

Meghan Bridges
416-749-3974
mbridges@litigate.com

January 29, 2026

Motions Practice Transformed: What the Proposed Civil Justice Reform in Ontario Means for Litigants

The Ontario Superior Court of Justice and the Ministry of the Attorney General have proposed significant reforms to the *Rules of Civil Procedure* in the Civil Rules Review Final Policy Report. Building on the Phase 2 Consultation Paper, but with changes in key areas, the proposed changes in the Final Policy Report are aimed at creating a more efficient and accessible civil justice system. Our overview of the proposed changes and key differences from the existing *Rules* and the Final Policy Report can be found here.

The Civil Rules Review Working Group focused the bulk of their proposed reforms on two interlocutory procedures: **discoveries** and **motions**. This post addresses the key changes proposed for motions practice. The key changes proposed for discoveries can be found here.

Not All Motions Are Created Equally

The Final Policy Report continues to treat motions differently depending on the significance of the issues they raise and the impact they have on the merits of the case. The new proposed process is designed to have procedure that is less formal and judicial intervention earlier on to ensure motions are addressed in a manner proportionate to the significance of issues in dispute.

Consistent with the Phase 2 Consultation Paper, all motions will need to be pre-screened at a Directions Conference. The preference will be for resolving most procedural disputes through orders or directions given at Directions Conferences, rather than through orders following a formal motion. Requests for relief that affect the way a case proceeds through the system (such as bifurcation motions, motions to add parties, and motions to amend pleadings) will presumptively be decided at a Directions Conference and not a formal motion. Requests for relief requiring more extensive evidence or legal submissions (such as requests for injunctions or for a certificate of pending litigation) will presumptively be decided at a formal motion.

To assist with moving interlocutory issues through the system more quickly, the Final Policy Report proposes expanding the categories of contested motions that may be presumptively addressed in writing.

This proposal is aimed at drastically reducing time lost to contested interlocutory issues. If it works as intended, parties will no longer be able to use motions to delay the progression of the case.

No inherent right to bring a contested motion

All requests for relief that are contested—in other words, any dispute that under the present-day *Rules* would be considered subject for a motion—must first be reviewed in a Directions Conference. As described above, the Directions Conference Judge will have the power to decide the issue on the spot, order the parties to attend a further Directions Conference, or schedule a formal motion. Gone are the days when parties were unilaterally entitled to bring motions over any disputed interlocutory issues they wished.

Summary Tracks for Appropriate Cases

The Final Policy Report recommends a "Three-Track System" rather than the two tracks recommended in the Phase 2 Consultation Paper. The three-tracks are:

> **1. Application Track**: Limited to cases that would currently proceed as an application.
>
> **2. Summary Track**: Includes cases exclusively for money or personal property valued at greater than $50,000 but less than $500,000, mortgage enforcement proceedings, claims exclusively for liquidated damages, construction lien claims, and contested estate claims.
>
> **3. Trial Track**: Includes all cases not presumptively streamed into the Application Track or the Summary Track.

The Application Track process is designed to track the existing rules governing applications to allow applications to be determined in an expedited, summary way, as they currently are.

The Summary Track and the Trial Track will both implement the up-front evidence model but differ in other respects. The Summary Track will employ processes similar to the Application Track and (absent settlement) end in a Summary Hearing that will finally decide the dispute (ending the possibility of a failed summary judgment motion). The Trial Track will include different, more robust processes, including "focused"

examinations for discovery and the requirement to attend a One-Year Scheduling Conference. Absent settlement, cases on the Trial Track will end in a conventional trial.

Implications for In-House Counsel

These changes will significantly affect how litigation is managed (detailed here). In-house counsel in businesses regularly involved in Ontario should consider the following consequences:

1. **Adherence to Timelines**: Cases can no longer be dragged out (deliberately or otherwise) by motions on issues that do not resolve the claim's merits. In-house counsel to both plaintiffs and defendants must be ready to proceed according to the proposed *Rules*' timelines.

2. **Decisions on Slim Records**: Contested issues may now be decided at informal Directions Conferences on limited records, potentially with little lead time. In-house counsel should ensure their litigation counsel are prepared to make substantive arguments on shorter notice (and in fewer pages!) than the *Rules* currently allow.

3. **Quicker Direction Required from Business**: In-house counsel should prepare their internal client(s) to provide instructions more quickly due to the shorter timelines imposed by the proposed *Rules*.

Summary Dispositions: Cases on the Application Track and the Summary Track must be prepared and argued with the same tenacity as under the Trial Track since the Application Track and the Summary Track both lead to a final disposition of the merits. Litigants can no longer assume they will proceed to trial if they successfully defend a summary judgment motion.

This is only one part of our series, A New Vision for Litigation, analyzing the proposed reforms to Ontario's Rules of Civil Procedure. See our other blogs here:

- Summary of Proposed Changes to Ontario's Rules of Civil Procedure
- Preparing for Proposed Changes to the Rules of Civil Procedure in Ontario: Strategic Insights & Practical Steps for In-House Counsel
- Expediting Justice: Pre-Litigation Protocol in the Proposed Changes to the Rules of Civil Procedure in Ontario
- Up-Front Evidence: A New Era in Discovery Proposed by the Civil Rules Review in Ontario
- Trials on Trial: A New Vision for Adjudication in Ontario

- Proposed Changes to the Rules for Expert Witnesses: Cooperation, Conferencing, & Consequences