Federal Court   Cour fédérale

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Federal Court

Looking Up from Down Under: The Federal Court of Australia's Digital Strategy and its Lessons for Canadian Courts

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Table of Contents

Executive Summary

This Report incorporates research conducted in Australia and Canada during a Study Leave between September 2023 and April 2024. Australia provided the primary comparative reference for this study and, as contemplated in my Study Leave Proposal (see **Annex A**), I focus on the Federal Court of Australia's leadership in digitization. For simplicity, I have shortened that Court to "AusFC," which is distinct from the customary acronym "FCA" used Down Under. This is intended to minimize confusion with Canada's Federal Court of Appeal, which I will define as FCA. The AusFC was a model to the Federal Court of Canada (FC) through its early adoption of technology and its pre-COVID-19 digital shift.

AusFC made concerted efforts through carefully constructed planning to move itself and its users from a paper-based past to a digital format. Through a comprehensive consultation process, followed by an action plan and the subsequent launch of a staged approach, the Court launched various initiatives to shift its files to a digital format. It executed its strategy methodically, with input from various stakeholders.

AusFC took a truly visionary approach, being an early leader and adopter of digitization and paperless judicial service delivery. Announced in 2010, its Digital Strategy contemplated a completely paperless Court. Today, a decade after implementing its digital project in 2014, Australia's justice system continues to benefit from AusFC' prescient planning and pre-pandemic pivot.

Using the AusFC as a reference point, I assess findings gleaned through meetings with members of the legal profession, judiciary, and professors in Australia, Singapore, and Canada. The Report also considers literature in the area of the judiciary and technology. I focus on the approaches of the AusFC, other innovative jurisdictions, as well as the Canadian Court. I also consider the impact of artificial intelligence (AI) on access to justice. Finally, having undertaken this comparative analysis, I provide 30 recommendations that Canadian Courts should consider incorporating technologies and innovations, which I illustrate using five case studies at the Federal Court to provide concrete examples of how modernization and adaptation can benefit the administration of justice.

This report concludes by noting that, with the pandemic behind us, and having benefited from cross-industry digitization, there are no longer excuses to remain mired in legacy systems. Ultimately, any challenges to reforming aging systems, whether due to time, money, or pure inconvenience and inertia, are superseded by the efficiencies, cost savings, and benefits that ensue to all users of the system – from judges to lawyers to litigants to the general public – just as was experienced by Australia, and will be described in the process they undertook from 2010. Fortunately, many of the changes they have implemented are now far more accessible through advances in technology than they were 15 years ago.

Introduction

Technology has become an indispensable part of daily life for people worldwide. Historically, the justice system, including the judiciary, lagged other sectors in adopting technological change. To some extent, however, the COVID-19 pandemic was an equalizer because people from all walks of life, including those involved in the justice system, had to modernize. Despite this societal shift, some Courts have failed to capitalize on technology's new opportunities, even after the pandemic. This paper will show that anything is possible with some vision and perseverance.

The exemplar chosen for my Study Leave and Report – the AusFC – had an early vision of where technology could take it and its stakeholders. The Court introduced its Digital Court File (DCF) plans in 2010. It implemented its DCF initiative in 2014, several years before the pandemic. Judges could largely continue their work uninterrupted by the time COVID-19 hit full force in March 2020. As will be shown, the AusFC did not rest on its laurels. Supported by its administration and led by its CEO, the Court continues to move forward in innovative ways, rolling out its new CourtPath upgrades in 2024.

In terms of the logistics, I conducted research between September 2023 and April 2024, spending approximately 10 weeks in Australia from October 3 to December 19, 2024. While there, Bond University's Faculty of Law in Queensland served as my home base. The Faculty was very accommodating, providing me with an office and full access to university computer systems and facilities. In other words, Dean Nick James and the Faculty's professors welcomed me like they would a member of the Faculty.

The staff included me in meetings and invited me to participate in their activities. Their faculty, which comes from all over the world, made me feel like a full-fledged professor, inviting me to deliver guest lectures in law classes, including Constitutional, Administrative, Criminal, and Legal Foundations. Student associations also invited me to talk to their members, including the Canadian Law Student Association (on career development) and the Bond University Mooting Association (on advocacy). The Faculty Association invited me to give a lecture to students and staff on the comparative nature of the Australian and Canadian legal traditions.[1]

Outside of the University, I met with AusFC judicial officers, Registry staff and associates (the equivalent of Canadian "law clerks") in Brisbane, Melbourne, and Sydney. I held meetings with these officials, viewing their technology first-hand and attending presentations offered by Registry officials. I also met with lawyers, academics, and legal technology consultants in these major cities to gain the perspective of judiciary users and stakeholders.

Brisbane was easy to get to, given its proximity to Bond. I travelled there on several occasions to attend hearings at the Courts (Federal and Queensland) and the Australian Administrative Tribunal. The judges whom I met with were also amazingly hospitable and generous with their time. They included Judges Kylie Downes and Berna Collier, who, with their husbands, took me

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[1] My exit report to Dean Nick James may be found at Annex K, along with slide decks for certain of the class and faculty presentations, contained in Annex J (anyone with Judicloud Access can access them here).

out for dinner. Each of these judges invited me to sit in on their cases. Justice Collier had me sit on the bench when sitting on an appeal panel of the AusFC along with Justices Fiona Meagher, and Chris Horan. Other Brisbane-based judges also met with me, including Justice Catherine Muir of the Queensland Supreme Court, as well as Justice Michael Jarrett of the Federal Circuit and the Family Court of Australia, who also hosted me for a meal.

I felt equally welcomed during my visits to the Federal Court in Melbourne, where Chief Justice (CJ) Debra Mortimer invited me to a joint Federal-Victoria Court luncheon and introduced me to her colleagues. Likewise, Justice Nye Perram did the same for me with the Sydney judges when I visited their Courthouse. That visit happened to coincide with the highly followed defamation case in *Lehrmann v Network 10*.[2] The week before I visited, IT staff advised me that over 100,000 people had tuned into the YouTube channel to watch the trial. I also met with other various courts and their officials in Melbourne and Sydney, including the Victoria Magistrates Court, CJ Andrew Bell and (fellow Canadian) Judge Richard Weinstein of the Supreme Court of New South Wales.

Likewise, I was hosted for a visit to the beautiful and ultra-modern Supreme Court of Singapore, including Justice Aedit Abdullah, who is the is the Judge in charge of Transformation and Innovation in the Judiciary, and is also Chair of the Promotion of Legal Technology Innovation Committee of the Singapore Academy of Law. I also met with Ms. Rachel Gan, Deputy Director of the Office of Transformation and Innovation, and her team at the Supreme Court, who demonstrated both their technology and highly interactive Courtrooms – which share many similarities with Australia's. After the meetings with Court officials and the Registry, they treated me to a delicious local lunch.

I am so grateful to all of the people mentioned above, including various senior consultants introduced to me that both worked for legal consulting firms, and technology professors from law schools that they introduced me to. Just to mention a few of those individuals (as I do not have the space to name them all), the heads of PWC Canada, Australia/APAC and Singaporean New Law and Legal Transformation teams – Junaid Mirza, Mick Sheehy and Erich Chin respectively. Professors they introduced me to included Dean Amanda Scardamaglia, Dean of Swinburne University of Technology's Law School, and Dr. Mitchell Adams, their LLB Course Director.

The Canadian component of my study leave took place during the month of September 2023 and concluded between January and April 2024. This included time spent consulting with Canadian judges and Court representatives in various provinces to investigate and report on our judiciary's current state of technology. I continued to participate in conferences on technology and offer sessions on initiatives of the FC and broader issues relating to technology and AI in the Courtroom. Lectures and CLE sessions given in Canada associated with my Study Leave research and work include the following:

- TMU 2L Students with Prof. Simon Wallace on Technology and the Courts (Sept 2023)
- TMU Class Lecture and Tech Project Judging with Professor Jake Effoduh (March 2024)

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[2] *Bruce Lehrmann v Network Ten Pty Limited*, ACN 052 515 250 & ANOR [*Lehrmann Broadcast*]; See trial judgment at *Lehrmann v Network Ten Pty Limited (Trial Judgment)*, [2024] FCA 369. [*Lehrmann Trial Judgment*]

- Bond University Alumni Canada – Written and Oral Advocacy Skills (April 2024)
- CBA Montreal – AI Policy and Study Permit/ODR Pilot at the Federal Court (May 2024)
- CCAT Administrative Law Week: Basics of AI for Tribunal Members (June 2024)
- CIAJ Lunch and Learn - Under the Hood of AI (June 2024)
- NJI Judging Better Judging Smarter - AI & Disruption in Legal Service Delivery (June)

This Report summarizes my observations and research over the past eight months in five parts:
- Part I explores how Australia's successful implementation of its DCF led users down the digital path, becoming an early adopter of technology;
- Part II reviews other innovative jurisdictions and the current state of Canadian Courts;
- Part III considers the impact of AI on the judiciary and access to justice, including unprecedented demand likely being driven – at least in part – by AI and technological tools;
- Part IV contains 30 technology-related recommendations for the Courts to implement technology that will increase access to justice; and,
- Part V discusses five case studies from the Federal Court, which demonstrates how some of these recommendations can be implemented on a concrete basis to address growing file volumes and demands on the system while reducing the challenges for Court staff.

Ultimately, I conclude that there is no longer a choice about whether to implement technological change. Demands on the Canadian courts continue to increase, causing growing backlogs.

With the changes brought on by the pandemic and the explosive growth of AI, the judiciary has no choice but to adapt and adopt new technology. Transformation must now be viewed as obligatory and no longer optional. Failing to do so will drive people away from our courts to seek other more accessible and cost-effective forms of dispute resolution. My research shows, however, that most Canadian Courts are well on their way to engaging with the new reality and are either well on their way to transformation or are investigating how to best adopt change.

Having introduced the areas to be covered, the Discussion section of this paper begins with a review of how the AusFC transformed itself and served as a model to other courts, including the FC.

Discussion

The 20th century witnessed an explosion of technology, accelerating profound societal changes already taking place. In particular, the second half of the 20th century saw advances that forever changed many of the world's industries and how they ran – along with the lives of the citizenry that operated them. The growth of the Internet in the latter part of the century allowed much of the globe to suddenly become connected through the "information superhighway." People suddenly had vast information and social networks available at their fingertips.[3]

While the legal system also benefited from some of these technological advances, including basic online research and new digital government tools that made life easier for both litigators and litigants with access to legislation and case law over the web, Courts around the world nonetheless remained mired in old conventions and practices. With few exceptions, they were still largely paper-driven institutions that failed to adapt to the times, with any technology architecture built on early and often simple systems. Practices and procedures that had existed for centuries continued unabated. This is despite the inexorable march towards a more digital society with fundamental advances in other areas of industry.[4]

Then, in March 2020, the world experienced a seismic shift with the global pandemic that limited human contact. COVID-19 disrupted the status quo in innumerable ways. In struggling to understand the illness, its cause, and its rapid spread, many governments locked down their populations for weeks or months at a time on several occasions.

These lockdowns restricted entire populations in their travel and work routines. In a flash, gone were the days of company meetings, industry events, educational conferences, and trade shows. Local populations that used to relocate for work, and foreign labour forces, could no longer get to their employment, including agricultural and construction workers. Many could not even gather with family and friends. Consequently, employers across the public and private sectors had no choice but to pivot and conduct their affairs without the in-person interaction that had been the foundation of business and leisure travel.

As the famous proverb goes, necessity is the mother of invention. The pandemic was no exception. In personal matters, internet and wireless connectivity boomed with services such as FaceTime, WhatsApp, and Skype. Similarly, the use of business videoconferencing services such as Zoom, Teams, and Webex has exponentially increased, changing the rules of engagement for both professional and personal connectivity.

Correspondingly, the amount of data trading hands over the Internet skyrocketed due to the proliferation of digitization.[5] Humans could not alone process the avalanche of information. CJ

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[3] CJ James Allsop, "Technology and the Future of the Courts" (2019) 38:1 UQLJ 1.
[4] *Ibid.*
[5] Yanqing Duan, John S Edwards & Yogesh K Dwivedi, "Artificial intelligence for decision making in the era of Big Data- evolution, challenges, and research agenda" (2019) 48:1 63.

Menon of Singapore's Supreme Court eloquently stated that the legal profession hit an inflection point.[6]

Three years after the pandemic's original declaration by the World Health Organization, the global emergency status for COVID-19 officially ended in May 2023.[7] However, pressure on the judiciary did not ease. In fact, it increased, manifesting itself in ever-growing case backlogs.[8] All areas were impacted – criminal, civil, family, and administrative law.[9]

No one factor alone led to the current pressure on the demand for judicial resources. Rather, they arose from numerous factors, including the obstacles posed by COVID-19, growing populations in many countries around the world, and the reach of technology, which expanded access to the hardware and self-help tools available over the Internet and mobile devices.[10]

In short, the rapid proliferation of information over popular channels, including social media and video platforms such as YouTube, has democratized the ability to seek legal recourse for those who may not previously have had the means to do so. It has also increased the transparency of justice by allowing those previously unable to view Court documentation and/or proceedings.

AI will only accelerate greater access to justice with tools such as legal bots, forms software, research aids, and predictive analytics.[11] However, AI may also exacerbate existing access to justice barriers or accelerate the creation of new ones, with paid subscriptions to leading platforms, such as LexisNexis and Thompson Reuters, that will be unaffordable for or inaccessible to many self-represented litigants (SRLs).

As Court filings and backlogs continue to increase, the judiciary will need to deploy new approaches and technological tools to assist in the administration of justice. This necessity is quickly becoming a necessity, not a luxury, lest current users begin to turn to other private providers of dispute resolution services.[12]

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[6] CJ Sundaresh Menon, "Judicial Responsibility in the Age of Artificial Intelligence" (Keynote Speech delivered at the Inaugural Singapore-India Conference on Technology, 13 April 2024), online: Singapore Judiciary https://www.judiciary.gov.sg/news-and-resources/news/news-details/chief-justice-sundaresh-menon--keynote-speech-at-the-inaugural-singapore-india-conference-on-technology.

[7] Dalla Lana School of Public Health, "WHO Declares COVID-19 No Longer a 'Public Health Emergency of International Concern' – What Now?" (Webinar, 19 June 2023), online: Dalla Lana School of Public Health https://www.dlsph.utoronto.ca/event/who-declares-covid-19-no-longer-a-public-health-emergency-of-international-concern-what-now/.

[8] Colin Butler, "Canada's Backlogged Civil and Family Courts in 'Crisis,' According to Lawyers Group" CBC News (10 July 2023), online: https://www.cbc.ca/news/canada/london/justice-delays-canada-courts-ontario-1.6900147.

[9] *Ibid*.

[10] Allsop, *supra* note 3 at J 1.

[11] Tania Sourdin, *Judges, Technology and Artificial Intelligence: The Artificial Judge* (Cheltenham, UK: Edward Elgar Publishing, 2021) at 65-66.

[12] Richard Susskind, "Expert Systems in Law: A Jurisprudential Approach to Artificial Intelligence and Legal Reasoning" (1986) 49:2 Modern L Rev 168.

However, I also note that access to justice is a double-edged sword in that the Courts have limited resources. Making justice too accessible – which AI and technology can do – may overwhelm the Courts by the volume of cases being filed. The growth in the annual number of judicial reviews filed in the immigration field at the FC is one such example of exponential growth, where the Court averaged between approximately 5000 and 8000 in the years before COVID-19. In 2022 and 2023, those filings then grew to 13500 and 16500, respectively. In 2024, they are on track to increase to approximately 24000 judicial review applications.[13] The Court has learned that these filings could grow by multiples of these numbers in the next 1-2 years due to the use of automation and AI in the years to come.

Part I: The Federal Court of Australia

The AusFC has been a leading proponent and exemplar of digitization through the development of the Electronic Court File ("ECF" – and what the Court originally referred to as the "DCF") and its underlying systems.[14] Its Registry has greatly assisted the Court in its efforts to become paperless, constantly working to improve the ability of both judges and litigants to navigate their matters in a user-friendly manner.

Their efforts have resulted in monumental changes for the Court and its litigants. These changes were launched well before COVID-19: the AusFC implemented an eServices Strategy in 2008.

Leadership

Former CJ James Allsop and Warwick Soden, former CEO of AusFC,[15] were the visionaries behind and champions of the eServices Strategy and its inexorable transformation to digitization and the ECF.[16] The work of these two leaders entailed meticulous internal projects and change management plans. This allowed the technology team at the Court to clearly understand what needed to be implemented and when. Adopting this methodology allowed all to work towards realistic and achievable outcomes and, ultimately, successful deployment of the new systems.

Several factors assisted with achieving the Court's digital objectives, starting with AusFC' control of the IT budget.

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[13] See *Applications for Leave and Judicial Review at Canada's Federal Court*, Annex L.5.

[14] The Registry of the Court now serves both the AusFC and the Federal Circuit and the Family Court of Australia (FCFCOA), which resulted from a September 2021 merger of two Courts (the Federal Circuit Court of Australia and the Family Court of Australia (these Courts merged after parliament's passage in March 2021 of the *Federal Circuit and Family Court of Australia Act 2021*. The FCFCOA has broad jurisdiction over family law matters and certain other federal areas, including administrative, admiralty, bankruptcy, copyright, human rights, industrial migration, privacy and trade practices (consumer protection) law. The Registry serves both Courts as well as the National Native Title Tribunal. Although these bodies have used different platforms, the new CourtPath is being implemented system-wide.

[15] CJ Debra Mortimer and CEO Sia Lagos have since been appointed. Both generously gave their time to meet and correspond with me for the research that went into this Report.

[16] Formerly the Registrar; see *Federal Court Amendment (Court Administration and Other Measures) Rules 2019*, Schedule 1 – *Amendments relating to the Courts Administration Legislation Amendment Act 2016*, at Paragraph 2.01(3)(e).

Control of IT budget

The fact that the AusFC controlled – and to this day continues to control – its own budget, allocated by the Executive of the Australian government, which is set well in advance of any given fiscal year, allows for realistic and achievable strategic planning. This enviable reality of the AusFC is not the situation with any Canadian Court we have heard about, except for specific IT project allocations (for instance, recent commitments of significant funds in Quebec and Ontario to upgrade court file management systems).

Control of the budget, however, was and still is certainly not the only distinguishing feature that set AusFC up for success in its technology objectives. Other factors were executed with aplomb. Some of the key features in the planning and conception of the DCF are highlighted below.

Transparency and communication

The ultimate objective of new systems is to implicate the end user, and under the CEO and CJ, the AusFC also uses external communications very effectively. Since the rollout of the ECF, former CJ Allsop consistently issued Practice Notes and related guidance to the profession and public to explain new systems and procedures or to update existing ones.

These notes and guidance provide Court users with instructions on the impact of digitization on procedures, covering the gamut from the docket system to triaging cases, navigating discovery, treating urgent cases, accessing transcripts, accessing teams and meeting eBook requirements.[17] Practice notices continue to be released as systems and instructions are updated, transparently and efficiently communicating to the public how to use new systems effectively.

Three key elements of AusFC Digitization

The Court's shift to the digitized court file was comprised of three key elements which it implemented: (a) the electronic lodging of documents through "eLodgment," (b) the use of eCourtrooms, and (c) the transition to a full digitized court file through the ECF system.[18]

(a) eLodgment

The AusFC established eLodgment in 2011, constituting the electronic filing platform for the AusFC, Federal Circuit Court of Australia, and the Family Court of Australia (the latter two courts have since merged into the Federal Circuit and the Family Court of Australia (FCFCOA)).

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[17] As provided on the AusFC website, these include, for instance, Federal Court of Australia, "Central Practice Note: National Court Framework and Case Management (CPN-1)" (10 August 2022) at s 1, online: <https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/cpn-1> [*Federal Court of Australia*]; Federal Court of Australia, "General Practice Note: Access to Documents and Transcripts Practice Note (GPN-ACCS)" (10 February 2023), online: <https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-accs>; Federal Court of Australia, "General Practice Note: eBooks Practice Notes (GPN-eBOOKS)" (17 August 2022), online: <https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-ebooks>.
[18] See *AusFC Deck: Implementing eServices Strategy*, Annex C at slide 3.

Launching an application in eLodgment creates an Official Court Record at the filing stage.[19] Through the eLodgment history, users may access documents and monitor the progress of their files. If required, users can also access sealed electronic copies of the documents through e-mail or deliver hard copies.[20]

Judicial officers also benefit from the system by working with electronic files instead of printed versions. They also have confidence that the DCF is complete, eliminating the risks of moving a paper file and misplacing or failing to insert its documents.

ECFs were established by the AusFC in 2014. They are electronic records of court files that house information and documents, including, but not limited to, file history, file documents, judgments, orders, parties, transcripts, exhibits, correspondence records, and listing summaries. ECFs maintain the official court record in an electronic format. Successful applications create an ECF that is automatically integrated into the Court's Management System.[21]

(b) eCourtroom

As mentioned above, early efforts to move the Court forward technologically only served to continue to push it forward during and since the pandemic. For instance, the eCourtroom, a virtual courtroom platform, was introduced in 2012 for matters such as *ex parte* applications, applications for examination summons, and for the judiciary to give directions and simple orders.[22] As a virtual platform that serves as an online courtroom for registered users, the eCourtroom is integrated with eLodgment: it provides parties with a link between the eCourtroom and eLodgment to facilitate the electronic filing of documents. eCourtroom was one of the many AusFC tools that aided in the shift to remote hearings when the pandemic hit. While most matters have moved back to in-person hearings since, AusFC judges may hear from parties and witnesses remotely and run proceedings remotely or in a hybrid fashion, often with the aid of eCourtroom.

