

## **Richelieu (Sorel-Tracy)**

### **DIRECTIVES FOR CIVIL AND FAMILY MATTERS**

#### **2019-2020 Judicial Year**

**WHEREAS**, during the judicial year, eight judge days a month are allotted to regular hearings of the Superior Court in civil and family matters, half of these hearings being in the Practice Chamber, including any lasting three hours or less in total, and half of these hearings being on the merits and lasting three hours or more in total, except for the month of January, when a total of four judge days are allotted and are exclusively devoted to civil and family practice in the District of Richelieu;

**WHEREAS**, to lighten the civil and family practice roll, the district coordinating judge also sits for an additional day every month to manage case protocols, resolve any other case management request, and fix cases for trial;

**WHEREAS** the Superior Court generally sits from 9:00 a.m. to 12:30 p.m. and from 2:00 p.m. to 4:30 p.m., with a 15-minute break in the morning and a 15-minute break in the afternoon;

**WHEREAS**, under the second paragraph of article 9 of the *Code of Civil Procedure*, the Court's mission includes ensuring proper case management in keeping with the principles and objectives of procedure and facilitating the conciliation of the parties;

**WHEREAS**, under the third paragraph of article 1 of the *Code of Civil Procedure*, parties must consider private dispute prevention and resolution processes before referring their dispute to the courts;

**WHEREAS** articles 19 and 20 of the *Code of Civil Procedure* set out the following guiding principles:

- (a) The parties must be careful to confine the case to what is necessary to resolve the dispute;
- (b) The parties must refrain from acting with the intent to cause prejudice to another person in an excessive or unreasonable manner, contrary to the requirements of good faith;
- (c) The parties are duty-bound to co-operate and, in particular to keep one another informed at all times of the facts and particulars conducive to a fair debate and make sure that relevant evidence is presented;  
and
- (d) The parties must, among other things, at the time prescribed by the *Code of Civil Procedure* or determined in the case protocol, inform one another of the facts on which their contentions are based and of the evidence they intend to produce;

**WHEREAS**, under article 49 of the *Code of Civil Procedure*, the courts and judges have all the powers necessary to exercise their jurisdiction, and they may, at any time and in all matters, even on their own initiative, grant injunctions or issue protection orders or orders to safeguard the parties' rights for the period and subject to the conditions they determine. As well, they may make such orders as are appropriate to deal with situations for which no solution is provided by law;

**WHEREAS** judicial resources are limited, and litigants are entitled to the application of the *Code of Civil Procedure* in a manner that favours access to justice within a reasonable time period and at a reasonable cost;

These directives will guide hearings before the Superior Court in the judicial district of Richelieu during the 2018-2019 judicial year.

### **Conduct of the civil and family practice chamber**

1. The roll is called at 9:00 a.m. in courtroom 1.34.
2. The judge presiding the calling of the roll first calls the cases fixed on the roll of contested cases;
  - a. Cases ready to proceed that do not require the presence of an attorney after the calling of the general roll are directed to the judge sitting in support in the order they were set down, unless the judge presiding the calling of the roll decides otherwise. The judge sitting in support immediately takes cognizance of the first case referred to him or her.
  - b. Cases fixed on the roll of contested cases that are not immediately ready to proceed for any reason, including the absence of a party or of an attorney, are suspended.
  - c. Without authorization from the judge presiding the calling of the roll, an attorney may not fix on the roll of contested cases more than one case per day in which he or she is acting for a party presenting an application.
3. When the judge presiding the calling of the roll has completed the calling of the roll of contested cases, the special clerk calls the cases set down on the general roll:
  - a. Where no one responds to the calling of a case, the case is suspended.
  - b. A suspended case is processed in the courtroom reserved for the special clerk unless a person appears before her prior to her completion of the calling of the general roll and after the other cases have been called.
4. After the calling of the general roll by the special clerk, the judge presiding the calling of the roll hears all uncontested submissions one after the other, including those relating to other files of lawyers acting in the first case directed to the judge sitting in support. Barring exceptional circumstances, these submissions are made by other available lawyers to whom they have been previously entrusted.
5. Uncontested submissions are called according to the number assigned when set down on the general roll and are heard by the judge presiding the calling of the roll, in the following order:

- a. applications to extend the deadline for setting down a case for hearing or to be relieved from the failure to set the case down within the prescribed time limit (these applications must be presented with an amended case protocol, which has been signed and notified to all the parties);
  - b. Requests for postponement;
  - c. Other uncontested applications.
- 6. When a case is called and the attorney presenting the application is not in the courtroom, or the unrepresented applicant does not appear immediately when called, the next case is called directly.
- 7. Barring emergency, uncontested submissions that are not ready to proceed when called or that the special clerk directs to the judge presiding the calling of the roll are heard by that judge only once the roll of uncontested submissions has been called in full.  
  
