – thirty-two judges, plus one Chief Justice for a total of thirty-three. This does not include the judges who have elected supernumerary status and sit part-time. The recent allocations of funding to increase the judicial complement will boost the statutory contingent in Saskatchewan from thirty-three to thirty-eight. This most welcome and needed addition is appreciated and recognizes our Court's growing workload. I am confident that the increased judicial complement will have a long-term positive impact on the administration of justice in Saskatchewan.

On the topic of positively impacting the administration of justice, 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 nearing completion and we are proceeding with Phase II.

Phase II will include the introduction of a fully automated electronic filing system, where lawyers can file documents online and judges can review the documents online. 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.

In other news, after thoughtful consideration, our Court prepared and published a protocol that invites parties to a court proceeding to identify the pronouns and titles they wish the Court to use in the courtroom and/or in written decisions. Parties, lawyers, and other participants may provide their pronouns and titles in advance of the proceedings by contacting the registrar in writing, including by email. Alternatively, they are welcome to advise the court clerk of their preferred pronouns and titles prior to the start of the hearing. Counsel and self-represented parties are also invited to advise the Court of the preferred

pronouns and titles of other individuals attending court in relation to their matter, such as witnesses.

There are no formal requirements related to this protocol and informing the Court of preferences is optional. The protocol is intended to recognize that we, as a Court, need to adjust the way we deal with all matters that come before us to ensure that all parties appearing before the Court feel respected and heard. A copy of this protocol is available on the Saskatchewan Law Courts website.

Relatedly, the Court has expanded its oath practice to allow oaths to be administered with religious texts and symbols other than a Christian Bible to increase inclusivity and recently published an advisory relating to the administration of oaths.

Justice rarely exists in the absence of truth; oaths are a critical tool of our pursuit of truth. Many judicial decisions, often with life changing implications, rely on the truthful testimony of witnesses. The taking of an oath by a witness whether in court or by affidavit creates both a legal obligation to tell the truth with legal consequences for failing to do so and a moral obligation that binds the conscience of the witness to speak the truth.

As most of you likely know, a witness testifying in court is required to provide an oath or affirmation that will bind their conscience pursuant to both the Saskatchewan and federal *Evidence Acts*. The Court would like to remind members of the profession of the importance of informing every witness of the process for giving an oath or affirmation. It is the lawyers' job to prepare witnesses for the court process, including the requirement to give an oath or affirmation that binds their conscience to provide evidence.

Further, while historically the oath has been administered either by the use of a Christian Bible or by solemn affirmation, the Court asks members of the profession to remind witnesses that if they wish to give an oath on a religious text or symbol other than the most

common religious texts such as the Christian Bible, they should bring such spiritual items with them to give an oath for their testimony. This prevents the Court from having to obtain desired religious and spiritual items and enables witnesses to use any such items they determine necessary to allow their conscience to be bound to provide evidence.

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 Queen's Bench for Saskatchewan