(c) Commonwealth Courts Portal

As mentioned above, the AusFC has made efforts to harmonize the various systems over the years. For instance, the Commonwealth Courts Portal (CCP), launched in 2007, is a joint initiative between the AusFC, the Federal Circuit Court of Australia, and the Family Court of Australia. To this day, online filing for family law matters is generally done through the CCP. Updates have been made since the Family Court and Federal Circuit Court merger in 2021 to increase the use of eFiling with the CCP. The CCP is one of the platforms that will be stitched together when the

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[19] See *AusFC Deck: Federal Court and Federal Circuit and Family Court of Australia Use of Technology*, Annex D at slide 6.
[20] *Federal Court of Australia, supra* note 17 at s 1.
[21] See *AusFC Deck: Court Systems Overview and Digital Court Program*, Annex E at slide 7; See *AusFC Deck: Implementing eServices Strategy*, Annex C at slide 18.
[22] See About eCourtroom (fedcourt.gov.au); See also *AusFC Deck: Federal Court and Federal Circuit and Family Court of Australia Use of Technology,* Annex D at slide 9.

Courtpath system is launched as a harmonized solution between the AusFC and the FCFCOA[23] later this year.

(d) <u>CourtPath (Family Law)</u>

CourtPath (Family Law) is used in Australian Family Courts to streamline business systems and enable operational efficiency.[24] Changes implemented in November 2018 to facilitate the ongoing digital transformation at the FCFCOA included automatic file creation, which had many salutary results, including reducing the need for staff to enter data manually given automated data collection from parties, access to filed documents, and management of Court fees. CourtPath (Family Law) works with eLodgment to build a court book (what we call a record) for internal consumption.[25]

(e) <u>CourtPath (Other Matters)</u>

In March 2024, an expanded version of CourtPath was implemented in the remaining jurisdictions at the courts. This improved version includes many improvements, including the ability to publish orders directly from the system and improved management tools for judges, registrars, and chambers staff to simplify the management of their workloads.

CourtPath, the new case management system, has been in development since late 2021 and is being progressively implemented across the courts. The first major phase (CourtPath (Family Law)) was released in late 2022, the second in March 2024 (all other matter types), and a final phase is now underway to align all case management functions into the system. CourtPath will progressively consolidate a series of platforms and programs currently being used across courts and courthouses within the AusFC ecosystem.

Thus, CourtPath is an important step that will continue to create efficiencies and reduce the risk of both human and system errors. It will also improve the user experience, as well as that of court staff and judicial officers, by reducing the complexity and number of steps required to perform tasks such as document creation and management and the management of listings and fees.

Innovative features of CourtPath include:

- A simple, single-user interface for all users, making system training easier;
- Built on frameworks designed to continue adapting to the needs of the courts;
- Highly customizable, allowing the courts to direct investment into areas of the system that will deliver the greatest value; and,
- Improved data collection and handling, ensuring compliance with legislative requirements, and high-quality operational and strategic reporting.

(f) <u>Virtual hearings and transcripts</u>

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[23] See *AusFC Deck: Federal Court and Federal Circuit and Family Court of Australia Use of Technology*, Annex D on slide 16.
[24] See *AusFC Deck: Court Systems Overview and Digital Court Program*, Annex E at slide 6.
[25] See *AusFC Deck: Digital Court Program*, Annex F at slide 8.

The AusFC and its users strongly prefer Microsoft Teams over other video conferencing platforms due to the data sovereignty offered by this service: Teams permits data to be stored on Australian servers, which better aligns with Australian data protection laws than similar servicing platforms.[26]

The Courts also use Cisco Webex Meetings, which allows for the meeting/court proceedings to be directly streamed to YouTube from within the Webex application without requiring additional third-party applications such as OBS. Currently, any matters that are live-streamed are held on Cisco Webex and not Microsoft Teams.

At the current time, hearing transcripts are viewable to both parties and the public, whereas filed documents are only viewable to the parties, subject to them being ordered to be available to the public.[27] Two recent, high-profile defamation cases, each garnering large audiences within Australia and beyond, are recent examples of this transparency and broad access.[28]

(g) Courtroom equipment

To facilitate hybrid hearings and streaming services, hardware in physical courtrooms has included various equipment that supports different components of the first digital system. LCD screens, microphones, a Cisco Codec Pro, a Cisco Touch Panel, a Crestron Controller, a pair of Digital Signal Processors, and a Recorder all combine to produce Court hearings.[29] An external vendor, VIQ, provides courtroom recording and transcription services.[30]

Change Management and Best Practices at the AusFC

The ECF's implementation a decade ago was progressive, following a widely held view that technological innovation in the justice sector should proceed in miniature, "bite-sized" chunks, to manage the significant changes effectively.[31] Furthermore, to support the implementation of eServices, the AusFC conducted impact assessments internally and externally to arrive at "best practices" in its business process management. Some best practices, including training, triaging, alternate dispute resolution (ADR) practices, and stakeholder/impact assessments, are outlined below.[32]

(a) Funding

The AusFC controls its own budget under the direction of its CEO (formerly the Chief Registar). This allows the Court to serve as a model of how an independent judiciary should function in its

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[26] See *AusFC Deck: Video Conferencing, Hybrid Hearings, and Streaming*, Annex G at slide 8.

[27] See *AusFC Deck: Looking Back to the Future The Next Generation*, Annex H on slide 24.

[28] See *Lehrmann Broadcast, supra* note 2; see *Lehrmann Trial Judgment, supra* note 2.

[29] See *AusFC Deck: Video Conferencing, Hybrid Hearings, and Streaming*, Annex G at slide 6.

[30] *Ibid* on slide 14.

[31] For an article around that time, see, for instance, Jane Bailey & Jacquelyn Burkell, "Implementing Technology in the Justice Sector: A Canadian Perspective" (2013) 11:2 CJLT 271.

[32] Kevin Bell, Andrea Olivares Jones & Karin Frodé, "Perspectives from Australia on the impact of the COVID-19 pandemic on the administration of justice" (5 February 2021) at 8, online: <https://www.monash.edu/__data/assets/pdf_file/0008/2477537/2021-Castan-Centre-Submission-to-the-Special-Rapporteur-on-the-Independence-of-Judges-and-Lawyers.pdf>.

operations, particularly from an IT perspective, as it enables the Court to design and plan according to its own needs, hire its own IT staff, and chart its own course more readily than many other Courts, including those in Canada which by and large depend on annual decisions of the Executive for funding.

(b) Digital filing

It is remarkable that, as of July 2014, 100% of AusFC Court documents were filed through the eLodgment system.[33]

(c) User Training

The IT team delivered training approximately two weeks before each component of the eServices strategy was released. High-impact users received face-to-face training facilitated by project team members and subject matter experts from businesses and local IT resources. The team also provided modules for low-impact topics. Judicial training on eServices was delivered individually based on each Judge's availability and previous IT knowledge, a practice promoted by former CJ Allsop.[34]

(d) Triaging and ADR

AusFC adopted triaging strategies as part of its eServices business process. Due to the availability of online hearings, cases may now be heard by a Judge or Registrar anywhere in the country. Urgent cases are heard virtually within three business days, and non-urgent cases within seven business days. Cases that pose a risk to the parties involved are directly sent to a Judge or Registrar.[35] For instance, the AusFC outlines triaging processes in both migration and commercial matters.[36] In the commercial context, Court-supported alternate dispute resolution (ADR) mechanisms are encouraged by Judges or Registrars in case management.[37] Similarly, the FCFCAO has a triaging process for the early identification of safety risks in family law.[38]

(e) Impact Assessments and Consultation

The AusFC established a regime to assess stakeholders' communication, involvement, training, and support needs. The Court conducted impact assessments for each component's release before rolling out its eServices. Internal users' impacts were assessed for changes in their roles, processes, and system functionality, whereas external users were assessed regarding changes to their

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[33] See *AusFC Deck: Implementing eServices Strategy*, Annex C at slide 13.
[34] Kevin Bell, *supra* note 32 at 43.
[35] Kevin Bell, *supra* note 32 at 9.
[36] See s 9, Migration Practice Note (MIG-1) (fedcourt.gov.au); s 6.9, Commercial and Corporations Practice Note (C&C-1) (fedcourt.gov.au)
[37] Rule 28 of the *Federal Court Rules*, Select Legislative Instrument No. 134, 2011 [FCR]; see also Assisted Dispute Resolution (fedcourt.gov.au); and s. 9 of the Central Practice Note: National Court Framework and Case Management (CPN-1) (fedcourt.gov.au).
[38] See Lighthouse expansion – General fact sheet | Federal Circuit and Family Court of Australia (fcfcoa.gov.au) and Lighthouse expansion – General fact sheet (fcfcoa.gov.au).

interactions with courts and externally facing systems. Thus, the AusFC had a 360-degree assessment of readiness for the shift to digital files, minimizing implementation issues.

(f) Business Process Changes through various channels

The AusFC adopted other business process changes to support its eServices model. Some of these are captured in its corporate plan, which sets out a strategy for the Court going forward, while the day-to-day process changes and updates are provided through Practice Notes, as noted above and cited in footnotes to this Report.

(g) Registry Information and Updates

Apart from the website being the primary source of information for users, AusFC information is provided in Registry kiosks at various locations across Australia to assist with self-service at the Court.[39]

(h) The Impact of eLodgment

One key business process change brought about by the digitized court file is the automated filing of documents through eLodgment at the Court. This practice departed from the historic procedure of registry officials having to accept paper documents, saving significant Registry resources.

eLodgment matters differentiate between SRLs and legal counsel. The matter collects user information to create a user profile. Users may select a reusable or customized template to upload documents. Users are then prompted to input their hearing date and submit their applications.

The application creates an action queue for Lodgments that the Court staff must review for acceptance into the Court file. Once reviewed and accepted, a Court Officer will process the document and add an electronic seal and cover letter. Users may download a copy of the sealed document to serve a hard copy.[40] Users can view the progress of their eLodgment and eLodgment history and access electronic copies of their documents at any time.[41]

The AusFC has further integrated an AutoAccept feature into its eLodgment technology. The court determined which documents were frequently lodged and which were the simplest to lodge so they could be automatically accepted without court staff intervention.[42]

In short, AutoAccept supports the streamlining of eLodgment processes by minimizing the need for manual intervention.

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[39] See *AusFC Deck: Implementing eServices Strategy*, Annex C at slide 36.
[40] See *AusFC Deck: Federal Court and Federal Circuit and Family Court of Australia Use of Technology*, Annex D at slide 6
[41] *Federal Court of Australia*, *supra* note 17 at s 1.
[42] For instance, in Creditors' petitions or Bankruptcy and Winding-up applications for Corporations; see *AusFC Deck: Federal Court and Federal Circuit and Family Court of Australia Use of Technology*, Annex D at slide 7.

(i) Guidance for the Profession and Public

For the Court to keep its practices in harmony with technological developments, AusFC Rules[43] permit the authorization and codification of Practice Notes.[44] Practice Notes provide practitioners with the principles behind system changes.[45] This information includes protocols for utilizing the docket system and triaging applications based on their urgency.[46]

The procedural guidance and requirements, along with related instructions and explanations set out in Practice Notes, provide the flexibility required to ensure that the Court's business processes are in sync with and maximize the benefits offered by the Court's new technologies. Trying to incite change through Rules reform is simply not agile enough for the Court to pivot quickly in response to technology initiatives and the required changes.

In addition to the Practice Notes, AusFC publishes procedural guides that provide additional information for users. These guides explain subjects from communication with chambers and Registry staff to key areas of the court's law (administrative, constitutional, human rights, bankruptcy, corporations, and migration law). These guides are available for eServices users through factsheets on virtual hearing platforms, electronic filing, and online court books.[47]

(j) Case Management including access to ADR

AusFC actively encourages case management, the key objective of which is to reduce costs and delay, to achieve: (a) fewer issues in contest, (b) no greater factual investigation than justice requires, and (c) as few interlocutory applications as are necessary for the just and efficient disposition of matters.[48] The Court's guidance states that, as part of these key objectives, the Court will make available, and encourage parties to use, any technology available within the Court (or appropriate external technology suggested by the parties) that may make the management or hearing of cases, trials, and ADR processes more efficient or useful, including eLodgment, eTrials, and eCourtrooms.[49]

The Court makes clear that help is available with any of these steps, including an "eRegistrar" or the District Registrar available in each Registry office to facilitate electronic processes within the Court.[50] Refer to the Technology and the Court Practice Note (GPN-TECH) for further information.

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[43] See FCR, *supra* note 37.
[44] See, for instance, *ibid* at 2.11, 2.12, 8.05.
[45] See the 37 current practice notes published at Practice Notes (fedcourt.gov.au). They cover all main areas of practice, as well as procedures for the Court. Many of the key instructions regarding technology can be found in the principle practice note, the *Federal Court of Australia*, *supra* note 17 at s 1.1.
[46] *Federal Court of Australia*, *supra* note 17 at s 1.1.
[47] Kevin Bell, *supra* note 32 at 12.
[48] *Federal Court of Australia*, *supra* note 17 at 8.1.
[49] *Ibid* at s 8.2.
[50] *Ibid* at s 8.3. The Court's guidance on technology is contained in https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-tech.

The AusFC expects parties to seek ADR options provided by the Court in the early stages of a dispute under section 53A of the *Federal Court Act* and Part 28 of the *Federal Court Rules*.[51]

    (k) <u>Virtual and hybrid hearings</u>

One great benefit of digitization is that the digitized court file can be viewed anywhere in the country. Thus, the Court's transition from in-person to virtual hearings during COVID-19 was seamless. While hearings have generally returned to an in-person format, as in many jurisdictions worldwide, the Court continues to offer the ability to operate virtually.

Professors Felicity Bell and Michael Legg surveyed Australia's Bar's response to the digitization of the Federal Court. They concluded that remote technology has become an acceptable alternative to in-person hearings.[52] Despite this success, participants expressed that remote hearings were not the same as in-person ones since body language and non-verbal cues that form part of a judgment were missing from this delivery.[53]

Three Australian Federal Courts participated in their survey, and 72% of respondents shared that they felt the conduct of remote proceedings had been successful.[54] Likewise, most judicial officers reported that legal practitioners could manage remote appearances in court well.[55] Some even appreciated viewing the witness's faces more closely via remote access. Of course, not all agree; other judges found understanding the witness's demeanour and body language challenging when they could only view the witness's face on a screen.[56]

Participants experienced verbal communication issues often caused by technological or human error, such as forgetting to mute themselves. They also found a loss of formality in virtual hearings as opposed to those done in-person but felt this was an issue that could easily be overcome.[57] Some felt that there was a generational gap whereby younger practitioners better managed remote access technology.

Some respondents in Bell and Legg's study also expressed concern about SRLs managing remote access technology.[58] Participants further elaborated that a physical presence in court allows litigants to negotiate despite an ability to caucus in Teams.[59] Concerns were raised that hearings could last longer due to screen fatigue, which could result in a loss of attention, detract from the arguments delivered, and add to the emotional strain of the hearing.[60]

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[51] *Ibid* at ss 8.2 and 9.1.
[52] Felicity Bell & Michael Legg, "Survey of Australia's Federal Courts: Judicial Views of Remote Proceedings Summary of Findings" (2020) 23:18 UNSW Law & Justice at 4.
[53] *Ibid* at 9.
[54] *Ibid* at 4-5.
[55] *Ibid* at 5.
[56] *Ibid* at 8.
[57] *Ibid* at 8-9.
[58] *Ibid* at 8.
[59] *Ibid* at 9.
[60] *Ibid* at 11.

Although some users called for extra vigilance regarding procedural fairness, there were minimal concerns overall regarding the procedural fairness of remote proceedings.[61] Practitioners adjusted quickly to remote hearings and technologies. For litigants, remote access proved to be a less stressful hearing environment than open court.[62]

Limited issues occurred due to the technology, including poor audio and video quality. Four years post-pandemic, many of these obstacles have been observed in the academic literature, particularly with adjustments to the technology, which have been overcome. It is clear that the positives of the virtual option outweigh the negatives.[63]

Many practitioners strongly prefer accessing hearings from the comfort of their offices rather than spending significant time commuting to court. Adding waiting time at in-person hearings results in hours of extra, unnecessary billing to their clients.[64] Given the vast distances in Australia, parties and witnesses who would ordinarily have to fly to attend proceedings also forego significant expenses.[65] The ability to return to the Courtroom has provided the best of both worlds, offering the benefits of in-person proceedings with the ability to provide remote or hybrid hearings, as appropriate.

(l) Benefits and Savings of the digitized court file and eServices

As of December 2023, litigants have been increasingly using the full suite of eServices offered by the AusFC, including eLodgment, eCourtroom, and CCP.[66] Users are now able to use the electronic Court system to easily view their lodgment history and manage their filing fee accounts.[67] As of 2014, 6068 matters have been heard using eCourtrooms. 218 matters have been heard in 2023 alone.[68] Not surprisingly, with the onset of the pandemic, the take-up rate for eLodgment increased. From 2021 to 2023, the AusFC witnessed a 92% increase in the documents filed externally through eLodgment.

Since implementing the eLodgment AutoAccept feature, the AusFC observed that 44% of lodged documents had been automatically accepted as of December 2023.[69] This meant no need for Court Staff intervention.

CourtPath will continue to save the Court and its users time compared to activities conducted using legacy platforms. Tasks like downloading and viewing documents will be significantly faster now that CourtPath has been introduced.[70]

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[61] *Ibid* at 5, Figure 3 at 8.
[62] *Ibid* at 11.
[63] Harry Surden, "Artificial Intelligence and Law: An Overview" (2019) 35:4 Ga St U L Rev 1305.
[64] Bell & Legg, *supra* note 52 at 11.
[65] *Ibid* at 11.
[66] See *AusFC Deck: Federal Court and Federal Circuit and Family Court of Australia Use of Technology*, Annex D at slide 4.
[67] *Ibid* at slide 5.
[68] *Ibid* at slide 9.
[69] *Ibid* at slide 7.
[70] *Ibid* at slide 18.

The AusFC platforms provide for open justice through mechanisms such as posting information on its website, including its hearings on public court lists, detailing hearings that will take place in each courthouse across the country, and streaming certain of these hearings via its YouTube channel (primarily those with heightened public interest).

Allowing members of the public to tune into hearings over online streaming platforms has been observed to increase access to justice naturally.[71] The AusFC also makes various documents freely available to the public on its webpage.

(m) Concluding thoughts on AusFC

Former CJ Allsop has stated that there is more to do technologically after leading the AusFC through its digital shift. He wanted to leverage AI tools to move his Court forward, and still believes that AI partnerships should be explored, as is being done in Singapore and certain other countries.[72]

Even though not everything desired was achieved, a desirable amount was – far more than in most other jurisdictions. Comprehensively integrating technology achieves efficiencies within the judicial system and facilitates greater access to justice.

In this spirit, I now briefly turn to examples of a few other jurisdictions that have, through technology, deployed innovative approaches to improve court services and access to justice. These examples show that while there is no "one-size-fits-all" technology or "silver-bullet" solution that will solve all challenges facing any given judicial system, different approaches used around the world address the particular problems of those legal systems.

Part II: Examples of Innovative Approaches in Other Jurisdictions

The following examples demonstrate how judiciaries have been able to move their systems and processes forward well before the onset of COVID-19 in 2020.

(Removed for Confidentiality Reasons)

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[71] Indeed, this has been cited as an objective for Canada. See, for instance, Tim Roberts & Associates Consulting, *Legal Aid Service Delivery in Rural and Remote Communities across Canada: Issues and Perspectives in the Context of COVID-19* (Ottawa: Department of Justice Canada, 2023) at 13, online: <https://www.justice.gc.ca/eng/rp-pr/jr/laid-daide/pdf/RSD_RR2023_Roberts_Legal-aid-rural-remote-EN.pdf>, citing Canadian Bar Association, "What do we Want? Canada's Future Legal Aid System: Backgrounder on National Legal Aid Benchmarks" (2015) at 64, online: <https://www.cba.org/getattachment/Sections/CBA-Access-to-Justice-Committee/Resources/Resources/2015/What-Do-We-Want-Canada%E2%80%99s-Future-Legal-Aid-System-e/Benchmarks_Backgrounder.pdf>.

[72] CJ James Allsop, "The Legal System and the Administration of Justice in a Time of Technological Change: Machines Becoming Humans, or Humans Becoming Machines?" (Sir Francis Burt Oration, 21 November 2023) at 10-11, online (PDF): <https://www.francisburt.com.au/wp-content/uploads/2023/11/Sir-Francis-Burt-Oration-21.11.23-edited-27.11.23.pdf>.

E-filing in the UK

Electronic filing (or "e-filing") has increasingly become a standard feature in contemporary court systems, streamlining the handling of documents in legal proceedings. While current e-filing systems are typically based on expert systems or rules-based approaches, AI could enhance e-filing in future proceedings.[73] The main purpose of e-filing is to minimize or completely phase out the need for paper documents in legal cases.

For instance, by April 2019, the UK Crown Court had saved over 100 million sheets of paper by transitioning to e-filing. The ease of storing and retrieving documents improves significantly in digital form.[74] Additionally, the ability to swiftly search extensive documents for specific terms or phrases has been revolutionized by searchable files, while navigation between documents has been simplified with hyperlinks.[75]

E-filing also reduces mistakes within documents and expedites legal procedures. The UK Crown Court observed a dramatic decrease in filing errors in divorce cases – from 40% with paper to less than 1% electronically – and the issuance time for online civil claims went from 15 days to a mere 10 minutes when comparing digital systems to paper.[76]

Although e-filing boosts administrative efficiency, it might remove the human element in spotting errors.[77] However, the advantage of an e-filing system lies in its capability to verify the proper preparation of a document; if the system is accurate in its verification, it can accept and process the document, advancing the file to subsequent procedural steps automatically.

