Monique Jilesen

Feb 9, 2021

2021 Reminders from the Commercial List Judges

The seven Commercial List judges conducted over 4,200 remote hearings in the past year, and the pace has not slowed. The Court is open for business, and is busier than ever! Below is a list of tips and reminders that will help get your case heard and keep your judge happy in 2021.

1. Follow the 3Cs: cooperation, communication, and common sense.

This was important before remote hearings but has become even more important in our new normal.

- Cooperate – to timetable the hearing and organize material for the Court. Canvass counsel's availability and length of hearing before contacting the scheduling office. There should only be one www.sync.com folder – organized so that all counsel can upload to their folders
- Communicate – there is no more hallway diplomacy, but we can still pick up the phone. Where possible, the court urges counsel to resolve issues without motions.
- Common sense – use it!

2. Be considerate of the Court Staff.

You will always get an answer from MAG.CSD.To.SCJCom@ontario.ca but if you think you are getting a lot of emails, imagine how many they receive!

Be clear and concise when contacting the Court staff. Make sure to use the Court file number, short title of proceeding, the date you are seeking and the judge you need to see. Use the below template when sending an email to the Court:

- Court File No.: **
- Date of Hearing Sought: **
- Short title of Proceedings: **
- Purpose of Hearing: **
- Time required: **
- Material required: **
- Justice (name) is seized of this matter or most familiar with the matter: **

3. Make your materials user friendly.

Most Commercial List judges have three screens. One for video, one for factum, one for compendium. Everything you want the judge to read should be in one of those documents or be hyperlinked in one of those documents.

- Factums – Factums and briefs over 25 pages will not be read. Don't say you haven't been warned! The Commercial List is adjourning motions where parties have delivered factums longer than 25 pages. Keep your factum clear and concise. Read Catzman J.A. on writing – "The Wrong Stuff". Factums should also be double spaced and have proper margins. Judges were lawyers first and they know your tricks. It's harder to read something with 1.5 spacing. Even if the judge reads it, they won't like it!
- Compendium – Use a compendium and only include key excerpts. It should not be longer than 50 pages. Don't forget to hyperlink your cases.

4. Remember that Judges need a break too.

Don't send emails to judges after hours or on the weekend. Put a www.sync.com link in the Zoom invitation and update the Sync folder as needed so you don't bombard the Court with emails.

5. Tell the Court who you are and why you are there.

Include a list of counsel, an agenda for your appearance and a list of key documents to read in the calendar invitation and the www.sync.com link.

6. Follow the rules!

The Commercial List filing direction and the Superior Court naming convention are key ones to bookmark. The naming convention requires you to include:

- document type
- type of party
- name of party and date DD-MMM-YYYY.
  Example – Factum – Defendant – ABC Co. – 01-FEB-2021

Document names shall not include firm naming conventions, abbreviations, or file numbers.

7. Dress for the occasion.

It is not necessary to gown, but it is necessary to wear business attire. It is recommended to wear business attire from head to toe. Avoid being the one who makes THAT mistake.