

# **Bench & Bar Liaison Committee Meeting**

June 10, 2022

## **MINUTES**

### **Meeting of Federal Court with CBA**

#### **Attendance:**

**Federal Court:** Chief Justice Crampton, Associate Chief Justice Gagné, Justice Fothergill, Justice Norris, Associate Judge Aalto.

**CAS:** Darlene Carreau, Manon Pitre, Marie Desrosiers, Klara Trudeau, Michael Switzer, Andrew Baumberg.

**CBA / Department of Justice:** Guy Régimbald (CBA Chair), John Gailus, Erin Roth, Josh Jantzi, Julie Terrien, Catherine Lawrence, James Fyfe.

#### **1) Opening Remarks**

Chief Justice Crampton welcomed members of the Bar and thanked them for their feedback for the Court's practice guidelines.

Associate Chief Justice Gagné also welcomed members of the Bar.

#### **2) Adoption of Agenda & Minutes**

Approved.

#### **3) Follow-up Items from last meeting**

##### **a) Class Actions Liaison Committee**

Justice Fothergill: the first meeting of this new liaison committee is June 13, at which the mandate and other organizational matters will be discussed in addition to substantive issues. The Federal Court has approximately 100 class actions, with the federal government a party in most cases, though with some in the competition domain. There are also a number of class actions in the labour domain.

##### **b) Court web site**

Andrew Baumberg: The Court has an active project team completing significant changes to the website to make it easier to use / more accessible -- the work should be complete later this year.

##### **c) Consolidated Practice Directions**

Guy Régimbald: this new Practice Direction addresses the following two items as well:

d) Identification of sitting judge

e) Gowning

Chief Justice added that the Court discussed requiring gowning for remote hearings, but ultimately decided to maintain the status quo for now

#### **4) Federal Court Update**

##### **a) Update from the Chief Justice**

The Chief Justice presented a detailed PPT deck. [to be circulated]

b) COVID-19 Practice Directions & Orders

- Practice Direction: Update #8
- Remote & in-person hearings

Catherine Lawrence: regarding the paragraph on the state of oral advocacy, she supports the recommendation in the draft document, but perhaps soften the tone. Written feedback was provided separately with detailed suggestions.

Regarding use of an electronic record for in-person hearings, there will be a period of adjustment. There are two groups of people: those who appeared pre-pandemic with paper but have now adjusted to virtual hearings; and those who never appeared in person with paper, who may have difficulty appearing with only a laptop, and who would need an extended screen monitor.

Chief Justice: would counsel need a second large screen?

Catherine Lawrence: a single large-screen monitor should be sufficient.

Associate Judge Aalto: it is very difficult navigating multi-volume motion materials – an index is critical to make the hearing user-friendly.

Chief Justice: many lawyers prefer a virtual hearing to reduce travel time. However, there is a distinction between access to justice and convenience.

Erin Roth: regarding mode of hearing, paragraph 15(c) suggests that notice is submitted with the perfected record. Perhaps make this consistent with the IMM Notice, so there is a joint letter submitted at the time of the reply.

Associate Chief Justice Gagné and Klara Trudeau responded that often there is no reply.

Erin Roth: in some cases, there is no respondent's counsel assigned by the time the record is perfected. Also, it is not always feasible to get a joint letter, depending on the timing of assignment of respondent's counsel. How important is it to have a joint letter?

Chief Justice: we simply want to avoid a difference of position between counsel regarding mode of hearing – a consultation and joint letter might avoid conflicts.

Erin Roth: the counsel assigned at the leave stage is not always the same as the counsel who appears at the judicial review hearing.

Catherine Lawrence: positions regarding mode of hearing can be presented by counsel at the leave stage, and new counsel can make a request later for change of mode, if needed.

Chief Justice Crampton: we can't easily switch from remote to in-person on short notice.

Erin Roth noted that there remain mixed views within the Immigration Bar regarding preferred mode of hearing.

Catherine Lawrence: DOJ fully supports the Court's proposed approach regarding a return to in-person hearings. A key issue relates to flexibility for counsel who might need to travel to attend a hearing – there is a balance to be struck between cost and efficiency. This is an important factor that might inform counsel's request to appear remotely.

c) Relaxation of safeguards in Court facilities

Chief Justice Crampton: at the end of the day, it will be for the presiding member of the Court to decide on the approach in the hearing room.