The ability to detect patterns within text-based files is highly beneficial, especially when managing vast numbers of cases or navigating through complex cases laden with extensive information.

e-Discovery in the US

In the United States, "eDiscovery" is an automated process for investigating electronic information for discovery purposes before the commencement of court proceedings.[78] This process utilizes machine learning and AI which, through training on large data sets, identifies the most effective algorithm for isolating pertinent information. Parties involved determine and agree upon the search terms and coding strategies to be used.[79] Subsequently, a judge reviews and approves this agreement. Recognized by courts in both the United States and the United Kingdom, this method offers a swifter and more precise alternative to traditional, manual document examination.[80]

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[73] Ministry of Justice, "Digital Court System Saves Enough Paper to Cover Central Park Twice" (18 April 2019), online: <https://www.gov.uk/government/news/digital-court-system-saves-enough-paper-to-cover-central-park-twice>.

[74] *Ibid.*

[75] *Ibid.*

[76] *Ibid.*

[77] *Ibid.*

[78] European Commission, "Shaping Europe's Digital Future" (8 March 2021) online: <https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/shaping-europe-digital-future_en>.

[79] *Ibid.*

[80] *Ibid.*

Adopting e-filing has naturally evolved into online triaging and case assignment processes. Courts in various regions now primarily or even solely perform triaging and allocations through court staff or judges.[81] Some court systems distinguish between "external" materials like court filings and orders and "internal" materials that pertain to the court's management and adjudication of cases. Conversely, other systems amalgamate all aspects of a case into a unified digital interface.

Another innovative approach in the US is found in California, where I-CAN provides interactive modules to address legal issues for SRLs.[82] By 2012, I-CAN generated 182,000 pleadings, allowing SRLs to understand the legal process and saving legal aid centres time and money.[83]

AI in Brazil

AI can be applied to streamline triaging or assigning cases within a court system. The Victor Project, launched in 2018 for Brazilian courts, aims to mitigate the significant case backlog.[84] In 2017, Brazil had over 80 million pending cases, many of which were categorized as "routine and of low value."[85]

The Brazilian Supreme Federal Court (the highest court in Brazil for constitutional matters) has implemented AI to enhance the efficiency and precision of case resolutions and optimize human resource distribution within the judiciary.[86] The AI program achieves this by categorizing so-called "general repercussion" cases with significant economic, political, social, or legal impacts into groups that can be adjudicated collectively. This system has reportedly condensed a 40-minute judicial task into a mere 5-second operation.[87]

Legal-Net in Israel

Legal-Net, Israel's cloud-based, comprehensive court management system, consolidates document and motion submissions, court fee payments, scheduling, and witness information and appearances. It also aids in generating draft judgments and monitoring case status.[88] Israel implemented a continued development plan to fine-tune Legal-Net's case allocation, calibration of statistics, and establishment of internal guidelines regarding judicial management.[89]

Business Project Management (BPM) was incorporated into Legal-Net implementation.[90] The BPM process considered factors such as to whom judges ought to report, e.g., the president of the court, the CJ, or the administration. It also considered who could be privy to information regarding

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[81] *Ibid*.
[82] Allsop, *supra* note 3.
[83] *Ibid* at 6.
[84] Daniel Willian Granado, "Artificial Intelligence Applied To The Legal Proceedings: The Brazilian Experience" (2019) 5 Revue Internationale de droit des données et du numérique 103.
[85] *Ibid* at 103.
[86] *Ibid* at 103.
[87] *Ibid* at 103.
[88] Amnon Reichman, Yair Sagy & Shlomi Balaban, "From a Panacea to a Panopticon: The Use and Misuse of Technology in the Regulation of Judges" (2020) 71:3 Hastings LJ 589 at 597.
[89] *Ibid* at 632.
[90] *Ibid* at 622.

judges' performance. The system also has built-in alerts to issue "red flags" to judges about pending tasks in case management.[91] As in other locations, certain judges resisted the new system and wanted paper (rather than digital) documents, finding the transition difficult, which LegalNet accommodated.[92]

French government assistance for its citizens

French citizens benefited from an "access to legal information" project when the French government created a website with frequent mistakes made by citizens when completing a government transaction such as a move, the birth of a child, unemployment, or the death of a loved one. This website displayed checklists in plain language and pre-filled forms to promote access to justice and provide citizens with ease in using digital government websites.[93] This website alleviates the burden placed on citizens to gather information and acts as a one-stop shop for government information, which has also served to increase user trust in the system.[94]

Conflict resolution system in Holland

Uit Elkaar is a user-pay online conflict resolution system in the Netherlands that assists parties undergoing separation or divorce. 84% of users expressed that they felt they had more control over the process by managing their time independently, as the platform would allow separation agreements to be completed in about a day.[95]

Through a questionnaire, separating couples can reach a resolution based on points of agreement, in effect designing their separation agreements.[96] Through its focus on building agreement as opposed to points of contention, the software aims to address concerns surrounding the use of generative AI software in family law, where decisions are highly discretionary. Decision trees employ reactive-based AI.[97] Where complex algorithms use a subset of cases from courts to reach decisions, the decision tree model not only empowers the parties to reach their agreements but also avoids issues of control, fear, and coercion that judges in family law cases regularly analyze.[98]

Use of AI in Chinese courts

While certainly controversial and not what I suggest following in any of my recommendations below, it is worth noting that China has embraced AI for decision-making. Specifically, China has innovated certain courts to employ AI-powered "judges" and legal assistants that can handle basic judicial tasks through Smart Courts. These include, but are not limited to, providing legal advice,

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[91] *Ibid* at 625.
[92] *Ibid* at 629, 633.
[93] Sofia Ranchordá, "Empathy in the Digital Administrative State" (2021) Duke LJ 42.
[94] *Ibid* at 42; French Republic, "Oops, I made a mistake while carrying out an administrative procedure. What do I do?" (n.d.) online: <https://www.plus.transformation.gouv.fr/oups-jai-fait-une-erreur-en-effectuant-une-demarche-administrative-que-faire>.
[95] *Allsop*, *supra* note 3 at 6.
[96] Tania Sourdin, "Justice and Technological Innovation" (2015) 25:2 J of Judicial Administration 96.
[97] Felicity Bell, "Family Law, Access to Justice, and Automation" (2019) 19 Macquarie LJ 103.
[98] Susskind, *supra* note 12.

answering procedural questions, and even drafting certain types of legal documents. While AI systems play a role in the judicial process in China, human judges still render final judgments.

In Hangzhou, a Smart Court handled over 10,000 disputes in roughly half the time devoted to traditional hearings. It used a static digital system that offered legal services to participants, on-site facilities for document e-filing, speaker-independent voice recognition technology, dedicated virtual courtrooms, and an internet-based court to resolve simple internet-related commercial disputes.[99]

Beijing's High People's Court has implemented a system known as the Wise Judge System. This system utilizes extensive judgment data sourced from China Judgments Online, ensuring consistency in rulings for similar cases among judges in the Beijing region. Likewise, in criminal proceedings, the Shanghai People's Court has introduced the Intelligent Auxiliary System for Criminal Case Management. By gathering and analyzing judicial data, this system assists Shanghai judges in aligning their judgments with those across the nation.[100]

Part III: State of Technology in Canadian Courts

Considering the beneficial use of technology at the AusFC and in certain other jurisdictions around the world, it is clear that incorporating technology into judicial services can create efficiencies in the administration of justice. These include streamlining legal procedures such as electronic service and delivery of Court documents, reducing paper use, automating business processes within the court, and reducing the risk of human error.

As explained above, the AusFC shifted to all-digital filings in 2014. A decade later, no Canadian Court other than the Court of Appeal of Alberta can boast this accomplishment – although I realize that not all judges and users favour a fully digital format. However, as noted below, given the advent of more sophisticated technology, including automation and AI, the need to digitize has become more pressing today than a decade ago if Courts are going to handle the increased demands on the judiciary and the volume of cases being filed.

Leveraging the broad array of technology available in the judicial setting has great advantages if done appropriately and accurately. The benefits to the Court have already been explored above. On the parties' side, automating tasks such as reviewing documents and conducting legal research enables counsel and SRLs to improve their work product by enhancing productivity and precision in Court filings.

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[99] Changqing Shi, Tania Sourdin, & Bin Li, "The Smart Court – A New Pathway to Justice in China?" (2021) 12:1 IJCA 8.
[100] Sourdin, *supra* note 11 at 133.

Canada's Federal Court has come a long way since it published its first Strategic Plan in 2014.[101] Coincidentally, the four National Courts, of which the Canadian Federal Court is part, rely on a single federal department, the Courts Administration Service (CAS), to obtain funding for operations. Subject to occasional funding for large projects, this funding tends to be provided only once when annual funding requests are made for the annual federal budget, often covering immediate needs or addressing the most needed areas. Unfortunately, this is also the situation of other Canadian Courts, where at the one extreme, the Executive controls budgets entirely, or in the middle ground, the Courts set out their plans and return annually to request funds for the following year.

Recently, AI has seen tremendous advances, with some now capable of assisting in document preparation, case management, and legal research. Going forward, it may assist judges with tools ranging from document editing to simplifying the language in decisions to identifying prior decision-making tendencies.

During the three years of the COVID-19 pandemic (2020-2023), various Canadian courts permitted more flexibility in procedures, such as allowing electronic service, remote signature of affidavits, acceptance of digital filings, and virtual hearings. Courts made these changes through practice directions, policy guidance, or similar instruments to the profession and public that set out the practice changes. On occasion, individual judges issued their own orders.[102]

Most Canadian trial-instance and appellate courts are on their way to 21st-century solutions. They are either investigating – or have already procured – programs to support digital Court systems that incorporate the digital filing that is currently done piecemeal or ad hoc, such as service through stand-alone portals, email, or file-sharing services such as SharePoint.

The status of the Courts' technology has been outlined in the Chart in **Annex B** of this Report. (Note: links and information included in **Annex B** were current as of May 31, 2024, and in the interest of preserving the report as originally completed, have not been modified)

To very briefly summarize:

- The Supreme Court of Canada (SCC) broadcasts and archives all hearings on its website, as does the Cable Public Affairs Channel (CPAC) for select cases. Thus, the SCC's proceedings are easily accessible to anyone wishing to view the hearing. In terms of documents, the SCC has been a leader in its requirements for digital documentation, setting out requirements for the filing of electronic documents regarding mandatory specifications (size, resolution, PDF format, and optical character

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[101] Federal Court, "Strategic Plan" (2014-2019) online: <https://www.fct-cf.gc.ca/content/assets/pdf/base/Strategic%20Plan%20(Final%20for%20posting%20with%20COA%20and%20accessibility)%20English.pdf>.
[102] See, for instance, Order by Judge Stephen Alexander Vaden in the US, Order on Artificial Intelligence. (n.d.). United States Court of International Trade, online:
<https://www.cit.uscourts.gov/sites/cit/files/Order%20on%20Artificial%20Intelligence.pdf>.

recognition (OCR)), bookmarks, hyperlinking, malware scanning, etc.[103] Digital documents are filed through the SCC web portal.[104] Most facta for leave (if required) and appeals are also generally viewable to anyone and posted on the SCC website. However, the court still requires a significant amount of paper document filing.[105]

- The four Federal Courts (Federal Court of Appeal, Federal Court, Tax Court of Canada, and Court Martial Appeals Court) have revised their approach to a centralized case management system after starting a request for proposal process to hire an outside vendor. CAS is now using an incremental approach to update the legacy systems to create the functionality required for a more modern, data-based approach for its own Courts Records Management System (CRMS). They obtain guidance on processes through certain specialized external technology consultants and receive advice from both Shared Services Canada and the Treasury Board.

- British Colombia has innovated through its Civil Resolution Tribunal (CRT), which uses AI to provide basic legal information and assist with the case management process, culminating with the decision of the CRT adjudicator if the case is not settled. In the five years from 2016 to 2021, the Solutions Explorer software was applied 160,000 times with a median time to resolution of 59 days. The success rate of the CRT has been significant: as of August 2020, the CRT reported a total of 16,609 completed disputes, with only 3,020 of these disputes progressing to adjudication.[106] At the British Columbia Supreme Court, the Court hopes to have a fully online system. The Court has been using Thomson Reuters's Caselines for roughly five years on a case-by-case basis. The internal scheduling systems are the WebCAts system and the Supreme Court Scheduling System (SCSS) at the British Columbia Court of Appeal and the British Columbia Supreme Court, respectively.

- The Alberta Court of King's Bench (ABKB) advanced Justice Digital (JD) during the COVID-19 pandemic. The ABKB operates digitally in select areas, such as family law for divorces. Every record is kept as a paper record, and a drawback resulting from this is that only documents relevant to the court appearance are uploaded to the SharePoint folder. The ABKB hearings employ Webex for remote hearings. The Alberta Court of Appeal (ABCA) began work on its electronic platform, the Court of Appeal Management System (CAMS), approximately a decade ago. The first phase of CAMS focused on existing records, internal operations and preparation for the eventual transition to an official electronic court record. Effective August 31, 2020, the transition took place. Since then, counsel and parties file and access all ABCA documents electronically. The ABCA is preparing to introduce new features in CAMS such as electronic scheduling. The ABCA conducts single-judge chambers hearings and resolution conferences virtually using Webex.[107]

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[103] Supreme Court of Canada, "Guidelines for Preparing Documents to be filed with the Supreme Court of Canada (Print and Electronic)" (27 January 2021) online: <https://scc-csc.ca/parties/gl-ld2021-01-27-eng.aspx#E1a>. [*SCC Guidelines*]

[104] Supreme Court of Canada, "Electronic Filing Portal" (n.d.) online: <https://portal-portail.scc-csc.ca/eng>.

[105] *Ibid*; *SCC Guidelines, supra* note 103 at "Specific Requirements for Documents".

[106] Sourdin, *supra* note 11 at 96.

[107] Note that because it is discussed here, CAMS is not included in Annex B.2.

- Ontario's courts are using an outside supplier – having acquired Thomson Reuteurs's Caselines and C-track programs (in the case of the Ontario Court of Appeal) – for their file and hearing management systems. The Superior Court of Justice, in collaboration with the Ministry of the Attorney General, formed the Court's Digital Transformation Team (CDT) in 2023. The CDT is working towards an end-to-end digital transformation strategy to replace the current system with a public portal for e-filing, C-Track for scheduling and case management, and Caselines (eventually "Case Centre") for document sharing during and after hearings. This strategy will be rolled out in seven phases over seven years.
- Manitoba has also selected Thomson Reuters and is moving forward with digital processes.
- Québec is building its own system, named "Lexius," for all Courts located in the province after a large infusion of Québec government funds in 2018. The Superior Court of Quebec intends to launch a pilot project in Spring 2024 to explore the impacts on the judiciary of leveraging ChatGPT to increase efficiency.
- Certain Eastern provinces, such as New Brunswick and Newfoundland, are actively investigating how to advance their technology platforms for roles such as electronic filing, case management, and online dispute resolution.

Most of the Courts across the country use at least some components of the MS 365 Suite, and Federal Judicial Affairs is rolling out its Judicloud service in the summer of 2024, which provides access to the Cloud-based suite of software contained in that ecosystem for all federally-appointed justices (namely, Word, Excel, PowerPoint, Outlook, OneNote, OneDrive, and SharePoint.[108] Having up-to-date software available that is accessible from any device will be a huge advantage to judges' ability to work from anywhere, and better organize their files.

Ultimately, having better Court management systems for digital filing, scheduling, fee payment, and docket access online will make litigation far more manageable for all parties concerned. Canadian Courts recognize this and are working towards these objectives.

Online Dispute Resolution (ODR)

For litigators, legal work has traditionally been based on a conventional, physical court-based trial process. ODR, whether in the form of online courts, e-negotiation, or e-mediation, can be challenging for their business.[109] The defining feature of the current iteration of online courts is that judges hear arguments and evidence, make their decisions, and then communicate these determinations to the parties without setting foot in the courtroom.

There is an acknowledgment that AI could serve in an advisory capacity, particularly in ODR systems, augmenting rather than replacing human decision-making. However, as will be further explored in the next section on AI, jurists have cautioned against fully automated dispute resolution platforms, advocating for systems that bolster rather than eclipse human judgment.[110]

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[108] (Removed for Confidentiality Reasons).
[109] Richard Susskind, *Tomorrow's Lawyers: An Introduction to Your Future*, 3rd ed (Oxford: Oxford University Press, 2023) at 74.
[110] Sourdin, *supra* note 11 at 245-246.

Richard Susskind observes that the future is likely to include asynchronous approaches, which means the judge and the parties will not need to be available at the same time.[111] Online judging can be introduced and conducted through a simplified version of current processes where a simplified version of traditional rules would be used to streamline pleadings, arguments, and the introduction of motions.[112] Professor Susskind has always been realistic, positing that the first iteration of online courts will be devoted to the lower courts with potentially landmark cases being heard in the traditional environment.[113]

That certainly has been the experience so far in Canada, where online justice has been limited to tribunals such as the BC Civil Claims Tribunal. However, the Nova Scotia Supreme Court, led by Justice Jim Williams of the Family Court Division in Halifax, led Canada's first online justice program at a Canadian Superior Court.[114] The eCourt Pilot Program (NS eCourt) has had only moderate take-up, perhaps because it was launched before COVID-19.

NS eCourt is designed to serve as an asynchronous model of justice for less likely because it was ahead of its time – it consists of a platform to host. Justice Williams published a very insightful paper on the program that set up and led the Supreme Court of Nova Scotia.[115]

In short, the NS eCourt platform is "Judge-centric," whose consent to the process is required alongside the parties. The judge manages the process including the issues to be dealt with, the nature, content, and length of affidavits or other material to be filed. All materials are e-filed, such that all material, including any exchanges between the parties and the Court over the system, are captured. The system allows a judge to have a private chat with individual parties thus allowing caucusing in a settlement conference process.

There is no video involved with NS eCourt: Communication is typed, and everything is stored in the system and available to the parties online. The pilot was designed to address discrete family law disputes, applications and conferences, of which there are many types (over 70) that lend themselves to expeditious resolution, including case conferences, settlement conferences and hearings concerning specific issues such as parental permission for children's activities and travel, orders for assessment, costs, disclosure, termination of child support, substituted service, and ex-parte motions. The NS eCourt has received support from amongst other organizations, the Action Committee.[116]

The Federal Court has followed the lead of the Nova Scotia online program, launching its own Simplified Judicial Review Pilot (FC Pilot) in September 2024. This pilot is modelled on an ODR, asynchronous concept of delivering justice. The Federal Court's Strategic Plan (2020-2025)

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[111] Richard Susskind, *Online Courts and the Future of Justice* (Oxford: Oxford University Press, 2021) at 143.
[112] *Ibid* at 145.
[113] *Ibid* at 148.
[114] See Online Dispute Resolution for Family Legal Matters a First in Canada | Government of Nova Scotia News Releases.
[115] James Williams, "Taking a Shot: Access to Justice, Judging and eCourt" (2021) 59:2 Fam Ct Rev 278.
[116] See, for instance, Office of the Commissioner for Federal Judicial Affairs Canada - Action Committee on COVID-19 (fja.gc.ca) at s 7.

included the delivery of online justice. This concept underlines our Pilot, described in user case #2 below.

While it does not have the technology platform capabilities underlying the Nova Scotia system, that program and Justice William's concepts served as a primary inspiration behind the FC Pilot. Please see the FC Pilot described in Use-Case 1 below, including further detail as to how the concept of online justice will be implemented at our Court, and the various benefits that it is expected to bring to both the bench and bar (see also documents describing the FC Pilot description at Annex L to this Report).

While ODR is certainly one vehicle contemplating a more streamlined delivery of justice for the future, the more immediate technological and process change that will likely occur in our Courts is the recent explosion in the advancement of AI. Although the Canadian courts are not yet using AI in any significant way, it holds the potential to be a game-changer in the delivery of judicial services.

Part IV: Artificial Intelligence

AI is increasingly becoming embedded in the legal profession, much like it is in our daily lives through online shopping, entertainment streaming, and smart homes. Legal professionals are turning to specialized AI services for tasks like legal research (Harvey, Alexa), law firm management (Clio, Latch), writing assistance (Grammarly, Co-Counsel), contract review (Spellbook, Kira), and predictive analytics (Lex Machina, Blue J Legal). A mapping of companies in the legal AI landscape is provided in Annex M.6 of this report.

One notable example is Harvey, which has partnered with PwC to offer AI-based legal solutions. Harvey assists in areas such as contract analysis, regulatory compliance, claims management, and due diligence.[117] Considering the breadth of data accessible to AI systems compared to human counterparts, there is merit in soliciting AI-generated insights alongside human expertise. Clients engaged in litigation, for instance, may value AI assessments of their case prospects, as a supplementary perspective to complement legal counsel's opinion. By leveraging AI's extensive data analysis capabilities, practitioners can enrich their advisory services and foster informed decision-making processes.[118]

Regulation of AI in the Legal Profession

The increasing relevance of AI in the workplace raises questions about its necessity in professional duties. In legal practice, for example, can practitioners demonstrate reasonable skill, care, and diligence without using AI tools that offer superior efficiency and cost-effectiveness? Ignoring technological innovations can compromise justice and undermine its accessibility.

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[117] Ryan Staton, "PwC Announces Strategic Alliance with Harvey, Positioning PwC's Legal Business Solutions at the Forefront of Legal Generative AI" (15 March 2023) online: <https://www.pwc.com/gx/en/news-room/press-releases/2023/pwc-announces-strategic-alliance-with-harvey-positioning-pwcs-legal-business-solutions-at-the-forefront-of-legal-generative-ai.html>.
[118] Sir Geoffrey Vos, "AI – Transforming the Work of Lawyers and Judges" (Keynote Speech delivered at the AI Conference 2024: Transforming the Legal Landscape, 8 March 2024), online: <https://www.judiciary.uk/speech-by-the-master-of-the-rolls-ai-transforming-the-work-of-lawyers-and-judges/>.

