

Proposed Amendments to 11.7 and the Addition of 11.7.1

11.7 ~~For claims that will be decided by the Ontario Superior Court,~~ Track 3 Claim will proceed by summary judgment motion – without the involvement of the Administrator except as identified elsewhere in this Protocol - in accordance with the Ontario Rules of Practice before a judge of the Ontario Superior Court of Justice ~~or before a judge of the Superior Court of Québec in accordance with s.600 of the Québec Code of Civil Procedure~~ as follows :

[...]

11.7.1 For claims that will be decided by the Quebec Superior Court, Track 3 Claim will proceed by summary judgment motion – without the involvement of the Administrator except as identified elsewhere in this Protocol - in accordance with the *Ontario Rules of Practice* before a judge of the Superior Court of Québec in accordance with s. 600 of the *Quebec Code of Civil Procedure* as follows:

- a. Within ninety (90) days of the Track 3 selection (pursuant to 8.6), or if a Further Tier B request has been made, within ninety (90) days of receiving any further Tier B disclosure (pursuant to 8.5), whichever is later, the Claimant will serve and file their Statement of Claim on Canada and will further inform Canada in writing on the nature, description and number of their anticipated joint or individual expert evidence;
- b. Within ninety (90) days of receipt of the Statement of Claim, Canada will serve and file its Statement of Defence and will inform the Claimant in writing on the nature, description and number of its anticipated joint or individual expert evidence;
- c. Within forty-five (45) days after receipt of the Statement of Defence and pursuant to art. 233 of the *Quebec Code of Civil Procedure*, the parties as a general rule can retain one (1) joint expert in psychology or psychiatry on matters that are common to them based on the information shared at 11.7.1 a) and b). If the parties fail to agree on the identity of joint expert(s) and/or the parameters that must be covered by the joint expert(s) within forty-five (45) days after receipt of the Statement of Defence, one or both parties will bring this matter to the Court to be decided.
- d. If one of the parties wishes to retain individual expert(s) instead of joint expert(s) in psychology or psychiatry, the requesting party will inform the other party within ten (10) days after the filing of the Statement of Defence. If the other party delivers its opposition within ten (10) days, the requesting party has thirty (30) days to seek the Court's authorization to retain individual expert(s) in psychology or psychiatry. If no opposition is transmitted within the required deadline, the requesting party can proceed with the individual expert(s) without seeking the Court's authorization;

- e. Parties may decide to retain additional joint experts on other matters that are common to them, or exceptionally, each party may decide to retain an individual expert other than an expert in psychology or psychiatry.
- f. Within one hundred and twenty (120) days after the Statement of Defence, the parties will file their joint expert report(s) and/or if applicable, the Claimant will serve on Canada and file their individual expert report(s). The Claimant is foreclosed from filing any additional expert report(s), save a reply report to Canada's expert reports at 11.7.1 h), if applicable;
- g. If applicable, within ninety (90) days of the filing of the joint expert report(s) and/or the Claimant's individual expert report(s), Canada will serve on the Claimant and file its individual expert report(s). Canada is foreclosed from filing any additional expert report(s);
- h. Within thirty (30) days after receipt of Canada's individual expert report(s) the Claimant may file an expert report in reply only to Canada's individual expert report(s);
- i. Within thirty (30) days after receipt of the last expert report, the Claimant may serve and file a modified Statement of Claim.
- j. Within thirty (30) days after the receipt of the modified Statement of Claim or, if no modified Statement of Claim is filed, within thirty (30) days after the expiry of the deadline provided at (i), Canada may serve and file a modified Statement of Defence.
- k. Pursuant to s.1 of the *Quebec Code Civil of procedure*, if the parties consent to a private prevention and resolution process they will notify the Court with proposed steps and timelines.
- l. Within sixty (60) days after receipt of Canada's modified Statement of Defence or if no modified statement of Defence is filed by Canada, within sixty (60) days after the expiry of the deadline provided at (j), the Claimant must file their supporting affidavit(s) in support of their motion.
- m. Within ninety (90) days after receipt of the Claimant's supporting affidavit(s), Canada will deliver its affidavit(s) in response.
- n. Within thirty (30) days after receipt of Canada's affidavit(s) in response, the Claimant may deliver their reply affidavit(s), if any;
- o. Within thirty (30) days from the receipt of the Claimant's reply affidavit(s) or if no reply is filed by the Claimant, within thirty (30) days after the expiry of the deadline provided at (n), the parties jointly establish a timeline for the balance of the summary judgment motion and file it with the Court. If the parties are unable to jointly establish a timeline, one of the

parties will bring a motion to fix a timetable for the balance of the summary judgment motion.

- p. The parties may consent to extend the timelines at 11.7.1.