

Rules Modernization in Ontario – O.Reg. 689/20

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If there is a silver lining to the disruption caused by the coronavirus pandemic in the Ontario justice system, it is the modernization of the Court system which is generally viewed by litigators and others as a positive outcome in an otherwise negative situation.

In September 2020, the Ontario Provincial Government announced investments in technology that would allow for a long overdue leap into the future of legal practice in Ontario. These investments included an online electronic filing platform, a cloud-based document sharing and e-hearing platform, and online database search.

On November 30, 2020, amendments to the Rules of Civil Procedure in Ontario Regulation 689/20 were filed that confirm the push to make litigation practice more efficient, and to allow for the remote adjudication of disputes.

Under the amended Rules, a party may seek an attendance for hearings, mandatory mediations, and oral examinations for discovery by indicating the manner in which they want attendance to occur: in person, by telephone conference, or by video conference.^[1] If an opposing party does not agree with the proposed manner of attendance, they must deliver a notice of objection (Form 1A).^[2] If a notice of objection is delivered, the manner of appearance will be determined at a case conference.^[3]

The amendments to the *Rules of Civil Procedure* also enhance efficiency by, among other things, authorizing electronic signatures,^[4] remote commissioning in accordance with the *Commissioners for Taking Affidavits Act*,^[5] the electronic issuing and entering of orders,^[6] and service by email without consent or court order for documents that are not required to be served personally or by an alternative to personal service.^[7] The use of the archaic fax machine is also coming to an end with, among other things, the removal of the requirement to provide fax numbers and the ability to serve and file documents by fax.^[8]

There are a number of other amendments that will be welcomed by the litigation bar, and the clients we serve. The full text of the amendments can be found [here](#).

The amendments come into force on **January 1, 2021**.

^[1] Rule 1.08(1) and (8) of the *Rules of Civil Procedure*, RRO 190, Reg. 194 [*Rules*], amending Rules 1.08 and 1.08.1. This rule does not apply to proceedings in the Court of Appeal, which may be heard as directed by the Court.

^[2] Rule 1.08(4).

^[3] Rule 1.08(5) and (6).

[4] Rule 4.01.1(2).

[5] Rule 4.06(1)(e), and *Commissioner for Taking Affidavits Act*, RSO 1990, c C.17.

[6] Rules 59.04(2) and 59.05(2).

[7] Rule 16.01(4)(b)(iv): “by emailing a copy to the last e-mail address for service provided by the party or other person or, if no such e-mail address has been provided, to the party’s or person’s last known e-mail address.”

[8] The use of fax is being removed from the following Rules: 4.02(3)(f), (g), (h); 16.06.1(a); 37.10.1(1)(b), (2)(b), (3)(b); 38.09.1(1)(c), and (3)(b).

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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