

LSBC TRIBUNAL

Practice Direction: Pre-Hearing Applications

January 11, 2022

1. This direction applies to all pre-hearing applications, including applications made under Rules 4-20.1 (anonymous publication), 5-4.1 (setting date of hearing), 5-4.3 (preliminary questions), 5-4.4 (severance and joinder), 5-4.7 (application for details of the circumstances), 5-5 (compelling witnesses and production of documents), 5-5.1 (pre-hearing conference) and 5-5.2 (adjournments).
2. Effective immediately, the following practice and procedure is to be applied to pre-hearing applications.

Notice of Motion

3. A party seeking pre-hearing directions or orders from the Tribunal must do so by way of notice of motion.
4. A notice of motion must be in Form 5 – Notice of Motion (General) and be served and filed in accordance with this direction.

Date and time of hearing

5. The hearing of a motion must be set for 9:00 a.m. on a date on which the Tribunal hears motions or at such other time or date as has been fixed by the Tribunal.
6. The Tribunal has currently set aside every Thursday of the month to hear prehearing applications by way of a zoom conference.
7. Pre-hearing applications that cannot be set on a Thursday due to urgency or other scheduling difficulties may be scheduled through the Tribunal Office.
8. On consent, a motion may be heard by way of written materials only, without an oral hearing.

Service of the Motion Materials

9. At least 7 days before the hearing of the motion, the moving party must serve and file a notice of motion together with any supporting material upon which the party intends to rely.
10. On consent or with leave of the Tribunal Chair, a motion may be heard on short notice.
11. A party seeking leave to have a motion heard on short notice must file a Form 7- Request for Short Notice Motion.

Response

12. A party who has been served with motion materials and who wishes to respond to the notice of motion must, within five days of being served, serve and file a response in Form 6 – Motion Response, together with any supporting material upon which they intend to rely.

How to serve

13. Once an originating process has been commenced, a document may be served on the parties:
 - (a) in accordance with Rule 10-1 of the Law Society Rules,
 - (b) by uploading the document to the Tribunal's File Sharing Platform and sending notice to the party that the electronic document has been uploaded;
 - (c) as directed by the Tribunal or
 - (d) by any other method agreed to by the person being served.

Effective date of service

14. Service is deemed to be effective:
 - (a) if the document is served by ordinary mail on the seventh day after it is sent;
 - (b) if the document is served by registered mail or courier, on the next business day after it is left or delivered;
 - (c) if the document is sent by electronic mail, on the next business day after it is sent;
 - (d) if the document is posted to the Tribunal's File Sharing Platform, on the day that service of the notice that the document is posted is deemed effective.

Service using contact information in the Law Society's records

15. Service on a respondent at the address provided to the Law Society under Rules 2-10 and 2-11 of the Law Society Rules or on an applicant at the address provided to the Law Society during the application process, is considered effective unless otherwise ordered by the Tribunal.

Filing electronic Documents with the Tribunal

16. All documents must be filed in electronic form with the Tribunal Office.
17. Electronic documents must be filed in pdf format, or, alternatively, in both pdf and other formats such as Word, PowerPoint, Excel.
18. Electronic documents may be filed with the Tribunal in the following manner:
 - (a) by e-mail (if less than 20 MB), or
 - (b) by requesting access to the Tribunal's File Sharing Platform (currently Sync) and then uploading the document to the Tribunal's File Sharing Platform and sending notice to the Tribunal office that the electronic document has been uploaded.

Christopher McPherson, QC
Tribunal Chair