Darlene Carreau: We have a multi-layered health and safety measures in place and our approach strikes a balance between continued access to justice and ensuring the health and safety for those entering our court facilities and appearing in the courtroom.

d) The CBA's feedback regarding vaccination status

Guy Régimbald: the CBA provided feedback at the ad hoc meeting 6 weeks ago.

Chief Justice Crampton: this is a controversial topic – the Court has some active cases that touch on this issue. Litigants will need to decide for themselves whether they are comfortable appearing for an in-person hearing with other parties, knowing that the Court and registry staff will be vaccinated.

e) Access to documents – Court web site

Chief Justice Crampton: a consultation took place last year, and a practice direction will be issued shortly for launch of the pilot.

f) Establishment of specialized chambers of the Court (Pilot Project)

Chief Justice Crampton touched on this during his PPT presentation. He also recommended that the IP, maritime, and class action bar be represented at this general liaison committee.

Guy Régimbald: the CBA will raise the issue regarding specialized chambers with the IP, maritime, and class action bar for feedback.

## 5) CBA Sections & Other Items

a) Administrative and Constitutional Law

Guy Régimbald: there are no further items to report since the last ad hoc meeting 6 weeks ago.

b) Immigration Law

Erin Roth noted that this is her last meeting, and thanked the Court. She added that she is starting to see an increase in removals by the Canadian Border Services Agency.

c) Civil Litigation and Public Law

Guy Régimbald: there are no further items to report since the last ad hoc meeting 6 weeks ago.

d) Aboriginal Law

Josh Jantzi: the transition to in-person hearings is welcomed by the Aboriginal law bar, driven substantially by their clients. With the planned removal of plexi-glass, it would be useful to know the specific HVAC standard being used for hearing rooms. He asked whether the Court would resume the option to hold hearings in Indigenous communities.

Chief Justice Crampton responded that the Court does encourage this, and remains open to community hearings.

Darlene Carreau will provide a follow-up to be shared in writing. All buildings meet or exceed the standard, and air quality monitors were installed to provide real-time monitoring.

**Action:** HVAC report to be prepared for circulation to the Bar. [See Endnote<sup>1</sup>]

Joshua Jantzi: in response to Associate Judge Aalto's suggestion that counsel prepare documents to facilitate an efficient hearing, he asked whether counsel should prepare joint books of key documents, and so another PDF?

Associate Judge Aalto strongly encouraged counsel to prepare a compendium – it is very useful and makes the hearing more efficient.

Andrew Baumberg referred to paragraph 26 of the draft Covid-19 Update #8.

e) Aboriginal Law

John Gailus added that the CBA aboriginal law symposium is next week.

f) Aboriginal & Constitutional Law

James Fyfe advised that from time to time he receives feedback from members of the bar that they wish to comment on a practice issue that arose during a proceeding, but they wish to wait until the underlying proceeding has concluded.

g) Department of Justice

- Scheduling of Immigration Hearings

Catherine Lawrence noted that a lawyer from DOJ's immigration section will be raising a matter in the Immigration Liaison Committee regarding scheduling – in particular, there have been examples of counsel being assigned to two hearings the same day, or in close succession. DOJ has seen a large increase in workload, so it is not always feasible to re-assign new counsel. Perhaps it might be possible for the Hearings Coordinator to consider the existing hearings scheduled for the same counsel when scheduling a new hearing.

Chief Justice Crampton: we are sensitive to the concerns regarding close conflicts for scheduling multiple hearings from counsel. We have not heard pushback before on this front. It might be useful to get a metric from the bar (e.g., maximum of 3 cases per week) so that the Court can assign cases accordingly. However, this might result in the IMM backlog increasing if the Court cannot schedule more cases.

Klara Trudeau: it is not a challenge to accommodate this for large cities, given the number of counsel, but it might be difficult in smaller cities if there is only limited number of counsel. It would be useful, though, to get the metric.

Erin Roth: this does not appear to be an issue for the private bar, but she will consult.

Chief Justice Crampton: this can be reviewed at the next Immigration Bar Liaison Committee meeting.