Similarly, contested applications that are not ready to proceed when called or that the special clerk directs to the judge presiding the calling of the roll are heard only once the roll of contested applications has been called in full.
- 8. If necessary, once uncontested submissions are complete, a general call is made outside the courtroom of the judge presiding the calling of the roll, inviting other parties and attorneys who have uncontested submissions to appear.
- 9. As of 12:00 p.m., on application, the judge presiding the calling of the roll releases the parties and the attorneys who likely cannot be heard before the lunch break.
- 10. At 2:00 p.m., attorneys consult with the special clerk on the cases that are before her.
- 11. Whether contested or not, applications for authorization for care are heard on a priority basis, one after the other, beginning at 2:00 p.m.

#### **Applications proceeding by default**

- 12. Parties and attorneys are encouraged to proceed by way of detailed affidavits rather than by oral evidence.

#### **Contested interim and safeguard applications**

- 13. The following directives apply to contested interim and safeguard applications, unless authorization is obtained from the judge presiding the calling of the roll:
  - (a) the applicant must file all affidavits at the same time;
  - (b) for each fact, the defendant may produce only one affidavit in response;

- (c) for each new fact raised by the defendant, the applicant may produce only one affidavit in response;
- (d) no document may be attached to the affidavits;
- (e) contradictory submissions exclusively on the urgency of these applications are heard at the end of the roll of uncontested cases, for a maximum of five minutes per case.

#### **Fixing and hearing of contested cases**

14. Absent authorization from the coordinating judge or the replacement coordinating judge:

- a. a case is not set down on the roll of contested cases or on the roll on the merits if another case involving the same unrepresented party or the same attorney is already set down on the same day;
- b. a case is not set down on the roll of contested cases if the expected duration of the hearing exceeds three hours; in such an event, the case is set down on the roll on the merits;
- c. a case is not set down on the roll of contested cases or on the roll on the merits and will not be heard unless all unrepresented parties and all attorneys have previously been in communication and attempted to settle the dispute they intend to submit before the Court, to limit the duration of the hearing to only what is necessary for this purpose, and to become informed in a timely manner of all facts and evidence likely to favour a fair trial;

Where this is not the case, unless the coordinating judge or the replacement coordinating judge authorizes an immediate hearing or fixes the case on the monthly case management roll, after management, the case is placed at the bottom of the roll of the day, postponed to the next practice roll, or postponed to the next roll on the merits.

15. An application seeking sanctions for abuse of procedure resulting from an alleged breach of the guiding principles in articles 19 and 20 C.C.P. is directed to the coordinating judge and fixed on the next monthly case management roll, category 2, unless the coordinating judge authorizes an immediate hearing on the matter or otherwise fixes the case.

#### **Case protocol**

16. A case protocol that has not been signed by or notified to a party, contrary to article 149 of the *Code of Civil Procedure*, is returned to the lawyers or to the unrepresented party. Similarly, a case protocol or proposed case protocol is returned if it is not completed using the mandatory form available on the website of the Superior Court at [www.tribunaux.qc.ca](http://www.tribunaux.qc.ca).

17. The clerk must refuse any irregular case protocol.

A case protocol is irregular when a box on the mandatory form is not checked yes or no, or when it is not drafted on the mandatory form. It is returned to the lawyer and to the unrepresented party who signed it, with a letter from the clerk explaining the reason(s) for returning it.

18. The clerk must refuse any document featuring the presentation page of the case protocol if it is not signed by each party himself or herself or accompanied by proof that it was notified to all the parties.

19. When the parties have not successfully established the case protocol together, one party or each of them files a proposed case protocol.

20. A form that is not signed by all the parties or by their lawyer constitutes a proposed case protocol.

21. Each proposed case protocol is sent to the coordinating judge, who will convene the parties to a case management conference if he considers it necessary.

### **MONTHLY CASE MANAGEMENT ROLL**

22. Every month, the coordinating judge presides the monthly case management roll from 9:00 a.m. to 12:15 p.m. for case protocol management, from 11:00 a.m. to 12:15 p.m. and from 1:30 p.m. to 3:30 p.m. for any other case management matter and, finally, from 2:30 p.m. to 4:30 p.m. for fixing the trials on the roll on the merits.

The coordinating judge convenes the lawyers and, if necessary, the parties, in person or by telephone conference.

All persons convened must make themselves available unless they have provided advance written notice to the clerk of the Superior Court of a serious reason justifying their unavailability.

The dates of the monthly management roll over the coming judicial year appear in the appendix to these directives.

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**DATES OF MONTHLY CASE MANAGEMENT ROLL  
2019-2020 Judicial Year**

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- September 26, 2019
- October 7 and 31, 2019
- November 28, 2019
- December 11 and 18, 2019
- January 30, 2020
- February 27, 2020
- March 26, 2020
- April 8 and 30, 2020
- May 21, 2020
- June 10 and 25, 2020