Emerging AI tools will assist lawyers in day-to-day tasks, from drafting contracts to conducting comprehensive e-discovery to litigation assistance, from helping to prepare questions for examinations to spotting legal issues that may have been overlooked.[119]

Of course, until now, there has been a void in both the regulation of and guidance for using AI. Recently, law societies have stepped into the breach of at least the latter. Over the past six months, they have begun to issue guidance regarding AI use. To date, the following regulators have published guidance to the profession:

- BC (October 2023): https://www.lawsociety.bc.ca/Website/media/Shared/docs/practice/resources/Professional-responsibility-and-AI.pdf
- Alberta (January 2024): https://www.lawsociety.ab.ca/resource-centre/key-resources/professional-conduct/the-generative-ai-playbook/
- Saskatchewan (Updated February 2024): https://www.lawsociety.sk.ca/wp-content/uploads/Law-Society-of-Saskatchewan-Generative-Artificial-Intelligence-Guidelines.pdf
- Manitoba (April 2024): https://lawsociety.mb.ca/generative-artificial-intelligence-ai-guidelines/
- Ontario (April 2024): https://lso.ca/lawyers/technology-resource-centre/practice-resources-and-supports/using-technology#articles-3--6

These guidelines promote the responsible and ethical use of AI by lawyers and will also be crucial tools in governing litigation before the Courts going forward.

The Importance of AI Education

The increasing relevance of AI in the workplace raises pertinent questions regarding the necessity of its utilization for professional duties. For instance, in legal practice and other service industries, a rhetorical inquiry arises: can practitioners demonstrate reasonable skill, care, and diligence in safeguarding their clients' interests without leveraging available AI tools that offer superior efficiency and cost-effectiveness?[120]

Failing to embrace technological innovations compromises the pursuit of justice and undermines its accessibility. Therefore, it is incumbent upon legal practitioners and judges to integrate new technologies into their practices for the benefit of those they serve.[121] Consistent with the new law society guidance, legal practitioners must educate themselves before integrating this new technology into their practices.

AI's broad data access offers valuable insights that can complement human expertise. For example, litigation clients may value AI assessments of their case prospects as a supplement to counsel's opinion. By leveraging AI's capabilities, practitioners will be able to enhance their advisory

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[119] See, for instance, "McCarthy Tétrault experiments with AI tools expected to reshape how law firms operate", Robin Doolittle, Globe and Mail, March 3, 2024
[120] Vos, *supra* note 118.
[121] *Ibid*.

services and support informed professional advice. As Justice Whitten of the Ontario Superior Court stated over five years ago:

> There was no need for outsider or third-party research. If artificial intelligence sources were employed, no doubt counsel's preparation time would have been significantly reduced.[122]

Considering the breadth of data accessible to AI systems compared to human counterparts, there is merit in soliciting AI-generated insights alongside human expertise. Clients engaged in litigation, for instance, may value AI assessments of their case prospects as a supplementary perspective to complement legal counsel's opinion. By leveraging AI's extensive data analysis capabilities, practitioners can enrich their advisory services and foster informed decision-making processes.[123]

Concerns about the use of AI

The integration of AI into the legal profession raises several concerns. Key among these are the reliability of AI-generated information, the potential for unintentional biases, and the security of data. These concerns apply to lawyers, judges, and, indeed, all decision-makers.

Ultimately, society will have to confront the broader ethical issue of AI replacing human judgment in rendering decisions. At present, this is limited to a few tribunals and administrative decision-making, along with commercial sites (such as eBay), but it will certainly become a broader question in years to come.

The Judiciary and AI Globally

In the discourse surrounding judicial functions and AI, there is a burgeoning debate about its future role in the judiciary and its impact on access to justice. Beginning with AI's potential to transform the judiciary, researchers posit that within the next half-century, there is a significant probability that AI will surpass human capability in all tasks, including those currently performed by judges.

The jury is still very much out regarding the benefits of AI to Courts in terms of actual experience using AI. There simply is very limited precedent. (Removed for Confidentiality Reasons)

Academic studies consulted in research for this Report (see listing in the References section below) highlighted a number of influences on the outcomes of court adjudications, including legal representation, the resources at a litigant's disposal, and the efficacy of decision-making frameworks grounded in rights-based principles as pivotal determinants of judicial outcomes.

However, a spectrum of factors has been acknowledged for their potential sway in adjudicative decision-making and external impacts on judges. These include, but are not limited to, variables as seemingly extraneous as the judge's nutrition and meal timing, the period of the day, the volume of decisions already rendered (decision fatigue), and more intrinsic elements such as personal convictions, subconscious biases, reliance on intuition, the physical appearance of the involved

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[122] *Cass v 1410088 Ontario Inc.*, 2018 ONSC 6959 at para 34.
[123] *Ibid.*

parties, and emotional states.[124] The authors observe that AI has the potential to help mitigate and even out some of these factors that can impact decisions.

That said, jurists have a consensus on the human element's indispensable nature in justice delivery. Justice See Ki Moon of the Supreme Court of Singapore and former High Court Justice Michael Kirby of Australia have both emphasized that while technology enhances efficiency, human experience, empathy, and moral reasoning are crucial to justice. They argue that technology, including decision-support systems like sophisticated chatbots, can aid in procedural advice and preparation, but cannot supplant the nuanced human aspects of judging.[125]

Scholars have also expressed skepticism regarding an AI judge's ability to emulate the imaginative and moral faculties intrinsic to the human judiciary. They argue that adjudication extends beyond mechanical rule-following to embodying the community's ethical framework. In "Overcoming Law," Judge Richard A. Posner reflects on the creative dimension of legal judgment, contending that even with comprehensive case law data, the novel adjudication of unprecedented cases remains a challenge for AI.[126]

Former CJ Allsop of the AusFC stresses that courts are fundamentally human institutions, where emotional intelligence and dignity are paramount. They concede, however, that future technological advancements may lead to AI capable of recognizing and responding to human emotion.[127]

AI's potential to democratize access to legal information is significant, especially for those unable to afford legal representation. It can facilitate access to forms, legal procedures, and basic guidance, reducing barriers to justice. However, the nuanced nature of legal determinations – where subtleties such as a defendant's demeanour are pivotal – suggests that machines cannot wholly supplant the human actors in our courts.[128]

While AI's ascension in the legal realm is inevitable and beneficial, the multifaceted roles of judges and the intrinsic human qualities they bring to the administration of justice highlight the limitations of AI. This evolving relationship between technology and the judiciary demands careful consideration to balance increased access to justice with the preservation of the legal system's human core.[129]

Part V: Recommendations and Case Studies

Court File

1. Move from a paper file to a fully digital court file.
2. Modernize the Court's case management system (CMS) to facilitate ECF flow.

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[124] Sourdin, *supra* note 11 at 55-56.
[125] *Ibid* at 24.
[126] *Ibid* at 243.
[127] *Ibid* at 249.
[128] *Ibid* at 6.
[129] Amy Howe, "AI Won't Displace Human Judges, but Will Affect Judiciary, Roberts Says in Annual Report," SCOTUSblog (31 December 2023), online: <https://www.scotusblog.com/2023/12/ai-wont-displace-human-judges-but-will-affect-judiciary-roberts-says-in-annual-report/>.

3. A 360° approach should be used to incorporate feedback from all system users.
4. The CMS should be a single, start-to-finish case and file management system.
5. Use directives to the profession to nimbly introduce technology-based changes (e.g. digital court file, OCR formatting, PDF format, tabbing, working hyperlinks). Ensure judges are fully aware of the changes and require parties to adhere to their requirements.
6. Look to Court rules that permit flexible procedures to facilitate change.

Court's Case Management System

7. Use automation to reduce unnecessary touchpoints and reduce strain on the Registry.
8. Where possible, consider lessons learned from other jurisdictions and courts; work together with other similarly situated Courts (by geography or jurisdiction) to realize economies of scale and scope in procuring and adopting systems for the judiciary.
9. Consult stakeholders, including judges, Registry, and users, regarding changes to system design.

IT Staffing

10. Use internal/contracted IT resources to build, maintain, and modify systems.
11. Consider hiring outside IT experts with fresh expertise and ideas from the private sector.

IT Training and Continuing Education

12. Train Registry and Court personnel in advance of any system implementation. Adopt change management methodology to increase buy-in and use. Ensure that judges are aware of NJI resources including on-demand CLE and technology webinars (e.g. on AI), and one-on-one technology training, along with the annual "Judging Better, Judging Smarter" conference of which technology and AI are large components.
13. Post training videos or link to resources for the public on the Court's website or YouTube etc.
14. Ensure that technology resources are readily available and easily accessible for judges and Court staff. Take full advantage of Judicloud and MS365 functionality, including the technical assistance offered by FJA and training opportunities offered by NJI.

Transparency in communications

15. Communicate key Court directions, decisions, and initiatives clearly and transparently using plain language.
16. Social media, such as YouTube or LinkedIn, can be used to reach new and broader audiences.
17. Set up a channel using a streaming platform to broadcast hearings, beginning with those of broad public interest.

IT Integrity and Data Security

18. Develop a strategy for public feedback and misinformation (including trolls and spam).
19. Develop a strong cybersecurity plan to prevent hacking and interference (e.g. passwords/authentication).

20. Ensure there is contingency/emergency IT planning in place in the event of a system failure, ransomware or other cyber attack.
21. Implement recommendations and heed best practices from the Blueprint for the Security of Court Information (CJC, 7th edition published April 2024).
22. Have regard to the other CJC technology policies, all posted on the CJC website

Access to Justice

23. Establish simplified processes for self-represented litigants and non-complex matters.
24. Increase access to justice through information and links on the Court's website.
25. Create mechanisms for online dispute resolution where oral hearings are unnecessary.
26. Incorporate accessibility (e.g. subtitles) into IT projects.

Artificial Intelligence

27. Courts should be proactive by publishing AI guidelines. For Courts that have not already done so, look to the CJC policy guidance that will be published later in 2024.
28. Deploy AI to assist with translation, editing, research, and similar administrative tasks.
29. Ensure human oversight ("human in the loop") to validate and cross-check any AI use.
30. Do not use AI to determine the outcomes of cases.

Next Steps: Implementation of Recommendations at Canada's Federal Court

My study leave provided a unique opportunity to investigate, in a more profound way, the areas outlined in my Proposal (see **Annex A**).

The areas of focus outlined in the Proposal corresponded to various initiatives that I had commenced in my role as Chair of the Federal Court's Technology Committee and previously Chair of the Immigration Liaison Committee (Bench and Bar). In the latter role, I led various initiatives to improve processes or streamline procedures in immigration (IMM) files.

Therefore, I saw the study leave as a unique opportunity to pursue opportunities in technology that could assist the Court in improving processes. Not surprisingly, this would serve the secondary role of helping to meet the objectives of the *2020-2025 Strategic Plan* (Strategic Plan) and promoting greater access to justice.

One of the significant challenges facing the Federal Court at this time is the record number of IMM cases that continue to be filed. Whereas the Court averaged between approximately 5000 and 8000 in the years before COVID-19, in 2022 and 2023, those filings then grew to 13500 and 16500, respectively. In 2024, these filings are on track to increase to approximately 24000 judicial review applications.[130]

With these considerations in mind, I took the opportunity to pursue the following five projects throughout my study, all relating to the objectives outlined in my Proposal. Each of them will

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[130] See *Applications for Leave and Judicial Review at Canada's Federal Court*, Annex L.5

streamline aspects of the administration of justice and the litigation process and procedures, address current challenges in Court operations, improve access to justice, and educate members of the Court, its Registry, and users. Each of the five initiatives outlined below also aligns with the many of the 30 Recommendations I have set out in the latter part of this Report. They are:

1. The Simplified Judicial Review Pilot
2. The Online Dispute Resolution Pilot
3. AI Guidelines
4. Technology Education
5. Intercourt Technology Coordination

When implemented, they will assist in moving the Court forward in its stated objectives per the Federal Court's 2020-2025 Strategic Plan.

1. Simplified Judicial Review Pilot

Overview: In conjunction with leading lawyers from the government and private bar in the relevant area, I struck a working group to explore the viability of a simplified judicial review (JR) pilot in non-complex immigration law filings, namely study permits, which would lend themselves to a simplified process.

The project's initial phase involves a new JR process, modified from the standard process contemplated by the *Federal Courts Citizenship, Immigration, and Refugee Protection Rules* (SOR/93-22). The procedure would be introduced pursuant to Rules 3 and 55 of the *Federal Courts Rules* (SOR/98-106).

Please see Annex L to this report for a complete description of the process contemplated and how it would simplify the current process to eliminate unnecessarily lengthy submissions and certain other documents submitted with standard JRs. Ultimately, should the simplified process prove successful in its initial focus on study permits, it would be further streamlined by housing it within a digital framework and online platform. It is also scalable to other areas of immigration law.

Objectives:

Part B of the *Strategic Plan*, entitled Proportionality, includes the following statement:

> Over the 2020-2025 timeframe, the Court will prioritize achieving greater Proportionality between what is at stake in legal disputes and the extent of Court resources allocated to resolving those disputes. To this end, the Court is working with the Federal Courts Rules Committee to finalize amendments to the Federal Courts Rules that would enshrine Proportionality as a substantive principle in Rule 3 of the Rules. That provision requires the Rules to "be interpreted and applied to secure the just, most expeditious and least expensive determination of every proceeding on its merits."

> More generally, the Court will continue proactively seeking new ways to streamline increase the efficiency of its proceedings, particularly its pre-hearing and hearing phases.

A simplified JR process, which dispenses with the need for a hearing and pares down the submissions, certainly meets the stated proportionality objectives articulated in the *Strategic Plan*. Unnecessary paperwork and hearings create more work for both parties, the Court and the Registry.

Specifically, this simplified JR model would save CAS and the Federal Court's judicial officers' significant time. Given the reduced number of steps, significantly shorter submissions, and elimination of the need for a hearing, it would result in a more economical procedural model. These economies would ultimately save legal costs for both sides – usually the immigrant applicant and the government (as represented by the Department of Justice) – resulting in increased access to justice, not only due to reduced costs of litigation, but also due to quicker student outcomes. An application in the Pilot stream would average approximately 5 months, as opposed to 20-24 months in the regular JR stream. This would mean, for instance, that students, who applied to the Court in September, could get their outcome well in advance of the beginning of the new school year.

Requirements: Only straightforward, non-complex study permits would be eligible to be included in the pilot. It is an opt-in program, so participation would be optional and at the choice of counsel for eligible files. To be included in the pilot, counsel must file all material digitally. Counsel on both sides would also consent to the one-step, simplified process, namely that the leave and merits would be decided in one step, all based on the written record, forgoing an oral hearing.

Program roll-out: Phase I of the Pilot, as described above, would include non-complex study permit applications, of which the Federal Court received over 2000 ALJRs in 2023 and expects to receive a large number once again in the current year.

Phase II would be expanded to include mandamus applications, which have grown significantly over the past few years.

Phases I and II would both involve an assessment of project success before expanding the pilot nationally – which would constitute Phase III, namely the full implementation of the pilot across the Court.

This Pilot roll-out is based on the model used to implement the Settlement Pilot, a project developed through our Immigration Liaison Committee in 2017-2019. The Settlement Pilot has now become a national program. It is hoped that the simplified JR pilot will also become a national program that will assist the Court in handling the quickly growing volume of immigration cases.

Once the pilot is up and running and tested, we will look to implement the technology that will allow it to be deployed in a more automated and efficient manner – through an online dispute resolution tool described below.

Recommendations addressed by this initiative:

1, 3, 4, 5, 6, 15, 16, 23, 24, 25,

2. Online Dispute Resolution Pilot

The simplified JR project was always contemplated to be delivered electronically through an online dispute resolution (ODR) project.

Overview: An ODR Project would assist in streamlining high-volume, straightforward cases, which share many commonalities. Once again, the two most apparent varieties of ALJRs are those in the immigration field concerning study permits and mandamus applications. However, they could easily be expanded to other government programs conferring benefits in social services or grants, such as those arising in social security contexts or ongoing challenges of decisions relating to the Canada Emergency Response Benefit (CERB) program.

The parameters, including the technological requirements of the ODR component, were determined through meetings with the Cyberjustice Laboratory in Montréal, facilitated by Prof. Nicolas Vermeys of the Université de Montréal. Cyberjustice's software, ParlE, supports several tribunals and one Provincial Court in certain online decision-making through the lab's ParlE platform. The Proposal is for the Court to use ParlE as a platform to house our ODR Project.

However, given the current pressures on CAS and competing priorities, the ODR Project must await sufficient capacity before being tested. In any event, as described in the Simplified JR Pilot above, it must be tested and prove successful before moving to the second phase of online delivery.

Objectives: Part I.A.vii of the 2020-2025 Strategic Plan states as follows:

> **(vii) Online resolution for certain types of proceedings**
>
> In recent years, other courts and tribunals in Canada and abroad have increasingly embraced online approaches to resolving legal disputes to reduce the time and costs associated with certain types of disputes. For example, the Civil Resolution Tribunal in British Columbia uses online dispute resolution to resolve small claims up to $5,000, motor vehicle injury disputes up to $50,000, condominium disputes of any amount, disputes involving societies that are registered with the British Columbia Corporate Registry, and disputes involving housing and community service cooperative associations. In Nova Scotia, parties to uncontested divorces can obtain their divorces online. Throughout the 2020-2025 timeframe, the Court will actively explore whether and to what extent interactive online tools can be utilized to facilitate access to justice.

Requirements: We would need to be satisfied that all security, privacy, and any other vulnerabilities were addressed before we could set up an online docket based on what is contemplated above. Our initial discussions with the Laboratory showed great promise, given the security and firewalls already used by the other tribunals that use it and the Azure cloud platform that is used to host it, which is consistent with the Microsoft software that CAS licenses and uses for the four national courts that it supports.

In terms of substantive requirements, the ODR program contemplated would house the contents of the simplified pilot above; namely, only straightforward, non-complex studies would be eligible

to be included in the pilot. It is premised on the same construct as the Simplified JR Pilot – an opt-in program, such that participation would be optional and at the choice of counsel for eligible files.

All material would need to be digitized and filed electronically over the platform. All communications with the Court would be recorded on the electronic docket. If no resolution was reached before the leave and merits consideration, the judge would make the final decision without a hearing and communicate it over the ODR platform.

Hence, this program meets many of the recommendations in this report. It would comprise its case management system within the ParlE/ODR ecosystem: the bulk of the file would start and end on the platform, with all documents filed. All communications exchanged are posted to and housed within the platform's electronic docket. This would include placing less strain on the resources of the Court and Registry. Cyberjustice, in its meetings with me, advised that those who had used their online system had significant savings due to the technology's automation and other time-saving elements.

Program rollout: Our initial discussions with the Laboratory showed great promise, given the security and firewalls already used by the other tribunals that use it and the Azure cloud platform that hosts it. This is consistent with the Microsoft software that CAS licenses and uses for the four national courts that it supports. Users would be consulted to ensure that their needs were addressed.

Approvals: The ODR platform offered by Cyberjustice would have to pass the requisite security and related IT screening before being offered by the Court to parties. As noted above, the platform has already been tried and tested by other tribunals and meets the Protected B security level for sensitive government information and assets (Azure meets B status – see Canada Protected B— Azure Compliance | Microsoft Learn).

Recommendations addressed by this initiative:

1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 23, 24, 25

3. AI Guidelines

Overview: After some delay, an initial draft of AI guidelines was drafted in the Spring of 2022 along with input from Dr. Martin Felsky and members of the technology committee. The Court decided not to release these immediately, but rather to watch the quickly developing area as it applied to the justice system.

The Court decided to move forward in consulting on its guidelines in the Fall of 2023, which worked well in terms of my study leave research, as described above in this report. Noting a continuing absence of AI regulation in Canada requiring any action when using AI tools – whether in the legal profession or beyond - the resulting Guidelines of December 20, 2023, went further than many of our counterpart Courts in Canada and worldwide in two respects.

First, we issued guidelines for both parties and lawyers of AI in their submissions to the Court. We stated that generative AI should be disclosed if it had been used for that purpose.

Second, we issued guidance on the Court's potential future use of AI and the steps that would need to be taken before any such use took place – by either the Court as an institution or by its individual judges in their own work.

While some courts had adopted statements warning about the dangers of AI, including and bias and the need to maintaining a human in the loop, the Federal Court went a step farther in its policy, requiring parties to comply with the said guidelines.

Objectives: The 2020-25 Strategic Plan states the following regarding AI:

> **(viii) Potential use of AI**
>
> An additional tool that the Court will explore using is A.I. At this point, A.I. is not being considered to assist with the adjudication of contested disputes. Instead, the Court is exploring how AI may assist it in streamlining specific processes (e.g., the completion of online "smart forms") and may be a potential aid in mediation and other alternative dispute resolution.

The strategic plan was drafted before the pandemic. There has been immense change in our understanding and the ability of AI since that document was written.

Our primary objectives with the first Dec 2023 Notice ([to the Parties and the Profession](#)) is to alert opposing counsel, or the other side, as to the use of generative AI in documentation prepared for the Court in the course of litigation, as well as cautions regarding potential risks of using AI. The Court's notice, entitled "Interim Principles and Guidelines on the Court's Use of Artificial Intelligence," announces that the Court will not use AI or any automated decision-making tools in making its judgements and orders without first engaging in public consultations.

Indeed, ours was not meant to be the last word on the subject, noting the incredible pace of change in this technology, but rather to start the conversation and have all stakeholders thinking about the pros and cons of using this promising technology. The Federal Court's two policies are consistent with cautions in the jurisprudence, as well as encouragement to use AI, such as seen in the speeches of leaders in the international judiciary such as CJs Wagner of Canada, Roberts of SCOTUS, Menon of Singapore and Master of the Rolls Vos in the UK.[131] See Annex M.7 for a list of some of the prominent cases addressing the use of AI

Likewise, education was a key objective, consistent with our other efforts to guide members of the public and the bar. I have both led educational sessions on AI and also talked about it in sessions, to law students, lawyers and to judges, both in Australia and during the first (research) phase of my study leave, as well as the concluding months spent back in Canada (see Annex J).