## Meeting of Federal Court of Appeal & Federal Court with CBA

### Additional attendees joining the meeting

**Federal Court of Appeal:** Chief Justice Noël, Justice Stratas, Justice Laskin

**Courts Administration Service:** Christine Norrena, Adrian Bieniasiewicz, Courtney West, François Desrosiers.

### 1) Adoption of Agenda & Minutes

### 2) Update from the Chief Administrator of the Courts Administration Service

Darlene Carreau provided an update with a focus on four key strategic priorities:

- **Digital Court** – Our major accomplishments for 2021-2022 were to digitize documents and improve our ability to conduct electronic hearings. We were able to digitize all active files for the courts and digitize paper files filed with the courts. We supported virtual hearings so that the courts could continue to operate despite the various COVID restrictions on in-person gatherings. Our plans for 2022-2023 continue on this trajectory, focusing on improving systems and the ability of Courts to conduct business digitally. We will :
  - Improve self-service information sources and e-filing systems to address the needs of self-represented litigants
  - Extend online payment options to all Courts (most notably FCA and TCC)
  - Improve accessibility and design of the Court websites
  - Add functionalities to the Courts' scheduling and calendaring system
  - Review and strengthen our CIO organization
  - And, of course, a primary focus for the coming year will be advancing the multi-year plan for a new Courts and Registry Management System, known as CRMS
- **Workforce of the Future** – This means investing to ensure that we recruit, retain and develop a highly skilled, diverse and dedicated workforce. A qualified workforce is critical to CAS' ability to support the courts. Several initiatives are being developed to better support our employees.
  - In 2022-23 we will focus on how CAS attracts, develops and retains, especially in key areas like the registry, ensuring we have solid strategies and plans for recruitment, retention, development and succession for key positions – as well as a modern approach to providing operational training. This is particularly important in order to support the courts in a virtual and hybrid environment.
  - We lost a number of staff through COVID, many of whom left for positions in other government departments with greater work-from-home opportunities. We have rebuilt our complement but are still training new staff up to full capacity.

- Beyond staff numbers we are also looking at ways that the work can be carried out differently, implementing LEAN processes and process automations where possible.
- **Improving CAS facilities across the countries** – This means that we will be: “Delivering and investing in modern, equipped, accessible and secure federal court facilities across Canada.”
  - It is important to highlight that our 56 public courtrooms are not all equipped in the same way – and not all can support full e-court or hybrid hearings. In fact, about ¼ of our courtrooms have no technology other than the Court Recording system. Pre- pandemic, our plan was to equip 2 or 3 courtrooms with full e-court capacity each year. As part of our lessons learned from the pandemic, we are accelerating these plans – as funding levels allow.
  - We are currently doing assessment across the Country to ensure our 56 Courtrooms are ready for the fall. In the short term, we will have three models of courtrooms across the country: e-court, hybrid and other.
  - In terms of the first type, our full e-courtrooms provide an environment with a robust sound system, support the display of electronic documents, and enable simplifies the participation of remote parties. Currently there are 10 full e-courtrooms across the country: 1 in each of Quebec, Montréal, and Vancouver, 3 in Ottawa, and 4 in Toronto. This fall, we will be adding 6 more electronic courtrooms - 4 more in Toronto and one each in Calgary and Ottawa.
  - The second type are hybrids. These are the courtrooms we created at the onset of COVID, where we pulled together the technology available at the time. They are capable of supporting remote participants and provide sound amplification, but they are each unique and do not provide a full e-courtroom experience. We have 16 of these hybrid courtrooms.
  - We also have a view to the longer term. We have plans to improve access to justice and support the digital transformation catalyzed by the pandemic.
  - Major court facilities projects are planned in Toronto, Ottawa, Winnipeg, Halifax, Saskatoon, Hamilton, Victoria, Montreal, and Edmonton ensuring we have modern, accessible and secure court facilities across the country.
  - This may entail acquiring new facilities in some cases, or expanding existing ones. In other cases it involves building new courtrooms, chambers, mediation/ADR rooms, and in general, refreshing older spaces.
- **Excellence in service** – Our priority is to have more employees return to the workplace and offering flexibilities where possible, to continue to meet the operational needs of the Courts.
  - Many CAS employees have been onsite since March 2020 or have returned on-site, with some flexibility, especially: Judicial and Registry Services, and corporate functions that provide direct support to the Courts (e.g., Security, facilities, some IT)

- Following the Public Service Occupational Health Program’s revised guidance on COVID-19 released in May 2022, reduced COVID measures went into effect at CAS facilities on June 6th. These changes were made to achieve a balance between the health and safety of all with the operational requirements of the courts.
- These reductions include restoring the pre-COVID capacity in our courtrooms with mandatory masking as well as gradually removing physical barriers where a two-metre distance can be maintained (more specifically where parties, lawyers, litigants could be asked to remove their masks by the presiding judge).

