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The Commercial List is Open for Business

On March 16th, at the outset of the COVID-19, the Commercial List announced it would continue to hear and decide urgent and time sensitive matters. Since that time, the Commercial List has been open for business hearing various estates and Commercial List matters. At a meeting of the Commercial List Users' Committee this week, Justice Hainey reported that since March 17th, all six of the Commercial List Judges have been sitting every day, hearing over 350 new and existing matters (181 by audio conference, 41 by video conference and 131 in writing). The Court is increasingly hearing matters by video-conference and have expressed a preference for the Zoom platform. To assist counsel and litigants, the Court has endorsed a video conference attendance protocol, which can be found on www.commerciallist.com/resources. A few key points from the protocol and Justice Hainey's comments are of note:

- Use the template notice of motion. Be sure to indicate that the motion is proceeding by video-conference due to the COVID crisis.
- The party bringing the motion should prepare a counsel slip with all counsel who are expected to attend the motion and send it to the Court and the Commercial List office in advance of the hearing. Remember to include the full names and email addresses of all counsel.
- Counsel should coordinate to ensure that all the material is provided to the court in one file sharing platform, so that the Court does not need to look in multiple places for the material.
- Consistent with the Notice to the Profession – hyperlink authorities in your factum.
- Prepare a compendium, so that the Court only needs to flip between your factum and the compendium.
- It is not necessary for counsel to gown. Counsel are expected to dress appropriately.
- With key documents, the Court encourages counsel to use the video conferencing platform to share and highlight the document on the screen.

- It is not necessary to have orders entered. The order should provide “that this Order is effective when made and that the requirement to formally issue the Order is hereby dispensed with.”
- As always, and during this crisis in particular, counsel must be with the three C’s – cooperation, communication and common sense.

During the COVID-19 crisis, the Commercial List has moved seamlessly to telephone and video hearings. Both the Commercial List Office and the Court have been incredibly responsive and available to have new and existing matters scheduled and heard as promptly as they always have been. With the benefit of technology, the support of the amazing trial coordinators and counsel, the Court has been able to adjudicate fairly, efficiently and effectively. Looking towards the future, there is no doubt that the Commercial List will be able to manage its caseload throughout the crisis. Whenever the crisis is over, we can expect that many of the innovations and practices implemented will be here to stay and more innovations may yet still be on their way!