Requirements: Parties must inform the Court and each other, through a declaration, if they've used generative AI to prepare documents filed with the Court for litigation. The notice is not

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[131] Angelica Dino, "SCC Chief Justice Richard Wagner Holds Virtual Meeting with Japan's Chief Justice," Canadian Lawyer (7 February 2023), online: <https://www.canadianlawyermag.com/news/general/scc-chief-justice-richard-wagner-holds-virtual-meeting-with-japans-chief-justice/373507>; Howe, *supra* note 129; Menon, *supra* note 6.

intended for non-generative AI uses such as system automation, voice recognition, and document editing.

The notice also warns about the concerns of using AI more broadly, such as deepfakes and decision-making by AI. It urges caution when using it to avoid hallucinations and always having a "human in the loop" to ensure that any material generated by AI is accurate.

Seven fundamental principles will guide the court's future use of AI.

1. **Accountability:** The Court will be fully accountable to the public for any potential use of AI in its decision-making function;
2. **Respect of fundamental rights:** The Court will ensure its uses of AI do not undermine judicial independence, access to justice, or fundamental rights, such as the right to a fair hearing before an impartial decision-maker;
3. **Non-discrimination:** The Court will ensure that its use of AI does not reproduce or aggravate discrimination;
4. **Accuracy:** For any processing of judicial decisions and data for purely administrative purposes, the Court will use certified or verified sources and data;
5. **Transparency:** The Court will authorize external audits of any AI-assisted data processing methods that it embraces;
6. **Cybersecurity:** The Court will store and manage its data in a secure technological environment that protects the confidentiality, privacy, provenance, and purpose of the data managed; and,
7. **"Human in the loop":** The Court will ensure that members and their law clerks are aware of the need to verify the results of any AI-generated outputs that they may be inclined to use in their work.

Program rollout: The Court published the guidance on December 20, 2023, for both the public and profession, and used by the Court (in two different Notices). Just as it consulted interested parties in drafting the Notices, the Court seeks feedback from stakeholders for future iterations of the guidance and any use within the court context. In keeping with these consultation efforts, and heeding general feedback, our Court issued revised guidance on May 7, 2024. That process has been outlined in the slide deck contained at Annex L.1.

Recommendations addressed by this initiative:

5, 15, 16, 21, 22, 23, 27, 28, 29, 30

4. Technology Education for Judges and Court Staff

Overview: It is key for judges to become familiar with technology, not only to use authorized platforms effectively and navigate efficiently around digital files but also to understand basic concepts about the broader use of technology and social media in society. It is essential for Courts to internally educate their members and support staff who work on the technology and, at

minimum, to be clear to the external users of their portals, case management systems, digital files and virtual hearing platforms as to the rules and requirements.

Objectives: To provide easy access to transparent, internal, and external technology guidance.

Requirements: The *Ethical Principles for Judges*, published in 2021, highlights the importance of education concerning technology and the surrounding social context.[132]

> **3.C.3** Judges are responsible for maintaining and enhancing their knowledge, skills and personal qualities necessary for effective judging. This essential element of judicial diligence and competence involves participation in continuing professional development.
>
> **3.C.4** Professional development describes formal and informal learning activities, including education, training and private study. It also covers education on social context issues affecting the administration of justice.
>
> …
>
> **3.C.5** Judges should develop and maintain proficiency with technology relevant to the nature and performance of their judicial duties.
>
> (My emphasis)

Similarly, law societies impose an ethical obligation on their members to keep abreast of these areas. To take one example within Canada, the *Rules of Professional Conduct* of the Law Society of Ontario ("LSO"):

> [4] In some circumstances, expertise in a particular field of law may be required; often, the necessary degree of proficiency will be that of the general practitioner.
>
> > [4A] To maintain the required level of competence, a lawyer should develop an understanding of and ability to use technology relevant to the nature and area of the lawyer's practice and responsibilities. A lawyer should understand the benefits and risks associated with relevant technology, recognizing the lawyer's duty to protect confidential information set out in section 3.3. (My emphasis; Note that Section 3.3 of the LSO Rules of Professional Conduct addresses the duty of confidentiality and when disclosure is justified or permitted).

Program rollout: I organized a series of short educational videos on key software for members of the Court and CAS with Ricky Miles, one of the technology trainers who consults with FJA and NJI. We filmed sessions on Outlook, PDF, and Word, specifically in the context of our licensed software, focusing on shortcuts and other timesavers that judges might not know about.

For instance, we use Nuance's PDF exchange software, which might not be familiar to users otherwise. Even on software more familiar to users, such as Outlook or Word, studies have shown that average users are unaware of the vast majority of their programs' functionality. Hence, we

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[132] Canadian Judicial Council, Ethical Principles for Judges (2021), Canadian Judicial Council,
2021 CanLIIDocs 2336, <https://canlii.ca/t/tcmp>.

still received positive feedback from the training session from more experienced users and technophiles.

For internal use, we store our technology training on what we call the Tech Corner on teams. As mentioned, it is available to any judicial officer of the Federal Courts and all CAS employees.

For external users, we store our technology training on our website, entitled E-filing Resources, which you can find [here](). These include continuing professional development (CPD) accreditation from various law societies. We had a significant viewership of the educational initial offerings at the onset of the pandemic, which provided instruction on how to format documents electronically, how to use the court portal for e-filing, and other tips on a digital court file.

The Court also provides individual training to parties using its e-File toolkit, a database used for trials that warehouse all evidence filed and marked exhibits. The e-filing toolkit is created in FileMaker Pro software, benefiting the parties and the Court.

Recommendations addressed by this initiative:

1, 3, 5, 11, 12, 13, 14, 18

5. Intercourt Technology Coordination

Overview: Much stands to be gained through joint technology initiatives of the judiciary, as opposed to related organizations working in separate silos, particularly due to the specialized nature of court business and concerns unique to the judiciary as one of the three branches of government. Among them is its independence, which must always be carefully guarded as a pillar of democracy and the rule of law.

Objectives: Given the scope and scale of technology projects, and in light of the way that technology has historically lagged in the legal profession and particularly within the judicial sector, it is vital to not only address common concerns together but, equally importantly, to think about technological innovation and solutions together. Where increased scale and scope are possible, it makes sense to move forward in a unified manner for multiple reasons rather than proceeding in different directions.

Requirements: The federal Courts administered by CAS should do their best to speak with one voice to CAS' IT department, develop typical architecture and governance, and procure software and systems where commonalities apply, whether those be for a standard case management system, storage of data (over the cloud or otherwise), and software that can be licensed across Courts. Ultimately, any AI that may be considered by the Courts to improve operations and support judges in their decision-making (but not make decisions, as the December 23, 2023, Court Notice articulates),

Program rollout: CAS organizes a meeting with the Courts 2-3 times a year, known as IM/IT or colloquially as the Four Courts technology meetings. These meetings generally raise hardware and courtroom-related issues, such as equipping the Courthouses across Canada used by the Courts for hybrid and electronic trials, ensuring the audio and visual equipment in the Courtroom works well, and ensuring the availability of wireless across courtrooms. More recently, the Committee

considered the potential use of the cloud and Microsoft 365 from the perspective of independence from the judiciary.

As Chair of the Committee, I saw an opportunity to expand the cooperation from the judges' perspectives by forming one technology committee rather than having the individual courts do so (or not) and drafting Terms of Reference to incorporate the three Courts.

As a result, the three Courts housed at 90 Sparks Street (FCA, CMAC and FC) participated together, on a trial basis, on February 16, 2024. If the concept works and we decide to finalize the Terms of Reference, we will invite the TCC to join us later in 2024.

Approvals: The Draft Terms of Reference await finalization, and the FCA and CMAC must still approve the joint approach before we move forward. However, the indications to date and given at that meeting have been that a joint effort makes sense and should be pursued.

Recommendations addressed by this initiative:

1, 2, 3, 7, 8, 9, 18, 20, 21, 22

Conclusion

The AusFC serves as a model to the world in its forward-thinking use of technology, digitization and user-experience. Its methodology of change management produced enviable results of user satisfaction, both within the Court and externally. Judges quickly saw how useful it was to have files accessible at any time from anywhere, without paper going missing. Many of its judges and users, given the pre-COVID time when the Court implemented change, were skeptical.

Everyone is now all-in: the judiciary, the profession, and SRLs. Large numbers of viewers regularly tune into cases of public interest streamed over the Court's YouTube channel. Former CJ James Allsop and the CEO Warwick Soden of the Court both had direct hands in this vision and leadership, and now CJ Mortimer and CEO Lagos continue to move forward on the technological path that can always be improved, refined, and even repaved. They instill confidence in their judges, the lawyers and litigants who use the Courts, and their support teams including IT who are eager to assist all stakeholders in the continual improvement of their systems, through new releases such as CourtPath this year.

Ultimately, the public's confidence in the administration of and access to justice increased through Australia's adoption and use of technology. Other jurisdictions discussed also used technology to improve the administration of justice and user experience, as demonstrated through the select examples provided in this Report – none to a greater extent than Singapore's judiciary, which continues to also be a global leader in the use of technology, (Removed for Confidentiality Reasons). Given the demands on the Courts worldwide, and the way that the world is moving, other Courts have no choice but to start adopting AI policies and transparently tell the public when and how they are deploying AI, both with respect to their judicial officers and court administrations.

Finally, the Report demonstrates how baby steps – even without the leaps forward that judiciaries such as Australia and Singapore have made – can achieve salutary benefits for Court users, and start down the path to improved experiences both inside the Courtrooms and for the public. If the Courts are going to remain relevant and not become bogged down with backlogs and delays in the administration of justice, they have to be transparent so that Justice is not only done but seen to be done. Courts must continue to use the channels that the citizenry has adopted in informing themselves, which are more available and accessible than ever, from video platforms to social media to websites. The Supreme Court and the work of CJC Wagner is a wonderful example to the world of how transparency and simplicity in communication can improve the public's perception of our branch of government, and maintain the high levels of public confidence in the judiciary, even – and especially - in the trying, transformative times in which we find ourselves looking forward in 2024.

Acknowledgements

This Report would not have been possible without the support of several people and stakeholders, whom I wish to acknowledge and thank. First, I am grateful to the Canadian Judicial Council (CJC) for approving and supporting my Study Leave Proposal (see **Annex A**), of which this Report is the product, as well as the Canadian Institute for the Administration of Justice (CIAJ) which shared the foundational research this Report builds on.

In terms of individuals, I wish to thank Garry Benedict-Balaganthan (University of Ottawa), Patricia Arulchelvam (Toronto Metropolitan University), Lia Douglas (also at TMU), three incredible 3L law students who provided their valuable time as research assistants. Other than that task, they also helped in note taking, footnoting, and editing in support of this Report.

To my law clerk at the Federal Court this year, Omra Masstan, I am grateful for your tireless work throughout this year both with other judges and me, and especially in supporting me with Committee work over the Study Leave as I conducted my study leave and drafted this Report.

Additionally, I wish to acknowledge and thank Daniel James Escott, another law clerk of the Federal Court this year (not mine), who supported me immensely over the year in all things technology, and was the driving force behind getting the Pilot program and AI Policies across the finish line. I met Daniel early on when he provided me with his working paper on access to justice, entitled "Meaningful Access to Justice: A Post-Pandemic Framework Reflecting the Reality of Innovation and Technology in Law". This working paper, from my understanding, is the product of over three years of research Daniel led with the CIAJ on how the use of technology in legal processes affects access to justice based on contemporary literature and a thorough study of technology used in the courts of certain provinces (resulting in the attached **Annex B**), and it was a catalyst for my research on the state of technology in the Canadian justice system during my leave and Report drafting.

I also wish to thank judges from across Canada who provided valuable insights through discussions and meetings on their courts and their use of technology. These included Justices William Goodridge, Kate O'Brien, Geneviève Cotnam, Simon Ruel, David Brown, Mike McKelvey, Anne Turner, Herb Rempel, April Grosse, Shaina Leonard, Elliott Myers, and Ward Branch, many (but not all) of whom have worked with me on the CJC and CSCJA Technology Committees.

AusFC judges who assisted with my visit are mentioned above, but others who led meetings with me and helped coordinate meetings were CJ Debra Mortimer, and Justices Kylie Downes (Brisbane), Michael Wheelahan (Melbourne), and Nye Perram (Sydney), and James Allsop.

Other Professors who took the time to meet with me outside of Bond U. including Profs Archie Zariski, John Zeleznikow, and Tania Sourdin, all AI experts in their own rights.

Finally, IT staff of the FC and other Courts abroad also spent time taking me through various aspects of technology and registry impacts of changes, including Anthony Sheehan (CIO) and Martin Beliveau (Registrar, FC). Manny Parekh (Australia) and Rachel Gan (Singapore) led presentations at the Courts as well as post-Court presentations from their Courts.

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Annexes

Annex A – Study Leave Proposal

**Looking Up from Down Under: The Federal Court of Australia's
Digital Strategy and How It Could Benefit Canada's Federal Court**

Australia has served as a model to Canada's Federal Court in our digital shift. At one time, Australia lagged behind our Court. However, in recent years, it has moved ahead with various major initiatives to migrate matters online in an integrated manner with the Bar, from the initial filing of proceedings through to the final decision.

Canada's Federal Court has been interested in the Australian experience for some time. Three Federal Court judges have visited and met with senior officials of Australia's Court and Registry over the past decade, providing an insight into their Court's deployment of technology. Justice Lafreniere (Technology Committee member) visited in 2013, followed by Justice Mosley (then-Chair of the Technology Committee) in 2017, and Chief Justice Crampton in 2019. Our Australian counterparts have generously shared information with our judges, including their Digital Strategy (**Annex B**) Justice Mosley wrote a report in 2017 (**Annex C**). The Australian experience also played a key part in the objectives outlined in our 2020-2025 Strategic Plan (**Annex D**).

My Report will recommend amendments to our business processes and rules to accelerate our digital shift, drawing from the Australian experience (for instance, their eCourtroom at **Annex E**). The research component of the Report will involve meetings with senior Court and Registry officials, including some of those with whom our judges have met previously. The Report would consider the potential for deployment of future initiatives, including considering (i) Australia's SmartCourts plans (as outlined in **Annex B**), and (ii) artificial intelligence [AI], currently being considered by the Federal Court's Technology Committee. On item (ii), we continue to work with Dr. Martin Felsky, who provided the March 2021 Report on the Federal Courts (**Annex F**) and with whom we are at the initial phases of drafting a policy on AI (**Annex G**).

The Report will canvass best practices and post-pandemic lessons learned, including from academia and key stakeholders. Bond University will provide support in the research phase of the Report, through introductions to key organizations and leaders in the Australian Bar. Technology and eCourts are a key strategic focus of the faculty.

The Report, which will be completed by the end of September 2024, will be shared with those engaged in the design of our updated Court Registry Management System [CRMS], the Federal Court's most significant technology project. CRMS' projected delivery is 3-5 years from now (2025-2027).

Finally, the Report would provide suggestions as to where we could offer improvements and greater transparency for self-represented litigants, marginalized persons, and the public in general. The Report would aim to benefit the judiciary as a whole, by considering the work of the Canadian Judicial Council and the Action Committee (including the SRL Statement of Principles at **Annex H).**

B. Study Leave Plan

B.1   Proposed leave period: September 1, <u>2023</u> (year) to April 30, <u>2024</u> (year).

B.2   Proposed location(s) of study leave: (university/institution and city)

Bond University, Brisbane, Australia. Please note that the proposed leave of 8 months would take place from January 1 to August 31 2024, rather than September through April.

B.3   I have had discussions with the Dean/Head of the host institution and have agreed with him/her as to the particulars of my study leave as explained in item B.4, and attach correspondence indicating his/her acceptance:

    ☑   Yes   ☐   No

B.4   Please describe in detail the study, research, teaching and other activities you wish to pursue while on study leave (please attach additional pages, if more space is needed for the description).

The Study Leave, as supported by Bond Law School, will be comprised of two elements:

1. A research report [Report] with the working title "Looking Up from Down Under: The Federal Court of Australia's Digital Strategy and How It Could Benefit Canada's Federal Court". The attached Report Outline at Annex A [Outline] describes the prospective areas of research, and objectives, including working with the judiciary, Registry and academia on lessons learned from Australia's Digital Strategy. The Outline also describes how the Report will align with the Federal Court's access to justice objectives set out in our 2020-2025 Strategic Plan. The Report will include an examination of the potential for increased efficiency within Registry processes and rules impacting our digital services. The Report will also also be of interest to (a) ongoing work of the Canadian Judicial Council and the Action Committee on Court Operations in Response to COVID-19, and (b) the technology and eCourts focus at Bond Law School.

2. Guest lectures for Bond's Canadian Law Program in some or all of the following courses: (i) Foundations of law; (ii) Administrative law; and (iii) Constitutional law. I will also offer one or more stand-alone seminars for students on the work and jurisdiction of the Canadian Federal Courts, and career options in the the Canadian public, private and not-for-profit sectors. Finally, as a former judge of the Wilson Moot (2015-20), I will make myself available to assist with the preparation of Bond Law School's 2024 Wilson team.

The Report will meet the Study Leave objectives by benefiting the Court, the university, and the judiciary as a whole. It will also support the work of the Federal Court's Technology Committee, continuing the work that we have done to assist in the Federal Court's digital shift. We will continue to consult with Dr. Martin Felsky, who produced a March 2021 Technology Report for the Federal Court (see Annex F to the Outline).

Note 1: If study leave research or activities involve conducting a program of interviews for research purposes, this must be specifically approved by the Dean/ Head of the host institution in order to ensure compliance with the privacy and research ethics policies of the host institution. The Chief Justice must also approve the research interview program.

Note 2: If the host institution does not have privacy and research ethics policies, the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (see hyperlink below) should be followed with respect to any program of interviews for research purposes.

https://ethics.gc.ca/eng/policy-politique_tcps2-eptc2_2018.html

Annex B – Technology in Provincial Courts

Annex B.1 - British Columbia

Technology	Description	Rules & Procedures	Task Force	Type of Law	References
[Court Services Online] E-search	- part of Court Services Online - Search for civil, appeal, traffic, criminal court record information & documents online	Information not found	BC Ministry of Attorney General	Civil Law Traffic Court Matters Criminal Law Appeals	https://justice.gov.bc.ca/cso/esearch/esearchHome.do;jsessionid=IGBnKwICKgiIPHSN1viD11cE.08981de3-1a4f-3b3a-8078-2df0203f6301
[Court Services Online] E-file	- part of Court Services Online - Register to file civil court documents onlline	Information not found	BC Ministry of Attorney General	Civil Law	https://justice.gov.bc.ca/cso/register.do;jsessionid=IGBnKwICKgiIPHSN1viD11cE.08981de3-1a4f-3b3a-8078-2df0203f6301
[Court Services Online] Filing Assistant	- Complete Small Claims Court forms online	print & submit in-person or by mail	BC Ministry of Attorney General	Small Claims Matters	https://justice.gov.bc.ca/FilingAssistant/index.do
Virtual Counter (North region)	Speak to northern court services employee face-to-face on video (from Clicklaw: "Citizens and lawyers with questions that they normally would have to attend a Courthouse counter for, can now click the Teams link and have a virtual session with court staff to ask questions for both Civil and Criminal matters and for both Provincial and Supreme Court. Currently, it is just a pilot and only for the North region. Clients click on the link, and will get the "we've let the person know you're waiting" message that comes up in Teams.")	If you're unclear on the region your court registry is in, please visit the following site: https://courtsofbc.ca/court-location	BC Government	Various	https://www2.gov.bc.ca/gov/content/justice/courthouse-services/virtual-counter
Clicklaw	Legal information, education, and help for issues relating to money, safety, family, marginalization, accidents, employment, etc.	Information not found	Courthouse Libraries	Various	https://www.clicklaw.bc.ca/
Online Divorce Assistant	Portal for joint divorce processes	Information not found	Ministry of Justice	Family Law	https://justice.gov.bc.ca/divorce
Online *Family Law Act* Assistant	Portal to fill out application and reply forms needed for family court orders (longer description: Service to help applicants fill out the application and reply forms needed for family court orders relating to Parenting Arrangements, Child Support, Contact with a child, Guardianship, Spousal Support, Protection Orders, Case Management, Priority Parenting Matters, Relocation of a child, and Enforcement)	Information not found	Ministry of Justice	Family Law	https://justice.gov.bc.ca/apply-for-family-order/
Online Help Guide: Small Claims Court	Legal information, education, and help relating to Small Claims Court	Information not found	Justice Education Society	Small Claims Matters	https://smallclaimsbc.ca/
Guide to the BC Court System	Legal information, education, and help relating to Administrative Tribunals, the Provincial & Supreme Courts, the Court of Appeal, and the justice system in general	Information not found	Justice Education Society	Various	https://courtsofbc.ca/
Family Maintenance Enforcement Program	Service to help families & children entitled to support under maintenance order or agreement (child/spousal support enforcement)	*Family Maintenance Enforcement Act Regulation,* BC Reg 346/88 (for implementation of technology see e.g., ss. 8 and 9.1 which allow for service and notice to be served by "electronic transmission using secure web services or by other similar secure means")	BC Ministry of Attorney General	Family Law	https://www.fmep.gov.bc.ca/