Guy Régimbald: there are reports that the Quebec provincial superior court is at a critical state in terms of employees – is CAS in a similar situation?

Darlene Carreau: we are in touch with our provincial counterparts on an on-going basis and I understand that our situation is better. However, there remain issues related to retention and recruitment, given that staff must be prepared to work on-site.

### 3) Follow-up Items from last meeting

#### a) Articling students

Guy Régimbald asked for comments from the Court regarding the new protocol.

Associate Chief Justice Gagné: the practice direction refers to the practice of law in a given province – if an articling student may appear before a court in that province, then they can similarly appear in the Federal Court.

Chief Justice Noël: the challenge has been to deal with the wording of section 11. The intention of this provision is to abide by the practice in provincial courts.

#### b) Protocol on pronouns and forms of address - [Gender-Inclusive Pronouns](#)

Guy Régimbald: a letter was sent to the Courts at the end of January.

Chief Justice Crampton: we do not have an update at this time. We had an exchange within the Court following issuance of the B.C. guidelines. We are considering the possibility to issue a practice direction allowing individuals to advise the court of the pronoun that they want to have used. It is important to allow parties to signal this choice.

Justice Stratas: this was raised at a recent court meeting. If a person identifies themselves according to a certain pronoun, the Court will respect their preference, and adopt use of that pronoun. However, the Court will not proactively request parties to select a pronoun. Our aim as a court is to accommodate parties and the broader public, to the degree possible. We are seeing counsel more regularly signalling the pronoun that they want to have used.

Josh Jantzi: commended the Federal Court of Appeal and Federal Court for their approach on this issue. It should be left to the parties to take the initiative to signal the pronoun that should be used.

#### c) Webinar on Jurisdiction and Procedure

Justice Stratas: the webinar was excellent. The more transparency that the Courts can give about the court process, the better. This should be done quite regularly, perhaps with different members of the Courts appearing.

John Gailus noted the work of James Fyfe and Marion Sandilands. There were about 150 participants, even with only limited notice. Overall, it was a very informative webinar.

#### 4) Joint Items for Federal Court of Appeal & Federal Court

##### a) Residency of Judges and Amendment to the *Federal Courts Act*

Guy Régimbald: we have received a proposal in late April from the IP bar regarding this issue. Before submitting this to the Minister, the CBA requires a resolution to be adopted at a general assembly (in February of each year). This will therefore require further consultation within the CBA before a resolution is proposed. Subject to the outcome of this consultation, the Courts will be notified in the fall of any proposal, which can then be discussed at the next meeting.

The Tax Bar made a similar proposal in 2013, and in the end, a resolution was never put forward to the general assembly of the CBA.

Chief Justice Noël expressed appreciation for this update. This is an important issue – before finalizing any recommendation, the Courts should be consulted.

Chief Justice Crampton agreed. In 2012-13, there was a resolution proposed to the general CBA assembly regarding the tax jurisdiction of the Federal Court that had never been raised with the Court. This was unfortunate. It would be useful to know the details of the IP bar's proposal – the issue should not be approached only with binary options on the table. The implications need to be understood.

Guy Régimbald: for now, we need to determine whether there is a consensus even within the bar – if not, it is unlikely to proceed to a proposal for resolution.

Chief Justice Crampton: some of the basic options include a limited number of positions for which the residency constraints might not apply. (A variation of this that was discussed back in the mid-1990s was that the Minister could exercise discretion, however, the downside of this approach is that no one would know in advance whether the discretion might be exercised. This might reasonably be expected to have an impact on whether potential candidates would take the considerable time required to fill out an application for appointment.) Another option would be for only a limited number of positions to have a residency requirement. Of course, there could be different requirements for different courts.

Guy Régimbald: noted the example of a limited number of positions for lawyers from Quebec. Also, for some courts, it is the Chief Justice who decides where a judge sits. Perhaps this could be considered.

