

## **NOTICE TO THE PROFESSION**

### **Rules of Court Project**

Civil proceedings in the Supreme Court of Newfoundland and Labrador are governed by the *Rules of the Supreme Court, 1986* (the “Rules”) which apply to both the Trial Division and the Court of Appeal. Since their introduction in 1986 the legal landscape in Newfoundland and Labrador has transformed dramatically. The numbers of cases being heard are decreasing and of those being heard more cases, especially those involving family law, have litigants who represent themselves. The nature of the legal business also appears to be changing. Fewer cases in the commercial, business and tort areas are being heard. These developments may be related to the complexity of the procedures that must be followed, leading to unacceptably high costs. In addition, more litigants in the commercial and insurance spheres appear to be resorting to alternative dispute resolution procedures outside the court system so as to reduce costs or to have greater control over their choice of adjudicator.

From time to time, both Courts receive complaints from members of the bar and from self-represented litigants that the rules of procedure are, variously, too cumbersome, unnecessarily complex and written in language that could be more intelligible. These complaints mirror criticisms in other parts of the country which have led to reforms elsewhere. It has been suggested that the rules contribute to unnecessarily high costs of litigation and can constitute a barrier to access to justice.

Another criticism that is sometimes leveled at the rules of procedure is that they do not recognize or encourage the use of modern technology in the court system. Such technology has the potential to provide court services at lower cost to litigants. While some inroads have been made on this front, many other opportunities remain to be tapped.

While *ad hoc* rule revisions are always being undertaken by the two Courts to attempt to address these issues, these trends make a strong case for a comprehensive updating of the rules of procedure in both the Trial Division and the Court of Appeal. The Supreme Court of Newfoundland and Labrador is therefore undertaking a comprehensive review of its procedural rules. This review will be done through two separate, but related, programs; one will address the rules of procedure in the Trial Division and the other the rules of procedure in the Court of Appeal. The structure of this work, involving two separate programs under the umbrella of one “Rules of Court Project”, recognizes the distinctiveness and the different needs, functions and procedures of the two divisions of the Supreme Court.

In completing this project, the two Courts will reach out to members of the profession at various times for input and feedback so that this group has a voice in the reform. While consultation on specific matters will follow, at this time we ask that if you have general suggestions or concerns with respect to the rules and procedures in either the Court of Appeal or the Trial Division that you communicate these to the Legal Officer of the Supreme Court, Trial Division ([andreclair@supreme.court.nl.ca](mailto:andreclair@supreme.court.nl.ca) / 729-4743).

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