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INSURANCE LAW BULLETIN

May 2020 – Drew McArthur

COVID-19: COURT UPDATES AND PRACTICE DIRECTIONS

[The information below is provided as a service by Shillingtons LLP and is not intended to be legal advice. Those seeking additional information on the issues above should contact the firm at (519) 645-7330.]

As the courts continue to grapple with the COVID-19 pandemic, a number of notices and practice directives have been released to the legal profession. To ensure our clients are kept apprised, Shillingtons LLP has distilled the most important notices and directives into this bulletin. Please note that we anticipate that there will be a significant backlog of civil matters once the courts re-open.

Superior Court of Justice

- The SCJ will not recommence criminal or civil jury selection or jury trials until September 2020 *at the earliest*.
- The SCJ will not resume in-person hearings of other matters until July 6, 2020 at the earliest.
- The SCJ will continue to hear urgent matters by writing, teleconference, or videoconference, unless the Court deems an in-person hearing necessary.
- In most court locations*, remote hearings have included the following civil matters:
 - Pre-trial conferences that were cancelled between March 16, 2020 to May 31, 2020 can be rescheduled at the request of the parties so long as the objective of any rescheduled pre-trials is settling the matter;
 - Motions or applications to approve settlements where a party is under a disability, in writing; and

- Consent motions, in writing.

*The practice directives vary by region. Counsel will ensure to remain up to date of all regional practice directives to ensure matters are handled accordingly.

- The SCJ will accept filings via e-mail at the specific e-mail addresses indicated in the region's Notice to the Profession only for urgent matters or those identified in a region's Notice to the Profession.
- The SCJ expects to release further details with respect to the expansion of virtual court services in the near future.

Ontario Court of Justice

- The OCJ will not conduct trials or preliminary inquiries until July 6, 2020 at the earliest.
- Urgent court documents can be filed via email.
- All Provincial Offences Act matters scheduled from March 16 through to and including May 29, 2020 are adjourned and will be rescheduled at a later date.

Small Claims Court

- Hearings are suspended until further notice. Hearings suspended include, but are not limited to, all trials, settlement conferences, motions, assessment hearings, garnishment hearings, contempt hearings and examinations, including teleconference hearings and videoconference hearings.
- The SCC will hear urgent motions and urgent garnishment hearings, proceeding via telephone or videoconference.
- Judges will review each request and decide whether a matter is urgent and can be scheduled. Generally, time-sensitive cases that would result in immediate and serious financial hardship if there were no hearing will be deemed urgent.
- Court documents cannot be filed in-person at court counters until further notice.

Suspension of Limitation Periods and Timelines

- The state of emergency order has been extended to May 19, 2020. Thus, limitation periods and procedural time periods have been suspended retroactive to March 16, 2020 through May 19, 2020.
- The suspension applies to the following:
 - Any provision of any statute, regulation, rule, by-law, or order of the Government of Ontario establishing any limitation period;
 - Any provision of any statute, regulation, rule, by-law, or order of the Government of Ontario establishing any period of time within any step must be taken in any proceeding in Ontario, including any intended proceeding subject to the discretion of the court, tribunal, or other decision-maker.
- Consequently, as many days as those elapsed during the period of the Order will have to be added to the time periods that would have elapsed before its coming into force, resulting in a corresponding extension of the deadlines for initiating a claim or taking the actions required by law for the recognition or preservation of rights.

As always, please do not hesitate to contact our firm should you have any questions or concerns.