Chief Justice Noël: this discussion highlights the need to consider the specific context of each Court. Before views are formed by the CBA, it is important to consider the perspective of the Courts.

Guy Régimbald: we are still in an early stage of the process. We will come back to the Courts to consult on any possible resolution.

##### b) Rules Committee Update

Andrew Baumberg:

- This is essentially an information item – the Rules Committee has completed 6 groups of amendments in the last year (see Endnote<sup>ii</sup>), with 3 coming in force on June 17, 2021, and 3 on January 13, 2022



- The Committee continues work on amendments to the tariff for cost awards, which is at the drafting stage – the goal is to pre-publish the amendments in CG1 this year
- Also, the Committee is considering a possible new global review of the rules, which was last done a decade ago under the oversight of Justice Stratas – there may be more information to share at the fall meeting

Justice Stratas: a global review is a ‘blue sky’ review of the Rules at a policy level. There will likely be a special committee looking at key questions. A similar process has been done every decade since the Federal Court of Canada was created. This is an important initiative.

## 5) Department of Justice Update

Catherine Lawrence raised a few points:

- Covid measures and guidelines
  - DOJ employees are complying with Treasury Board requirements: double vaccination or accommodation (which requires rapid testing three times a week, and wearing a mask for any court hearings)
  - DOJ is following the Health Agency of Canada measures – self-isolation at home for 7 days after symptoms or positive test; masking requirements have changed, and masks are no longer required for meetings in offices, so lawyers can take their masks off for submissions during remote hearings; counsel are asked to keep masks on when sitting at counsel table, but are free to remove masks when making submissions (subject to special situations)
  - Directive on protocol breaches – this has been rescinded
  - Travel – all travel restrictions have been lifted, though not all employees are comfortable with travel; we are hopeful that both courts continue to be flexible when scheduling hearings – there are efficiency and technological advantages for remote hearings, allowing reduction in cost and support for sustainability
- Workload issues – DOJ counsel are seeing a very high workload, but with fewer files being brought to completion; we are developing strategies to address these challenges, including additional staffing and process efficiencies;
- Like others, DOJ counsel are very tired after a couple years of the pandemic

## 6) Next Meeting

Andrew Baumberg: the date will be confirmed following consultation between the Courts / CBA / DOJ members. It is proposed to hold the meeting in person. The government health & safety guidelines were finally updated this week, allowing flexibility to hold in-person events.

James Fyfe: noted that this is his last meeting. It has been very useful, from a provincial court practitioner – he encouraged input from other colleagues who regularly practice in provincial court.

Justice Stratas thanked him for his contribution, including his suggestion regarding s 57.

# **Bench & Bar Liaison Committee Meeting**

June 10, 2022

## **MINUTES**

### **Meeting of Federal Court of Appeal with CBA**

#### **Attendance:**

**Federal Court of Appeal:** Chief Justice Noël, Justice Stratas, Justice Laskin.

**CAS:** Christine Norrena, François Desrosiers, Adrian Bieniasiewicz, Courtney West.

**CBA / Department of Justice:** Guy Régimbald (CBA Chair), John Gailus, Erin Roth, Joshua Jantzi, Julie Terrien, Catherine Lawrence, James Fyfe.

- 1) **Opening Remarks**
- 2) **Update on Court Operations**

Chief Justice Noël welcomed members of the Committee.

#### a) Statistics

Chief Justice Noël: the Court's caseload has remained relatively stable. There has been an uptick in proceedings commenced in the last year, as we move out of the pandemic. There is a backlog in the system, we expect an increase in the next year.

Between June 2021 and June 2022, there was an increase in in-person hearings (34%). 58% of hearings were virtual, 8% were hybrid. Looking ahead, we expect to return to in-person hearings beginning in September 2022 assuming the public health conditions continue to improve. In-person hearings will once again become the default option.

Where a requisition for hearing has already been filed, the Court will abide by the hearing mode requested. If parties previously requested a virtual hearing and now wish to appear in person, they should advise the Judicial Administrator as soon as possible.

Where a requisition has not yet been filed, requests for fully virtual and hybrid hearings will continue to be considered by the Court on a case-by-case basis. The Court will, of course, revert to these modes of hearing should sanitary conditions deteriorate.