	Technology	Description	Rules & Procedures	Task Force	Type of Law	References
Provincial Courts	**Legal Aid: Family Law Portal**	Guides to separation and divorce, including steps to complete forms; children's rights and parenting arrangements; child/spousal support; situations of domestic abuse/violence; and to the BC legal system in general	Information not found	Legal Aid BC	Family Law	https://family.legalaid.bc.ca/
	Legal Aid: Aboriginal	Guides for Indigenous people regarding their rights in child protection, criminal, and other general matters	Information not found	Legal Aid BC	Matters relating to Indigenous Peoples	https://aboriginal.legalaid.bc.ca/
	Lawyer Referral Service	Free 15 min initial meeting for following services: - Regular Lawyer Referral Service - Online Lawyer Referral Service	Information not found	Access Pro Bono	Various	https://www.accessprobono.ca/our-programs/lawyer-referral-service
	Everyone Legal Clinic (Access Pro Bono)	Low(er) cost legal services provided by **articling students**	Information not found	Access Pro Bono	Various	https://everyonelegal.ca/
	Dial-A-Law	General guides to legal information regarding money/debt, employment, business, family, and crime	Information not found	People's Law School	Money/Debt Matters Employment Law Buisness Law Family Law Criminal Law	https://dialalaw.peopleslawschool.ca/
	Unbundled Legal Services	Legal matters broken down into parts and lawyer with help with certain parts at an affordable cost	Lawyers are authorized to provide "unbundled legal services" under Rule 3.2-1.1 of the *BC Code of Professional Conduct* ("Limited scope retainers")	People's Law School	Various	https://unbundlinglaw.peopleslawschool.ca/
	British Columbia Law Institute	Undertaking law reform projects. Not sure whether relevant.	Information not found		Various	https://www.bcli.org/
	Lawbster (Family Law Organizer)	Closed online community platform for family law professionals to connect and work together	Information not found	Courthouse Libraries	Family Law	https://www.courthouselibrary.ca/our-programs/lawbster https://www.courthouselibrary.ca/our-programs/lawbster/family-law-organizer
	LawMatters	Outreach program for public libraries to provide local access to legal information in print, as well as legal reference and referral services	Information not found	Courthouse Libraries	Various	https://www.courthouselibrary.ca/our-programs/lawmatters
	Proposed Legislation: "One stop shop" for enforcing money judgments	- allow for "money judgments to be enforced with a single enforcement instruction after a person registers in a searchable public registry - registry will serve as a one-stop shop for information about previous money judgments, including the current amount owing and commercial liens - In addition, certain types of property, not contemplated in the old legislation, will be able to be seized, such as crops and co-owned property	- eliminates the need to apply to the court multiple times to pursue collection - Tribunal orders will automatically be entered in the registry and enforced, instead of having to first be registered with the court	Ministry of Attorney General	Debtor Creditor	https://news.gov.bc.ca/releases/2023AG0033-000634

Technology	Description	Rules & Procedures	Task Force	Type of Law	References
Informal Family Court Trials (only available in Kamloops)		Amended the *Provincial Court Family Rules* to give trial judges more freedom in select family law proceedings to tailor the procedure to the parties' needs (e.g., set "aside strict court and evidence rules [to let] them present their case more naturally") Division 5 of Part 9 of the Provincial Court Family Rules covers teh informal trials pilot project.	Ministry of Attorney General	Family Law	https://www.provincialcourt.bc.ca/enews/enews-16-05-2022
Northern Bail Pilot Project	Adult and youth criminal matters in the Northern, Interior, and Island Regions are conducted by judges attending remotely by Microsoft Teams ("Teams") videoconference in virtual courtrooms ("virtual bail hearings").	*Provincial Court Act*, R.S.B.C. 1996, c. 379, and Rule 3 of the *Criminal Caseflow Management Rules*	BC Provincial Court	Criminal Law	https://www.provincialcourt.bc.ca/enews/enews-15-04-2021
Expedited Court Process to Change Child Support or Spousal Support owing to a change in income related to COVID-19	- Interim COVID measure	*Provincial Court Act* and Rule 8(11) of the *Provincial Court (Child, Family and Community Services Act) Rules*, B.C. Reg. 533/95.	BC Provincial Court	Family Law	https://web.archive.org/web/20200928104929/https://www.provincialcourt.bc.ca/downloads/Practice%20Directions/FAM%2008%20Change%20or%20Suspend%20Child%20or%20Spousal%20Support%20due%20to%20COVID-19.pdf
Early Resolution Process	Essentially a court-provided mediation process parties are required to follow before a matter can proceed to court (exceptions are available for matters where family violence is provided, or mediation would otherwise be inappropriate) NOTE: Only in Surrey and Victoria which are designated as "Early Resolution Registries"	Amended the *Provincial Court Family Rules* to compel parties to engage in early resolution dispute processes early in the process to keep matters out of court	Ministry of Attorney General	Family Law	https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/your-options/early-resolution#:~:text=The%20early%20resolution%20process%20is,parties%20prepare%20for%20next%20steps.
Remote Attendance for Small Claims Proceedings		Amended the *Small Claims Rules* (various provisions) to modernize the rules to support remote attendance at small claims proceedings (including changes to filing and service requirements).	BC Provincial Court	Small Claims Matters	https://www.provincialcourt.bc.ca/enews/enews-03-10-2022
Virtual Proceedings	bail hearings, criminal pre-trial conferences, criminal sentencing hearings, short matters (remand), and case settlement conferences for civil and family matters	Misc.	BC Provincial Court	Various	https://www.provincialcourt.bc.ca/about-the-court/court-innovation/Technology-assistedRemoteAppearances
Civil Resolution Tribunal	Online tribunal for small claims matters including strata issues, small claims, vehicle accidents, and society/cooperative matters	Operates under the authority of the *Civil Resolution Tribunal Act*	Ministry of Attorney General	Small Claims Matters	https://civilresolutionbc.ca/about-the-crt/
Mediate BC	Mediate BC is a not-for-profit that manages the provincial Child Protection Mediation Program and a roster of BC mediators and med-arb practitioners.	Information not found		Various	https://www.mediatebc.com/about-us

Technology	Description	Rules & Procedures	Task Force	Type of Law	References
BC Registries modernization initiative	The new BC Registry application includes the new Business Registry and Name Requests, Business Search, Personal Property Registry, Court Services Online, and Rural Property Tax Search	Information not found	BC Registries and Online Services	Business	https://www2.gov.bc.ca/gov/content/employment-business/business/managing-a-business/permits-licences/news-updates/modernization-updates
Multi-Jurisdictional Registry Access Service (MRAS)	Extraprovincial registration for corporations and limited partnerships and new online forms. MRAS is technical solution for jurisdictions to share information, whether or not the jurisdiction is a New West Partnership Trade Agreement partner, and supports a cross Canada **initiative to "harmonize" extra-provincial corporate registration**. Effective June, Alberta, Saskatchewan, Manitoba, Quebec, and Corporations Canada will leverage MRAS to share information.	Information not found	BC Registries and Online Services	Business	https://www2.gov.bc.ca/gov/content/employment-business/business/managing-a-business/permits-licences/news-updates
Court Digital Transformation	Four year plan set to take place from 2019 - 2023 to digitize courts and have the process overseen by the Court Technology Board. The Board consists of officials of various court levels and the MAG who will govern the digitization process. The Board has identified several traits of an optimal digital strategy such as being seamless and easy to use	The justice system has new obligations for timely criminal trials set forth in Supreme Court of Canada in R. v. Jordan (2016), as well as pressures to ensure disclosure is provided quickly to reduce delay and the risk of matters being stayed by the court	Ministry of Attorney General		https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/justice-reform-initiatives/digital-transformation-strategy-bc-courts.pdf
Online Help Guide: Supreme Court	Legal information, education, and help relating to Supreme Court matters in civil, family, and criminal law	Information not found	Justice Education Society	Civil Law Family Law Criminal Law	https://supremecourtbc.ca/
Masters Chambers Pilot	- allow eBinders to be eFiled for Masters Chambers (only in court registries on Vancouver Island and in the Powell River area	Changes made pursuant to Rule 23.1-2(1) of the *Supreme Court Civil Rules* and Rule 22.1-2(1) of the *Supreme Court Family Rules*	BC Supreme Court	Civil Law Family Law	https://www.bccourts.ca/supreme_court/documents/Notice_re%20_Associate%20_Judges%20_Chambers%20_Pilot.pdf
File Transfer Server for insolvency proceedings	- File Transfer Server to allow parties in remote hearings to transmit documents electronically to the Court so that they can be accessed by presiders - handled by Supreme Court Scheduling (via email)	- NOT equivalent to filing documents - equivalent to handing up documents in court (i.e., if there are documents that must be filed pursuant to the Rules, such filing must still also be done either in person at court registries or through Court Services Online)	BC Supreme Court	Insolvency Law	https://www.bccourts.ca/supreme_court/documents/COVID-19_Notice_No.44_Use_of_th_%20FTS_(File_Transfer_Server)_in_Insolvency_Proceedings.pdf
Simplified Court Rules	Information bulletin	The new rules clarify existing procedures, simplify language and make the appeals process more efficient. Improvements also include new court forms that are more readable and include plain-language instructions.	Ministry of Attorney General	Appeals	https://news.gov.bc.ca/releases/2022AG0080-000815

	Technology	Description	Rules & Procedures	Task Force	Type of Law	References
Superior Courts	**eFiling for BC Court of Appeal**		Pursuant to s. 38 of the *Court of Appeal Act* and Rule 5 of the *Court of Appeal Rules*	BC Court of Appeal (Registrar Filing Directive)	Appeals	https://www.bccourts.ca/Court_of_Appeal/documents/new_rules_filing_directive_how_to_file_materials_final.pdf
	Judicial Settlement Conferences	The purpose of a settlement conference is to assist parties to resolve appeals at an early stage, to save expense to the parties and to expedite the final resolution of the dispute	Replaces the Civil Practice Directive titled *Judicial Settlement Conferences*, dated 27 June 2014, which replaced versions dated 19 September 2011, and 12 December 2005	BC Court of Appeal	Appeals	https://www.bccourts.ca/Court_of_Appeal/practice_and_procedure/civil_practice_directives_/PDF/(Civil)Judicial_Settlement_Conferences.pdf
	BC Court of Appeal Case Tracking and Management System (WebCATS)	Case information is populated in WebCATS by registry staff. Court clerks can synchronize their notes (minute sheets) with the Digital Audio Recording System (DARS) recording by using WebCATS as the vehicle for taking the minutes (i.e., noting the progress of the hearing, when the court breaks for lunch, and any orders or directions given by the court). Judges use WebCATS to check their schedules and to see what cases they are assigned to. Their access also allows them to review individual files before the hearing. WebCATS also allows users to create documents and then store it as a filing (i.e., certain documents that are sent out with every new filing (e.g., the letter notifying the lower court judge that an appeal has been filed).	Court of Appeal Rules (BC Reg. 297/2001)	Superior Courts of BC	Appeals	https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/services-policies-for-government/information-management-technology/records-management/orcs/court_of_appeal_orcs.pdf
	Webcasting Pilot Project	Webcast and video archive of select appeals.	Information not found	BC Court of Appeal	Appeals	https://www.bccourts.ca/Court_of_Appeal/webcast/webcasting_pilot_project_public_report.pdf
	Supreme Court Scheduling System (SCSS)	Electronic system for streamlining the assignment of judges and masters and scheduling of matters before the BC Supreme Court.	Information not found	Superior Courts of BC	Appeals	https://cfcj-fcjc.org/inventory-of-reforms/bc-supreme-court-scheduling-system-scss/
	BC Courts Online Booking System	Online Booking for Case Planning Conferences, Judicial Case Conferences, and Trial Management Conferences	Information not found	Superior Courts of BC	Various	https://justice.gov.bc.ca/scjob/ AND https://www.bccourts.ca/supreme_court/scheduling/
	Electronic Evidence Project	The practice direction associated with this project is intended to deal with the problem of the exchange of incompatible electronic data between parties to a proceeding. Incompatible data results in increased costs and duplication of effort as receiving parties are required to manipulate data before being able to use it. **The practice direction establishes a default standard or framework for document exchange.** This default standard represents the lowest common denominator for electronic databases which means that a party is not required to use sophisticated litigation support software in order to exchange electronic documents.	Practice Directive	Supreme Court of BC	Various	https://www.bccourts.ca/supreme_court/practice_and_procedure/electronic_evidence_project.aspx AND https://www.bccourts.ca/supreme_court/practice_and_procedure/practice_directions_and_notices/electronic_evidence_project/Electronic%20Evidence%20July%201%202006.pdf

Annex B.2 - Alberta

Technology	Description	Rules & Procedures	Type of Law	References
Modernizing justice & police amendment	Enable juror summons to be sent electronically (i.e., via email)	Bill 38, The *Justice Statutes Amendment Act,* 2020 (*Jury Act* amendment)	Criminal Law	https://www.alberta.ca/modernizing-justice-and-policing.aspx
Virtual Court	Enables Albertans to participate in trials and hearings by videoconference or telephone and enter pleas, set trial dates, and request adjournments by telephone, email and other electronic means instead of having to go to court in person	Bill 38, *The Justice Statutes Amendment Act,* 2020 (*Provincial Offences Procedures Act* amendment)	Criminal Law	https://www.alberta.ca/modernizing-justice-and-policing.aspx
Online Portal for Gladue Report Requests	The portal is for the exclusive use of defense counsel and in situations where the Court has already ordered the preparation of a Gladue report for sentencing purposes. There are a number of mandatory fields to be completed by the defense attorney, so that the Gladue report can be prepared in a timely manner. Once completed by the defense lawyer, the request is automatically forwarded to the departments concerned for processing.		Criminal Law	https://www.albertacourts.ca/cj/resources/announcements/online-gladue-report-request-forms-demandes-en-ligne-de-rapport-gladue
Virtual Remote Family Docket for SRLs	Provides Self-Represented Litigants with the ability to virtually appear for Family Docket Courtroom #441 in the afternoon		Family Law	https://www.albertacourts.ca/cj/resources/announcements/edmonton-pilots-remote-family-docket
Court Case Management Program (CCM) for the Criminal Court of the Alberta Court of Justice	The objective of the CCM Program is to more effectively manage criminal cases		Criminal Law	https://www.albertacourts.ca/cj/about-the-court/innovation/ccm
Remote Courtroom Scheduling	- part of CCM - accessible 24hrs, 7-days/week and is accessible in the office or at home		Criminal Law	https://www.albertacourts.ca/cj/about-the-court/innovation/rcs
Court Appearance Scheduling System	- part of CCM		Criminal Law	https://www.albertacourts.ca/cj/about-the-court/innovation/ccm
Criminal eFile	- part of CCM		Criminal Law	https://www.albertacourts.ca/cj/about-the-court/innovation/ccm

	Technology	Description	Rules & Procedures	Type of Law	References
Provincial Courts	**Adjournment Digital Service**	- part of CCM under Case Management Office (CMO) - allows defense counsel to make first appearance adjournments online for accused scheduled on a CMO docket for Provincial Court Criminal Adult cases		Criminal Law	https://adjournment-request.alberta.ca/
	[out of court] Family Mediation Program (Alberta Justice Resolution Services)	Online registration form (Each parent must fill out and submit online form and free mediator will contact each parent after both parents have registered)		Family Law	https://www.alberta.ca/family-mediation.aspx
	[out of court] coParenter	Tool to empower families to resolve their own parenting issues. The platform includes online mediation and coaching, coronavirus-related safety plans, parenting plans, holiday and vacation schedules, agreements, education and support. **For a period of 60 days during the pandemic, this tool was being made available to Alberta families at no cost.**		Family Law	https://www.albertacourts.ca/kb/areas-of-law/family/family-law-dispute-resolution-services
	Caseflow Conference	Program in the **Provincial Court of Alberta** (Calgary and Edmonton) and the Court of Queen's Bench (Calgary) that is an alternative to a docket appearance in court before a judge. Matters are referred to Caseflow Conference when a self-represented litigant initiates a court application, under the *Family Law Act,* regarding a child-related matter (ie: application for a Parenting Order). Counsel may choose to set their client's application for a Caseflow Conference instead of a Docket Court appearance	*Intake and Caseflow Management Regulation,* Alta Reg 150/2005	Family Law	https://open.alberta.ca/dataset/466681810-6d89-4182-8606-3adfd377584a/resource/7e269c35-e3aa-48d4-a6eb-9245323a07b8/download/1-caseflow-conference-brochure-web-version.pdf
	Maintenance Enforcement Program	Collects court-ordered child support, spousal and partner support, and enforces as needed.	*Maintenance Enforcement Act* and *Regulation*	Family Law	https://www.alberta.ca/mep-how-it-works.aspx

		Technology	Description	Rules & Procedures	Type of Law	References
		Civil claims mediation	Mediators help parties negotiate a resolution instead of going to trial.	[Mediation Rules of the Provincial Court, Alta Reg 271/1997](#)	Civil Law	https://www.alberta.ca/civil-mediation.aspx
		[Proposed] Streamlined Trial Rules				https://albertacourts.ca/docs/default-source/qb/changes-to-the-rules-of-court/streamlined-trial-rules.pdf
		Civil Claim Process	The Civil Division of the Alberta Court of Justice provides a simple, affordable, and accessible means to resolve most types of private disputes, including landlord and tenant matters. The maximum amount that may be claimed in the Alberta Court of Justice Civil division is $50,000. If the claims exceed $50,000 or involve matters that cannot be heard in the Alberta Court of Justice, the claim must be filed in the Court of King's Bench.		Civil Law	https://albertacourts.ca/pc/areas-of-law/civil
		Family Court Counsellors	Alberta Justice program providing Provincial Court family law litigants with information, court assistance, and referrals to specialized services.		Family Law	https://www.alberta.ca/family-court-assistance.aspx
		Appeal Conference Pilot Project	- for all Family Law Fast Track Appeals - conferences conducted virtually	An Appeal Conference ("AC") is run by a single appeal judge in an informal process similar to a mediation or judicial dispute resolution. ACs have 2 components: a settlement discussion component (led by the judge and w/o prejudice) and a procedural component (which can result in an order if both parties agree). An AC is not procedural or cursory in nature; substantive issues are discussed and the discussion is not limited to the issues under appeal.	Family Law	https://albertacourts.ca/ca/publications/announcements/notice-to-the-profession-and-public---appeal-conference-pilot-project-for-family-law-fast-track-appeals

	Technology	Description	Rules & Procedures	Type of Law	References
	Civil Filing Digital Service	allows lawyers and legal assistants to file a wide range of civil documents not requiring fee waivers electronically, in all Judicial Centres of the Court of King's Bench		Civil Law	https://albertacourts.ca/kb/resources/announcements/expansion-of-filing-digital-service
	Surrogate Digital Service	enables Albertans and their lawyers to file routine probate applications online		Wills & POA	https://albertacourts.ca/kb/resources/announcements/requirement-to-use-the-surrogate-digital-service
	King's Bench Family and Divorce Filing Digital Service	Expanded availability and mandatory filing for matters including desk divorce application packages - with and without children, Statements of Claim for Divorce, and Pleadings		Family Law	https://www.albertacourts.ca/kb/resources/announcements/limited-release-of-king's-bench-family-and-divorce-filing
	Court Case Management (CCM)	on-line digital service allows counsel to request originating hearings, file commercial documents and orders, obtain updates to the statuses of matters and adjourn commercial matters on-line		Commercial Matters	https://albertacourts.ca/kb/resources/announcements/limited-launch-CCM-commercial
	Online Portal for Gladue Report Requests	The portal is for the exclusive use of defense counsel and in situations where the Court has already ordered the preparation of a Gladue report for sentencing purposes. There are a number of mandatory fields to be completed by the defense attorney, so that the Gladue report can be prepared in a timely manner. Once completed by the defense lawyer, the request is automatically forwarded to the departments concerned for processing.		Criminal Law	https://albertacourts.ca/kb/resources/announcements/online-gladue-report-request-forms-demandes-en-ligne-de-rapport-gladue
	Online Form	for appearances of 1hr or less (i.e., Criminal Justice Seized Specials, Criminal "follow-up" PTCs, and matters heard generally at 8:45 AM or 12:45 PM)		Criminal Law	https://albertacourts.ca/kb/resources/announcements/criminal-justice-seized-specials---online-booking

	Technology	Description	Rules & Procedures	Type of Law	References
Superior Courts	**Hearing Guidelines**	One can request an appearance by compleing the online form if expected to be 1 hour or less	- default for "administrative/ procedural" hearings = remote hearings - default for "ajudicative/ substantive" = in-person	Various	https://albertacourts.ca/kb/court-operations-schedules/scheduling/hearing-guidelines
	King's Bench Filing Digital Service	The King's Bench Filing Digital Service allows lawyers and legal assistants to upload selected Civil: General Filing and Claims documents for electronic filing and stamping in all King's Bench centres in Alberta.		Civil	https://qb-filing.alberta.ca/hearing-schedule
	King's Bench Filing Digital Service (Scheduling Platform)	Find available dates for Civil Regular Chambers, Family Docket Court or Applications Judges Chambers in Edmonton or Calgary.		Civil and Family Law	https://qb-filing.alberta.ca/hearing-schedule
	King's Bench Child Support Program	The King's Bench Child Support Resolution Program is free and helps parents reach an agreement about financial support for their children enter a legally enforceable court order for child support. Parents can enter the program 3 ways: (1) both parents can agree to enter the program, (2) a Court of King's Bench justice can direct them to enter the program, (3) a Court of Justice of Alberta judge can direct them to enter the program		Family Law	https://www.alberta.ca/child-support-resolution-program.aspx
	Family Docket Court	Takes place in virtual courtrooms (NOTE: not clear if all matters are virtual, or if virtual appearances are simply an option). Parties must attend before proceeding with the scheduling of any formal applications in a family matter. The Court will consider the matter and direct parties to a process that best serve the needs of their family/children.		Family Law	https://www.albertacourts.ca/docs/default-source/qb/family_docket_court_information_sheet_21062020.pdf?sfvrsn=18639580_0

	Technology	Description	Rules & Procedures	Type of Law	References
	Caseflow Conference	Program in the Provincial Court of Alberta (Calgary and Edmonton) and the **Court of Queen's Bench** (Calgary) that is an alternative to a docket appearance in court before a judge. Matters are referred to Caseflow Conference when a self-represented litigant initiates a court application, under the *Family Law Act,* regarding a child-related matter (ie: application for a Parenting Order). Counsel may choose to set their client's application for a Caseflow Conference instead of a Docket Court appearance	*Intake and Caseflow Management Regulation,* Alta Reg 150/2005	Family Law	https://open.alberta.ca/dataset/46681810-6d89-4182-8606-3adfd377584a/resource/7e269c35-e3aa-48d4-a6eb-9245323a07b8/download/1-caseflow-conference-brochure-web-version.pdf
	Family law kits	A list of forms for lawyers and self-represented individuals who are dealing with family law.		Family Law	https://www.alberta.ca/family-law-kits.aspx