The Court will continue to enable the public to view hearings remotely where the technology is in place to allow for this. For the Court of Appeal, this is in most places where we sit. This allows a multitude of people to participate in hearings and is something we will keep for the future.

#### b) Changes to the composition of the Court

Chief Justice Noël: since our last meeting in December, Justice Webb elected supernumerary status. Justice Roussel from the Federal Court joined the FCA in April 2022. Currently there is one vacant position to be filled. There is an additional position created by Budget 2022, the second position to be created in the last 2 years. This brings the Court to 14 plus Chief Justice.

### **3) Follow-up items from last meeting**

#### **a) FCA use of Twitter**

Christine Norrena: at the last meeting, the FCA wanted to canvass members of the bar on their use of Twitter, and are open to hearing feedback.

Guy Régimbald: they have put several questions to their members in relation to their relationship to the Court, which were not specific to Twitter but any issues the members had in mind that was affecting their practice - they did not hear specific feedback on the issue of Twitter. They will bring it to the specific attention of their members and report back at the next meeting.

Chief Justice Noël: there were a number of initiatives discussed in the last meeting, including how we were attempting to deal with problematic litigants. Justice Stratas will update the Committee on these initiatives.

Justice Stratas: as we become more of an electronic court, some of the clientele abuse their access to the court. At the last meeting, we discussed the initiative to identify litigants and give parties the opportunity to make submissions about whether additional regulation is required in the file. We have found that this had been very effective in restricting or eliminating the harmful activity of certain litigants, who tie up Registry resources. This project has been a great success and has improved access to justice.

Another initiative that is being pursued by the Administration is the migration of the Court's files to a cloud technology. The judiciary would maintain control over the files but the maintenance of the cloud would be done in a more intensive way than currently – we feel great benefits in terms of operations and the security of our files as a result.

We have also been working on an internal procedures manual – the aim is to help newly appointed judges because a lot of internal practices are unwritten. It also will help create common approaches and standards, to assist judges in the exercise of their discretion.

Guy Régimbald: will take note and consult members and see if they can provide any information to the Court to improve the system even more.

### **4) CBA National Sections Updates and New Items**

#### **a) Administrative, Constitutional, Indigenous, Trade-marks and Tax Law**

Guy Régimbald: canvassed his section to see if any items should be brought to the Court. Nothing came up – no action items to bring up in his section or Nadia Effendi's section.

#### **b) Immigration Law**

Erin Roth: the Immigration Bar appreciates the ability to request remote or hybrid hearings and what it has done for access to justice. Many counsels, particularly when they get to appeal, are on legal aid or pro bono. The ability not to have to fly to a hearing in some

circumstances would be very beneficial. Remote work has also allowed collaboration – they can have counsel working and appearing together in different cities without incurring travel costs. Very appreciated by the Immigration Bar.

c) Aboriginal Law

Joshua Jantzi: no matters of importance to raise with the Court of Appeal. Heard from Chief Justice Crampton that decorum has suffered during the pandemic. There is recognition of this at the bar, and hope that the transition back to personal appearance will resolve that problem.

Twitter: they did canvass members who say that FCA does a great job with Twitter. CBA aboriginal law does not do a good job with Twitter – they will be working to improve this.

d) Aboriginal Law

John Gailus: nothing but positive feedback for FCA. They really appreciate the embrace of technology and are looking forward to getting back into court.

e) Aboriginal & Constitutional Law

R. James Fyfe: from time to time, he receives feedback from members of the bar that they wish to comment on a concern that arose during a proceeding, but they wish to wait until the underlying proceeding has concluded. There will be feedback coming in the future.

## 5) Closing Remarks

Chief Justice Noël: thanks the Committee on behalf of all the judges of the Court. Thanks Erin and James for their contributions over the years, particularly during the pandemic. Also thanks other members of the Committee and hopes to be able to meet in person next time.

---

### <sup>i</sup> Update to the Bench & Bar Liaison Committee: HVAC Systems

Before addressing specific measures that were implemented to discourage the transmission of COVID-19, it is important to note the condition of our facilities and courtrooms pre-COVID-19. In all instances, we obtained confirmation that our court facilities were (and remain) fully compliant with Canada Building Code and specifically with the Heating Ventilation and Air Conditioning (HVAC) requirements established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). Furthermore, our court facilities are purpose built with intentional consideration going into ensuring a healthy and safe environment for all users.