Annex B.3 - Saskatchewan

	Technology	Description	Rules & Procedures	Type of Legal Matter	References
Provincial Courts	Practice Directive IV	How to have witnesses appear to testify via video or audioconference	*Criminal Code,* **ss .2, 715.21, 714.1, 714.2, 714.3**	Criminal, regulatory, youth, small claims, traffic	https://sasklawcourts.ca/wp-content/uploads/2020/12/PC_PD4_WitnessRemoteAttendanceSep2020.pdf
	Video Conference Request Form	Form filled out by counsel prior to the proposed video conference appearence	*Criminal Code,* **ss .2, 715.21, 714.1, 714.2, 714.3**	Criminal, regulatory, youth, small claims, traffic, civil, and family	https://sasklawcourts.ca/wp-content/uploads/2021/04/Video_Conf_Req.pdf
	Case Management Rule 1	Case management rules which define and incorporate terms like. "remote attendance" and "in-camera"	*Criminal Code,* **s 482.1**	Criminal, regulatory, youth, small claims, traffic	https://sasklawcourts.ca/wp-content/uploads/2023/01/PC_Rule_1_Case_Management.pdf
	Electronic Case Information Service Protocol	Outlines the maintenance procedures for the case website, service list, and service of documents electronically. This document is specific for insolvency proceedings	*Court of King's Bench Rules,* **Part 12 ss 12-4, 12-28**	Insolvency	Download Service Protocol from here (#5 under 2020 notices): https://sasklawcourts.ca/kings-bench/administrative-notices/
	Explanatory Notes to Electronic Case Information Service Protocol	Supporting document for a service protocol on to expedite insolvency proceeding communications electronically. The explanatory notes outlines the implementation process, scope and effect of the service protocol, and general principles	*Court of King's Bench Rules,* **Part 12 ss 12-4, 12-28**	Insolvency	https://sasklawcourts.ca/wp-content/uploads/2021/04/QB6.ExplanatoryNotestotheElectronicCaseInformationandServiceProtocol.pdf
	Informational Videos	Videos produced by all levels of the Saskatchewan courts on what litigants could expect. Examples of videos include Domestic Violence Court and Drug Treatment		Criminal, regulatory, youth, small claims, traffic, civil, and family	https://sasklawcourts.ca/resources/videos/
	Digital File Management Practice Tips	Best practices for firms trying to establish readily accessible electronic records of client matter. An example of a best practice is using microsoft word alongside other specified platforms to support various documents uploaded and downloaded from the platform			https://www.lawsociety.sk.ca/wp-content/uploads/2020/04/digitalfilemgmtjan2018.pdf
	Fraud Alert	The Law Society of Saskatchewan cautions members of the Bar of fraud emails			https://www.lawsociety.sk.ca/for-lawyers-and-students/practice-resources/general-resources/fraud-alerts/

	Technology	Description	Rules & Procedures	Type of Legal Matter	References
	Fraud Fact Sheet	A brief four page fact sheet on recognizing fraud and scams when exchanging funds with a client			https://avoidaclaim.com/wp-content/uploads/2018/05/Cybercrime-and-Bad-Cheques-2018.pdf
	Cloud Computing Guide	Outlines best practices for firms and members of the Bar using cloud-based platforms for legal services and how to go about protecting clent privacy and confidentiality			https://www.lawsociety.sk.ca/wp-content/uploads/2020/04/lsscloudcomputingchecklist.pdf
Superior Courts	E-Filing Platform	E-filing platform on the Court of Appeal's website. Login information required for litigants to file documents electronically with the court		Appeals from Court of King's Bench and Provincial Court	https://ecourt.sasklawcourts.ca/
	Civil Practice Directive for Electronic Filing	Outlines electronic formatting requirements for electronic filing of documents in civil proceedings	*Court of Appeal Act, Court of Appeal Rules* **Rule 74**	Appeals from Court of King's Bench and Provincial Court	https://sasklawcourts.ca/wp-content/uploads/2022/09/Civil-Practice-Directive-3.pdf
	Criminal Practice Directive for Electronic Filing	Outlines electronic formatting requirements for electronic filing of documents in criminal proceedings	*Court of Appeal Act, Court of Appeal Rules* **Rule 74**	Appeals from Court of King's Bench and Provincial Court	https://sasklawcourts.ca/wp-content/uploads/2022/09/Criminal-Practice-Directive-3.pdf

Annex B.4 - Manitoba

	Technology	Description	Rules & Procedures	Type of Legal Matter	References
Provincial Courts	Integrated Case Management System	Currently, there are more than 20 different systems throughout Manitoba courts that are not integrated and the majority of the systems are paper-based, requiring manual updating. The Government of Manitoba has announced that they are accepting proposals from vendors to implement an Integrated Case Management System		Various	https://news.gov.mb.ca/news/index.html?item=48506&posted=2020-06-24
	Virtual Hearings	The Court of Queen's Bench and Provincial Court are now using Microsoft Teams ("Teams") as the platform for virtual hearings	The Court of King's Bench Act, **Court of King's Bench Rules Rule 47.02** - Order Changing Place of Trial	Civil, Criminal, Family, Estate/Probate, Small Claims	https://www.manitobacourts.mb.ca/covid-19/virtual-courts/
	Virtual Assignment Courts	Outlines a Practice Directive on how counsel may engage with the Court Judge and court clerk virtually to identify whether their case is proceeding to trial or a preliminary hearing. These measures are being taken to reduce the number of people congregating in the vicinity of Assignment Court and within the courtroom itself.	The Court of King's Bench Act, **Court of King's Bench Rules Part XI - Pre-Trial Procedures**	Civil, Criminal, Family, Estate/Probate, Small Claims	https://www.manitobacourts.mb.ca/site/assets/files/1966/notice_56_-_provincial_court_-_covid-19_-_virtual_assignment_court_winnipeg_court_centre_january_28_2021_-_e-1.pdf
	Virtual Docket Appearances	Court is providing counsel with an opportunity to deal with matters on their dockets virtually. The Practice Directive outlines how SRL may access this service		Civil, Criminal, Family, Estate/Probate, Small Claims	https://www.manitobacourts.mb.ca/site/assets/files/1966/notice_57_-_provincial_court_-_covid-19_-_virtual_docket_appearance_january_28_2021_-_e.pdf
	Disclosure of Using AI	The Practice Directive mandates that parties disclose whether artificial intelligence has been used in submissions	The Court of King's Bench Act, **Court of King's Bench Rules Rule 20A(12)** - Order of Inspection Electronic Equipment	Civil, Criminal, Family, Estate/Probate, Small Claims	https://www.manitobacourts.mb.ca/site/assets/files/2045/practice_direction_-_use_of_artificial_intelligence_in_court_submissions.pdf
	Guidelines for the Use of Technology in Civil Litigation	Purpose is to provide directions to counsel and litigants on how to follow the rules of civil procedure with technology. Guidelines include submitting court documents as pdf's and outlining acceptable formats of documents	**Rules 16.05(1) (e), 16.05(6), 30,** *King's Bench Rules*	Civil, Criminal, Family, Estate/Probate, Small Claims	https://www.manitobacourts.mb.ca/site/assets/files/1152/use_of_technology.pdf

	Technology	Description	Rules & Procedures	Type of Legal Matter	References
	Digital Manitoba Initiative	Program offered to businesses (including legal service providers) to be paired with a digital service provider to streamline the delivery of their their business and legal services			https://www.digitalmanitobainitiative.com/programs
	LAM Strategic Plan	Strategic five-year plan for LAM to implement technology into their legal aid services. Notable examples of technological initiatives that LAM inspires to have a Legal Accounts system and improve their IT department			https://www.legalaid.mb.ca/wp-content/WordPress/PDF/LAM_Strategic_Plan.pdf
	Docket and Case Management System	Incoming: new docket management system with digital accessibility being delivered by Thompson Reuters		Civil, Criminal, Family, Estate/Probate, Small Claims, Criminal	
	Bluetooth Headset	"Using 2023 version of Word and Bluetooth headset for dictation" (Rempel)		Civil, Criminal, Family, Estate/Probate, Small Claims	
	E-Filing Process	Process for counsel and trustee to file documents electronically to MBKB and pay the filing fee to the Minister of Finance		Civil, Criminal, Family, Estate/Probate, Small Claim	https://www.manitobacourts.mb.ca/site/assets/files/1152/qb_electronic_filing_form_e_final-24jan2019.pdf ;https://www.manitobacourts.mb.ca/site/assets/files/1152/overview_efiling_process_07jun2019_e.pdf
Superior Courts	Remote Hearings Practice Directive	Parties no longer have to bring a motion to have a virtual hearing or appear by video conference. SRL are directed to the Procedure on video conferencing for SRL's	**Rule 37.2** of the *Court of Appeal Rules*, **ss 683(2.1) and 688(2.1)** of the *Criminal Code*	Civil, Family, and Criminal	https://www.manitobacourts.mb.ca/site/assets/files/1139/practice_direction_rule_change_re_remote_hearings.pdf

Annex B.5 - Ontario

	Technology	Rules & Procedures	Task Force	Type of Legal Matter	References
Provincial Courts	CaseLines	- *Rules of Civil Procedure*: Rule 4.05.3 (see O. Reg 224/22) - *Family Law Rules*: forms in a family law mater (ex: 8, 10, 13–15, 17, 35.1) excluding hearings under *Child, Youth, and Family Services Act*, the *Interjurisdictional Support Orders Act*, or s. 37 or 37.1 of the *FLA*, as well as uncontested trials, unopposed morions, and support enforcement hearings	Ontario Courts	Civil & Family Law Criminal Law Small Claims Matters	https://www.ontariocourts.ca/ocj/caselines/ https://www.ontariocourts.ca/ocj/files/guides/caseLines-tips-unrepresented-litigants.pdf https://fola.ca/courts https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/notice-profession-parties-public-media/#4_Uploading_materials_for_Court_CaseLines
	Steps to Justice (general)	Information on: - **COVID-19** (employment, income, housing, etc.) - **Employment & Work** (insurance, termination, etc.) - **Criminal Law** (stop & search, rights, court, etc.) - **Abuse & Family Violence** (restraining orders, etc.) - **Wills & Powers of Attorney** - **Family Law** (childcare, separation, support, etc.) - **Housing Law** (eviction, repairs, moving out, etc.) - **Income Assistance** (ODSP, OW, CPP, etc.) - **Tribunals and Courts** (LTB, Family, Small Claims, etc.)	Community Legal Information Ontario	Various	https://stepstojustice.ca/
	CLEO's Guided Pathways	- **Abuse and Family Violence**: learn about/prevent elder abuse - **Housing Law**, *Residential Tenancies Act*: Form T1 & T6 and guide to fight eviction - **Nonprofit Bylaws**: create bylaws for nonprofit - **Family Law**, *Family Law Rules*: Form 8, 8A, 26B, 10, 10A, 17A, 17C, 13B, 13C, 15, 15B, 15C, 15D, & 25 and dispute resolution processes, motion forms, and fee waiver request form - **Immigration Law**: work permit application - **Wills and Power of Attorney**: guide to make each	Community Legal Information Ontario	Elder Law Tenancy Law Provinicial Bylaws Family Law Immigration Law Wills & POA	https://stepstojustice.ca/guided-pathways-home/
	Remote Hearings	- *Rules of Civil Procedure*: Rules 1.08(1), 1.08(6)(*a, d, g*), 13.1.02(5), 20.05(2)(*j.1*), 37.11(1)(*c*), and 57.01(1)(*h.1*) - *Provincial Offences Act*: s. 83.1	Ontario Government	Various	https://www.ontariocourts.ca/ocj/notices/mode-of-appearance-guidelines/ https://news.ontario.ca/en/release/1001109/ontario-delivering-digital-access-to-courts
	Lawyer Referral Service		Law Society of Ontario	Various	findlegalhelp.ca
	Daily Court Lists: Ontario Court of Justice and Superior Court of Justice		Ontario Courts	Various	https://www.ontariocourtdates.ca/
	ONe-key (Justice Services Online)	- *Rules of Civil Procedure*: see Rule 4.05.1 & 4.05.2 - Notice to profession - August 2, 2022	Ministry of the Attorney General	Small Claims Matters Bankruptcy Matters Family Law	https://www.ontario.ca/page/file-civil-or-divisional-court-documents-online https://www.ontario.ca/page/file-family-court-documents-online

Technology	Rules & Procedures	Task Force	Type of Legal Matter	References
Amendment allowing virtual witnessing of wills and powers of attorney	testator/witness present satisfied through audio-vidual communication technology if (1) at least one person is a licensee, and (2) the making/acknowledging of signature & subscribing of will are contemporaneous	Ontario Government	Wills & POA	https://news.ontario.ca/en/backgrounder/60360/accelerating-access-to-justice-act https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-245 https://lso.ca/lawyers/practice-supports-and-resources/practice-area/faq-remote-execution-of-wills-and-powers-of-attorn/poa-faq
Provincial Offences Act online services	- ***Highway Traffic Act***: s. 4.1 & 21.1(14)(*m*)(*iii*) - ***Provincial Offences Act***: s. 76.1	Ministry of the Attorney General	Ticket Offences	https://www.ontario.ca/page/check-status-traffic-tickets-and-fines-online-or-request-meeting-resolve-your-case https://www.justiceservices.jus.gov.on.ca/POA/screens/poa/POASC001.xhtml
Online Meetings/Communication	- ***Provincial Offences Act***: s. 5.1(3–4), s. 13(1.1)(*c*),	Ontario Government	Various	
Criminal Document Filing Emails		Ontario Courts		Central East: https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/ce-criminal-proceedings/#PART_2_8211_FILING_COURT_DOCUMENTS Central South: https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/cs-notice-proceedings/cs-notice-proceedings-2023/#FILING_COURT_DOCUMENTS Central West: https://www.ontariocourts.ca/scj/practice/practice-directions/central-west/cw-notice-profession-parties/#appendixa East: https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/east-region-notice-public-profession/ Northeast: https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/ne-notice-proceedings/ Northwest: https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/nw-notice-proceedings/ Southwest: File with ONe-Key Toronto: https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/toronto-notice-to-profession/
Calendly		Ontario Courts	Civil and Family Law	https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/ne-notice-proceedings/ https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/ce-civil-proceedings/ https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/ce-family-proceedings/ https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/toronto-notice-to-profession/ https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/tip-sheet-counsel-selfrep/
OurFamilyWizard (court recommendation)		OurFamilyWizard	Family Law	https://www.ourfamilywizard.com/

	Technology	Rules & Procedures	Task Force	Type of Legal Matter	References
Superior Courts	CIMS-modernization contract (C-Track)		Ontario Court of Appeal, Thomson Reuters	Civil, Family, and Criminal Law	https://legal.thomsonreuters.com/en/products/c-track#:~:text=C%2DTrack%20is%20a%20user,helps%20you%20work%20more%20efficiently. ; https://www.ontariocourts.ca/coa/about-the-court/digital-case-tracking-system/
	OneDrive	Rule 10, *Criminal Appeal Rules*	Ontario Court of Appeal	Civil, Family, and Criminal Law	https://www.ontariocourts.ca/coa/how-to-proceed-court/general/

Annex B.6 - Québec

	Technology	Description	Rules & Procedures	Type of Legal Matter	References
Superior Courts	Greffe numérique judiciare du Québec (Digital court office)	File one of the following documents with the **Superior Court and the Court of Québec**: (civil, crim and Fam divisions) A pleading, along with supporting documents if applicable, excepting exclusions; Proof of notification or service; Plea changes in penal matters.	https://lexius-gnjq.justice.gouv.qc.ca/en/Procedures/Procedure/ConditionUtilisation	Civil Law Criminal Law Family Law	https://lexius-gnjq.justice.gouv.qc.ca/en/Procedures/Procedure/Exclusions
	Greffe numérique judiciare du Québec (Digital court office)	Deposit bail in a criminal matter	https://lexius-gnjq.justice.gouv.qc.ca/en/Cautions/Caution/ConditionUtilisation		https://lexius-gnjq.justice.gouv.qc.ca/en/Accueil
	Greffe numérique judiciare du Québec (Digital court office)	Sending a courtesy copy to the Superior Court	https://lexius-gnjq.justice.gouv.qc.ca/en/Procedures/Transmission/ConditionUtilisation		https://lexius-gnjq.justice.gouv.qc.ca/en/Accueil
	Services judiciaires numériques: Automobile and driver's licence	3 services, linked to the overall Services judiciare numériques of Quebec whic includes he Greffe numérique du Québec, in this isntances relates to automobile and driver liscences services: (1) application for a restricted licence, (2) application for release from seizure, and (3) application to lift suspension of a driver's licence or the right to obtain one.			https://lexius-gnjq.justice.gouv.qc.ca/en/Accueil
	Sending court documents to the Curateur public online	Alternative to sending court documents by registered mail.	Article 139 of the Code of Civil Procedure		https://www.quebec.ca/en/justice-and-civil-status/legal-protection/sending-court-documents-curateur-public
	Quebec Code of Civil Procedure: notification by technological means	Notification of pleadings and Documents	art 133-134 CCP		
	"Plan pour moderniser le systeme de justice"	500$ million investment over 5 years. 3 large goals: (1) innovative practices, on eof which "mettre en place une platfored qui offrifra aux citoyens une information juridique pluss accesibl et centralizer grace aux technologies, (2) metree justice à l'heure des nouvelles technologies, spificifally: only portal for difference services involved in a file, manage cass online, having the netire proces sbe electronic, modernize "les infracstructures technologiques requise pour outenir la misre an place du portail ainsi que la gestion umérique des dossiers judiciers et des audiences" --in is in short the Registre du Greffe Numérique (see above)			(1) https://www.justice.gouv.qc.ca/fileadmin/user_upload/contenu/documents/Fr__francais_/centredoc/publications/ministere/dossiers/Justice_1819.pdf, (2) https://www.justice.gouv.qc.ca/fileadmin/user_upload/contenu/documents/Fr__francais_/centredoc/publications/ministere/dossiers/Napperon-transfo.pdf, (3) https://www.justice.gouv.qc.ca/en/dossiers/transformation/
	Cite-Right	comprehensive list of e-filing guidelines from all Canadian courts. No more deep-diving on court websites - we check for updates constantly so that you don't have to			https://www.citeright.net/e-filing-courts/superior-court-of-quebec

	Technology	Description	Rules & Procedures	Type of Legal Matter	References
	Online Hearings	The Court of Appeal uses the Microsoft Teams platform to hold its online hearings. The email sent by the Court office confirming the date and time of the hearing will contain the necessary information for pleaders to connect themselves, including the conference number and the link to connect directly to the online hearing.		Criminal, Civil, and Penal	https://courdappelduquebec.ca/en/hearings/online-hearings/
	Technical Conditions Guide	A guide provided to support the use of online hearings to inform users of how the hearing will take place and what to expect	s 7, **Civil Practice Regulation**; s 8, **Rules of the Court of Appeal of Quebec in Criminal Matters**; s 7, **Regulation of the Court of Appeal of Quebec in Penal Matters**	Criminal, Civil, and Penal	https://courdappelduquebec.ca/fileadmin/Fichiers_client/salle_audience_virtuelle/Conditions_techniques_-_ENG_-_28_avril_2022.pdf
	Virtual Hearings	The Superior Court uses Microsoft Teams to host virtual hearings. Practice directives are available on the court website in French and English		Civil, Commercial, Administrative, Family, Bankruptcy, and Criminal	https://coursuperieureduquebec.ca/en/roles-of-the-court/virtual-hearings
Provincial Courts	Greffe numérique judiciare du Québec	File one of the following documents with the Superior Court and the Court of Québec: (civil, crim and youth division)			https://lexius-gnjq.justice.gouv.qc.ca/en/Accueil
	Greffe numérique judiciare du Québec	Deposit bail in a criminal matter			https://lexius-gnjq.justice.gouv.qc.ca/en/Accueil
	Quebec Code of Civil Procedure: notification by technological means	Notification of pleadings and Documents	art 133-134 CCP		
	Guide for the Use of Technology in th Courtroom	The guide provides insight on the permitted and non-permitted uses of various electronic devices in the courtroom		Civil, Commercial, Administrative, Family, Bankruptcy, and Criminal	https://coursuperieureduquebec.ca/fileadmin/cour-superieure/Audiences_virtuelles_Montreal/Guidelines_Use_of_Technology_Courtroom_and_Conduct_of_Remote_Participants_Hearing_May2022.pdf
	Virtual Hearings and Virtual Hearing Schedule	The Provincial Court of Quebec offers an online service which displays the hearing schedule for criminal and civil matters. Request forms are also available for members of the public and journalists who wish to virtually "sit in" on a hearing		Civil, Criminal, and Penal	https://courduquebec.ca/en/roles-daudience/hearings-schedule