As the pandemic set in, new operating directives were established by Public Services and Procurement Canada (PSPC) and implemented by PSPC and property owners to reduce the transmission of COVID-19 within the built environment. Due to the robust design and already existing stringent HVAC standards, we obtained confirmation that our facilities already met or could easily meet these new directives.

---

In most instances, court facilities exist in space leased by PSPC from private sector landlords. Landlords oversee the day-to-day maintenance and operation of all HVAC equipment as part of their obligations established by the lease. PSPC provides oversight, ensuring that codes and standards are respected. In instances where the building is owned by Canada, PSPC is directly responsible for all operations. There are a few exceptions, such as in Hamilton and Halifax, where CAS occupies space owned by the city (Hamilton) or the province (Nova Scotia). In these instances, the respective governmental authorities are responsible for the day-to-day operations and maintenance of their facilities.

In response to the pandemic, PSPC's technical engineering team, in consultation with ASHRAE, other industry partners, and private landlords (including Hamilton and Halifax locations), designed an HVAC operating protocol with the intention of reducing the transmission of COVID within buildings. Specific measures included:

- Increasing filter density to a minimum of MERV 13 (MERV 13 filters have a higher rating at removing particles from the air; the higher the MERV rating, the more a filter can capture and the cleaner the air will be.)
- Introducing 100% fresh air into buildings in lieu of remixing air.
- Running building HVAC systems 24/7 in lieu of only during regular hours (6AM-6PM).
- Issuing direction to locate and remedy any areas with strong air currents.

These measures became the standard HVAC operating protocol for all Government of Canada facilities and were implemented at all court facilities in CAS' portfolio across Canada.

Out of an abundance of caution, and to further mitigate the risk of COVID transmission within the workplace, CAS engaged a private sector engineering firm to implement an indoor air quality monitoring system (Active IAQ). This system remains in place today.

ActiveIAQ consists of sensors located in all court facilities that in real time monitor elements such as carbon dioxide, particulate concentration, temperature, and humidity. These items serve as markers that indicate potential problems with HVAC equipment or overcrowding of people in a confined space. Should one or more of these elements exceed expected ranges, the monitoring system triggers an alarm so that corrective action can be immediately taken.

Other preventive practices implemented at all of our court facilities, such as cleaning of high touch points, continue to be important in the federal workplace. Disinfecting products are available in all of our court facilities, and the continued wearing of masks is recommended when it is difficult to maintain physical distancing.

**ii IN FORCE JUNE 17, 2021 / EN VIGUEUR LE 17 JUIN 2021**

**Amendments to the *Federal Courts Rules* / Les modifications aux *Règles des Cours fédérales***

- [Rules Amending the Federal Courts Rules: SOR/2021-150](#)

- 
- [Règles modifiant les Règles des Cours fédérales : DORS/2021-150](#)
  - [Rules Amending the Federal Courts Rules: SOR/2021-151](#)
  - [Règles modifiant les Règles des Cours fédérales : DORS/2021-151](#)

**Amendments to the *Citizenship, Immigration and Refugee Protection Rules* / Les modifications aux *Règles en matière de citoyenneté, d'immigration et de protection des réfugiés***

- [Rules Amending the Federal Courts Citizenship, Immigration and Refugee Protection Rules: SOR/2021-149](#)
- [Règles modifiant les Règles des cours fédérales en matière de citoyenneté, d'immigration et de protection des réfugiés : DORS/2021-149](#)

**IN FORCE JANUARY 13, 2022 / EN VIGUEUR LE 13 JANVIER 2022**

**Amendments to the *Federal Courts Rules* / Les modifications aux *Règles des Cours fédérales***

- [Rules Amending the Federal Courts Rules \(enforcement amendments\)](#)
- [Règles modifiant les Règles des Cours fédérales \(modifications concernant l'exécution\)](#)
- [Rules Amending the Federal Courts Rules \(Limited Scope Representation\)](#)
- [Règles modifiant les Règles des Cours fédérales \(mandat limité\)](#)
- [Rules Amending the Federal Courts Rules \(proportionality, abuse of process and Federal Court of Appeal motions\)](#)
- [Règles modifiant les Règles des Cours fédérales \(proportionnalité, abus de la procédure et requêtes devant la Cour d'appel fédérale\)](#)