Annex B.7 - Nova Scotia

	Technology	Description	Task Force(s)	Type of Law	References
Provincial Courts	In progress (all courts)	Phase 1: Survey & Report	Nova Scotia Judiciary & Nova Scotia Department of Justice	Various	https://novascotia.ca/nova-scotia-courts-digital-task-force/
	Virtual Court (both courts)	- remote appearances by telephone & videoconferencing platforms - designed for the pandemic - through Microsoft Teams	Nova Scotia Courts	Appeals Civil Law Criminal Law Family Law	https://www.courts.ns.ca/Virtual_Court.htm
	Resources for self-reps (both courts)	- How-to guides - handbooks for criminal, civil, and family law - video resources for Family matters	Nova Scotia Courts Canadian Judicial Coucil (handbooks)	Criminal Law Civil Law Family Law	https://courts.ns.ca/Self_Reps/self-rep_home.htm#CJC_Handbooks
	Legal Info Nova Scotia	- legal information website with guides, videos, webinars, podcasts, and training	Legal Information Society of Nova Scotia	Various	https://www.legalinfo.org/
	My Personal Directive App	- an app that provides help by phone from a trained community volunteer (seniors' navigator) - seems like only the online application process is digital	Legal Information Society of Nova Scotia	Elder Law	https://www.legalinfo.org/personaldirective
	Small Claims Court App	- only seems to provide legal information on small claims court processes	Legal Information Society of Nova Scotia	Small Claims Matters	https://www.legalinfo.org/apps/welcome-to-our-preparing-for-small-claims-court-app
Superior Courts	Family Law Nova Scotia	Information relating to law, processes, and services to help individuals understand their issue and how to solve it	NS DOJ Legal Information Society of Nova Scotia NS Barristers' Society NS Legal Aid NS Dept of Community Services CBA - NS Capital District Health Authority - Mental Health Program	Family Law	https://www.nsfamilylaw.ca/
	eCourt Service	- online platform for judicial adjudication, decision-making, case management, and settlement conferencing - online chat exchange b/w judge and legal counsel - alternative to traditional in-person court processes - only lawyers have access - documents filed electronically	Family Law NS Federation of Law Societies of Canada National Family Law Program	Family Law	https://courts.ns.ca/Supreme_Court_Family/NSSCFD_home.htm
	Parenting Information Program	Online module or virtual program required for applications involing children	Family Law NS	Family Law	https://www.nsfamilylaw.ca/programs-services/parenting-information-program-pip
	Online intake	Online version of in-person intake sessions offered at family law courts	Family Law NS	Family Law	https://www.nsfamilylaw.ca/programs-services/intake

	Virtual Divorce Workshop	join telephone or MS Teams for legal information regarding the basics of the divorce process	Family Law NS	Family Law	https://www.nsfamilylaw.ca/separation-divorce/divorce
	Online child protection resources	- in English, French, and Mi'kmaq - informational videos and booklet	Legal Aid NS	Child protection matters	https://www.nslegalaid.ca/legal-information/child-protection-videos/

Annex B.8 - Newfoundland & Labrador

	Technology	Description	Rules & Procedures	Type of Law	References
Provincial Courts	E-Filing	Specific small claims documentation may be filed electronically. Some documents include statement of claims, application for default judgment, and notice of withdrawal. More specifics can be found in the "Small Claims E-Filing Reference Guide"	Rule 20.1, *Small Claims Act*	Small Claims, Criminal, and Regulatory	https://provincial.efile.court.nl.ca/ ; https://www.court.nl.ca/provincial/courts/small-claims-court/small-claims-electronic-filing/
	Small Claims E-Filing Reference Guide	Reference guide for navigating the e-filing website, permitted documents for e-filing, and payment processes	Rule 20.1, *Small Claims Act*	Small Claims	https://provincial.efile.court.nl.ca/QuickReferenceGuide.pdf
	SRL Resources	Resources offered by the Newfoundland Provincial Court for SRL's to gain an understanding of the litigation process, required forms, and deadlines		Criminal and Regulatory	https://www.court.nl.ca/provincial/going-to-court/self-represented-litigants/
	Legal Aid Newfoundland Activity Plan	The goal of the activity plan is to have procured, tested, deployed and customized new PMS to improve productivity for enhanced client service delivery and move towards electronic filing of all client data by 2026	*Legal Aid Act*, *Criminal Code of Canada*	Criminal, Regulatory, Family, Civil	https://www.gov.nl.ca/jps/files/Legal-Aid-NL-Activity-Plan-2023-2026.pdf
Superior Courts	E-Filing	Specific documents may be filed electronically using the wills, estate, and guardianship system. Email filing is not permitted. Accepts pdf's only. Certain paper filing documents are also filed electronically by undergoing a process to ensure that there are no viruses	Rule 5A, *Rules of Supreme Court*	Wills, Estates, Guardianship	https://www.court.nl.ca/supreme/e-filing-and-online-searches/
	SRL Resources	Resources offered by the Newfoundland Court of Appeal for SRL's to gain an understanding of the litigation process, required forms, and deadlines		Criminal, Civil, and Family	https://www.court.nl.ca/appeal/representing-yourself/
	Digital Consultant	Hired by the Court of Appeal to look into getting a case management system, video and recording system		Criminal, Civil, and Family	
	Temporary Alternate Witnessing of Documents Act	Bill 23 made a once temporary act for COVID 19 now permanent to permit lawyers to witness, notorize, and commission documents remotely	*Alternate Witnessing of Documents Act*	Wills, Estates, Guardianship	https://www.stewartmckelvey.com/thought-leadership/newfoundland-and-labrador-adopts-virtual-alternate-witnessing-of-documents-act-for-good-this-time/

FEDERAL COURT OF AUSTRALIA

Implementing the eServices Strategy

1

Slide 1

Background

- In 2008 the Federal Court of Australia (FCA) created an eServices strategy, and over the course of the next few years, new electronic services were delivered to the General Federal Law (GFL) jurisdiction:
  - Electronic Lodgement of documents - 2011
  - eCourtroom for registrar and case management activities - 2012
  - Electronic Court File (ECF)- 2014

3

Slide 3

What we have achieved so far?

The digital journey to date:

- All actions commenced since 1 July 2014 have a digital file:
  - 100% elodged documents
  - no compulsion to elodge
  - practical benefits to elodgement for all users particularly legal profession

13

Slide 13

Impact Assessment

The change management impact assessment **underpinned** the approach taken to rolling out each release
- For each release the impact on stakeholders across the courts will be assessed to determine their **communication, involvement, training**, and **support** needs
- For internal users impacts will be assessed in terms of changes to their roles, processes and system interaction/functionality
- For external users impacts will assessed in terms of changes to their interactions with the courts, across policy, processes and externally facing systems.
- The higher the impact the greater their need for communications, involvement, training, and support

36

Slide 36
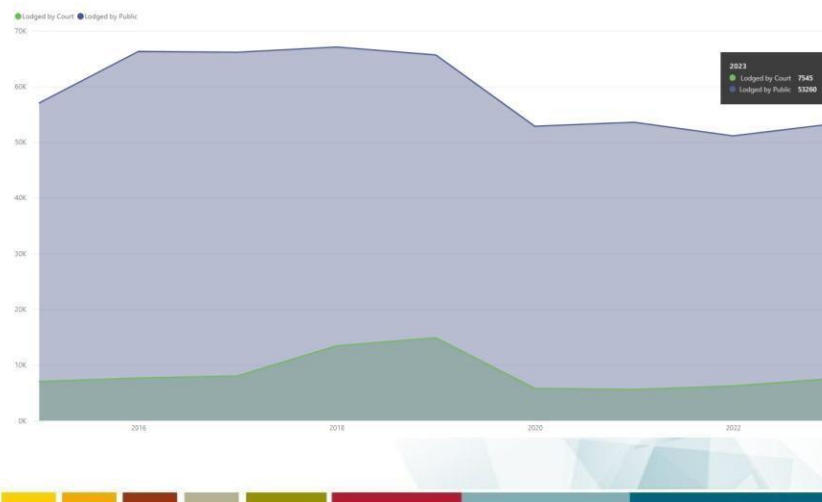
Slide 1

Slide 4

Speaker Notes: The dark blue shows the number of documents lodged by the public and the green shows the number of documents lodged by the Court. As of last week, only about 7500 documents were received and lodged by the Court with a whopping 53,000 lodged by the public.
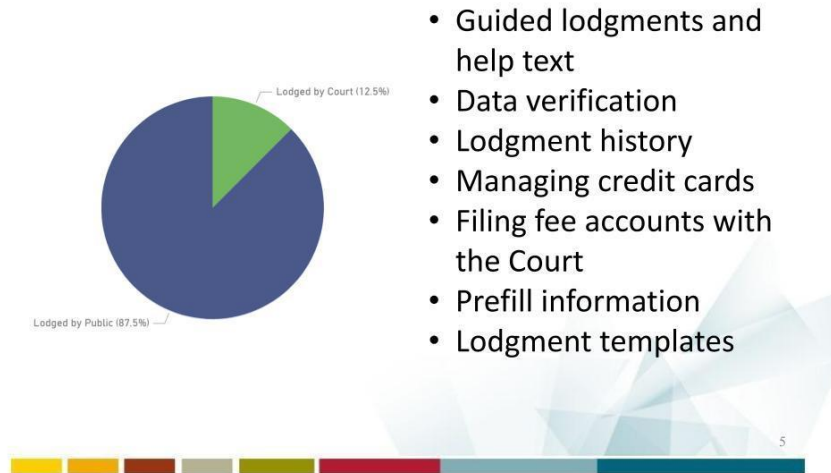
Slide 5

Speaker Notes: Since the move to the electronic Court file, the percentage of documents lodged by the public makes up 87.5% of the total lodgments processed by the Court. Accessibility, speed, and ease of use were at the forefront of development to present reasons for litigants to use the system into the future.

ELODGMENT DEMONSTRATION

6

Slide 6

Speaker Notes:

eLodgment Demo
Show external eLodgment page
From here, the litigant or lawyer will need to Register for eLodgment. eLodgment differentiates between a self-represented litigant and a legal representative. During the registration process, eLodgment captures the relevant details. These populates their user profile.
For the purposes of this demonstration, I will log in as a lawyer.
Log in
When I do, eLodgment will recognise my law firm and prefill most of the information I need to lodge a document. I am able to access my lodgment history and check the status of all my lodgments. Here it shows 2 incomplete lodgments, 3 pending or awaiting my input, and 17 accepted lodgments.

I can also access my details including managing my password and credit card details.
When I choose to lodge a document, I can choose start a new guided lodgment or use a template. In order to make things easier for large law firms, eLodgment allows users to create reusable templates. These templates can be customised to any lodgment. You can see 5 types of templates here.

I will select a template. Upload my documents. Proceed through the party selection. I can select my hearing date and submit my application.
Lodgments that require review are put into an action queue for Court staff to consider. If accepted by the Court, the officer will process the lodgment and eLodgment will apply an electronic seal and cover letter.

If the lodgment is simple, it can be autoaccepted. This means that eLodgment will recognise that the Creditors Petition was lodged by a lawyer, verify the data, and apply a Court seal automatically. I will be able to see my documents almost instantly in my Lodgment History.

I can select my lodgment and download a copy of the sealed documents for me to print and serve.
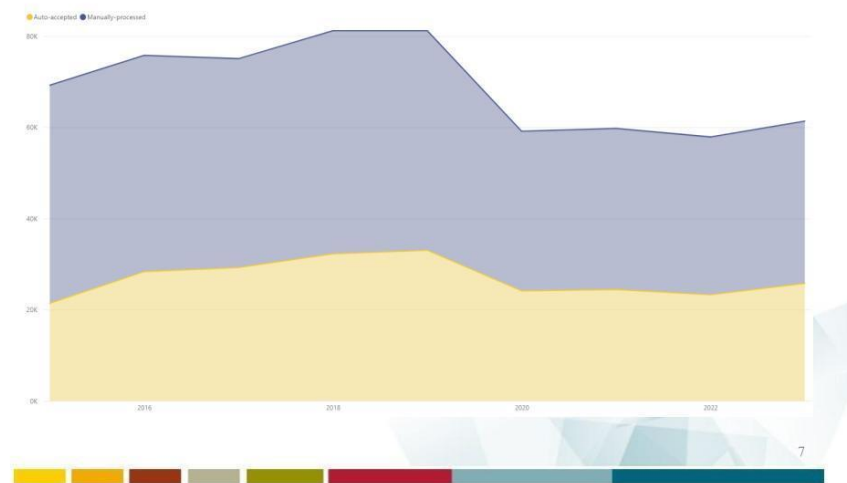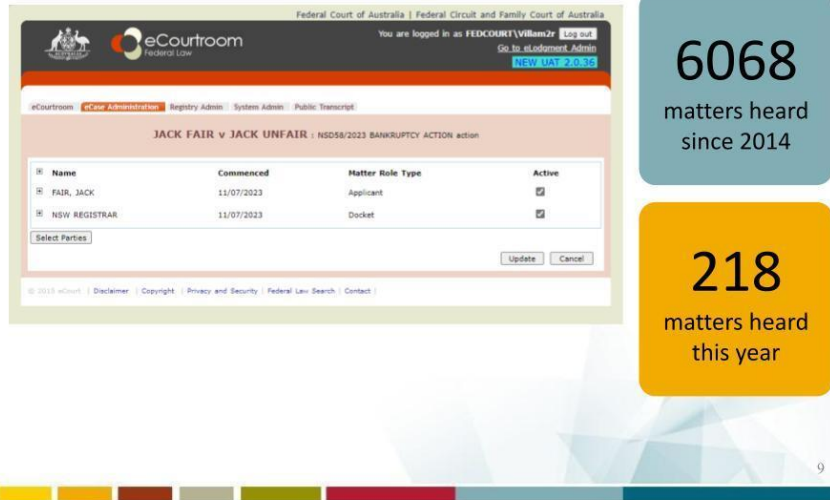

Slide 7

Speaker Notes: Auto-accept was a major project for the Federal Court. We identified the highest volume applications and the simplest lodgments. From all of the applications, we identified two candidates which could be automictically accepted. These are Creditor's Petitions or Bankruptcy Applications, and Winding Up applications for Corporations. We also identified a number of supporting documents which could be autoaccepted. As of last week, 44% of applications lodged this month were automatically accepted requiring no manual intervention from a staff member.

An electronic Courtroom

6068
matters heard
since 2014

218
matters heard
this year

Slide 9

Speaker Notes: eCourtoom is a digital Courtroom created to assist Judges and Registrars in hearing proceedings. Introduced before the pandemic when virtual hearings were not the norm, eCourtroom in its simplest form is a messaging system that allows judicial officers to manage a number of simple sittings all at once.

eCourtroom was designed for:
- ex parte applications such as parties seeking substituted service of bankruptcy documents
- applications for examination summonses
- for the judiciary to give general directions and simple orders

Since its introduction, the Court has heard 6068 matters via eCourtroom.

From Paper to Online...a journey

Enhancements to CCP in 2018 and 2019 increased the range of applications and other documents available to be electronically filed. This increased the percentage of documents received by the court electronically, thus facilitating the transition from paper to screen and meet efficiencies by reducing workload.

A full Digital Court File was introduced for Family Law files in April 2020 (earlier than the originally planned date of July 2020 to accommodate covid measures).

Progressive updates have been made to CCP in subsequent years to cater for a merger of the Family and Federal Circuit Court in September 2021 and to increase online filing.

16

Slide 16

Increases to online filing since then

	2021	2022	2023
All Applications	89.82%	91.63%	91.99%
Divorce Applications	93.19%	95.92%	96.68%
Non-Divorce Applications	86.64%	90%	90%

*Percentage of Div 2 Family law applications filed online by financial year

18

Slide 18

Annex E – AusFC Deck: Court Systems Overview and Digital Court Program

Slide 1

Slide 6

DIGITAL COURT PROGRAM

END TO END DIGITAL

Digital Road Map

CCP and eDivorce

Accelerating to digital

- Community and the government expect services to be delivered electronically.
- We've listened to feedback from staff and the legal profession about what makes filing online easier.

What can I do?

- Encourage and support clients to engage with the digital court!

eFiling enhancements (November 2018)

Coming in November:

- a more complete electronic filing service in family law
- a platform on which to launch the DCF.

Changes at a glance:

- A new 'unguided' pathway which allows litigants to:
  - eFile most court documents, up to 30Mb.
  - Include requests for financial hardship consideration.
  - Notify of special requirements including urgency, interpreters, safety concerns, or other needs at the point of eFiling.
- eFile correspondence relating to proceedings.
- eDivorce continues as-is, but clients can now request a reduction of fees for financial hardship
- Current eForms continue (now called the 'guided' pathway)
  - Lodge Parenting Orders seeking Family Dispute Resolution exemptions.

What's next?

- The eFiling inbox will progressively become the main entry point for our business.
- The more we encourage litigants to file electronically, the fewer physical documents we'll need to upload when the DCF goes live in 2019.
- The DCP and business team is working to deliver additional improvements to help you manage increased eFiling. This includes:
  - developing nationally consistent procedures
  - enhanced public access kiosks
  - streamlining of refunds
  - issuing subpoenas online.

Digital Court File (2019)

1 2 3 4

Commonwealth Courts Portal

Journey to the DCF

Slide 7

Speaker Notes:

1) Where doc is eLodged it currently needs to be printed out and placed on the hard copy file as it is the official court record

2) Completion of file: currently many registries will scan and email soft copy docs to chambers to ensure timely delivery. The hard copy original   will follow. The instant nature of the transmission of the documents to the file once accepted will remove the current issues where parties insist docs were lodged in registry – but they are not on the file in Court.

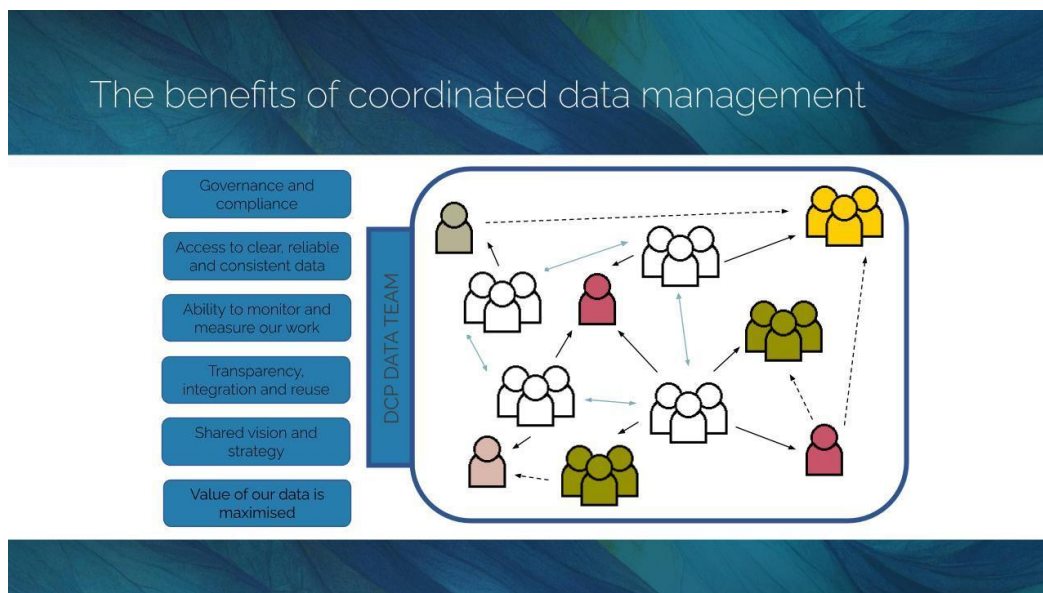3) File Movements – in some instances where files reside in the registry up to 13 movements

can happen between chambers and registry for one file

4) Number of registries (add map from training approach, number of judges – family court/FC)
5) Number of filings for family court eFiled v Fed Court

Annex F – Digital Court Program

Slide 1

Slide 8

Speaker Notes: Existing teams with responsibility for creating, managing, analysing and/or presenting data.
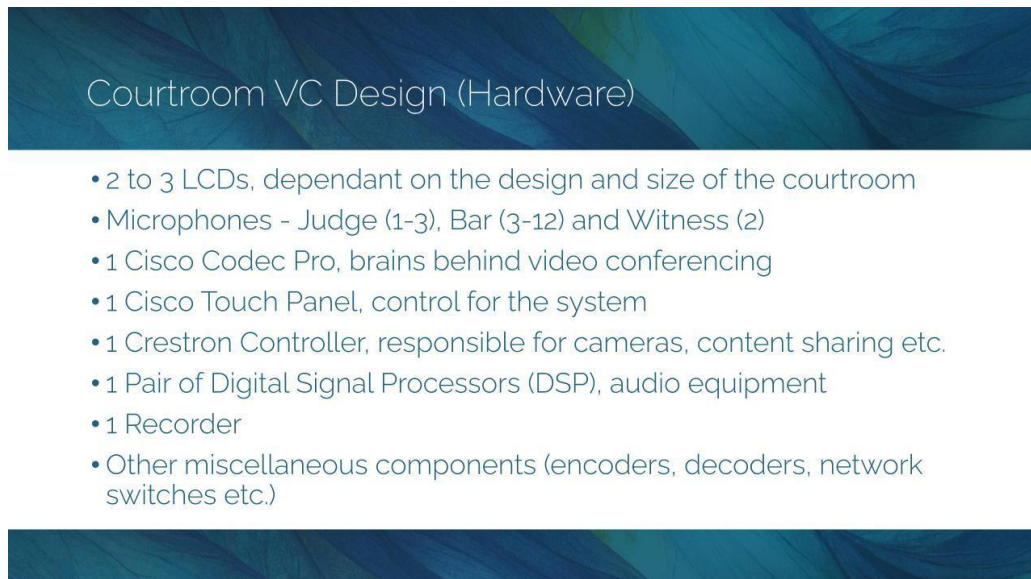
- They may collaborate with one another.
- Diverse user groups.

- Teams and users communicate re particular data needs, and
- Users might communicate with one another too.

- Our team doesn't replace any of this, but sits around it and provides centralised and coordinated governance and management of our data assets and processes.

- Benefits of this coordinated approach include…

Annex G - Video Conferencing, Hybrid Hearings, and Streaming

Slide 1

Slide 6

Slide 8

Slide 14

Annex H - Looking Back to the Future The Next Generation

Slide 1

Slide 24

What we have achieved so far?

- Active use of eCourtroom in both case management & dispute resolution across the General Federal Law jurisdiction
- Comprehensive use of in court room video-conferencing across Australia for case management, trial, appeals
- Judge in Melbourne, 2 Judges in Sydney, Counsel in Melbourne, Counsel in Sydney
- Comprehensive use of video-conference for Court Administration across Australia (Skype)
- Use of video-conference as a legitimate means of conducting hearings opens opportunities for development of video-conference like hearings using Smart Phone Technology

Slide 25
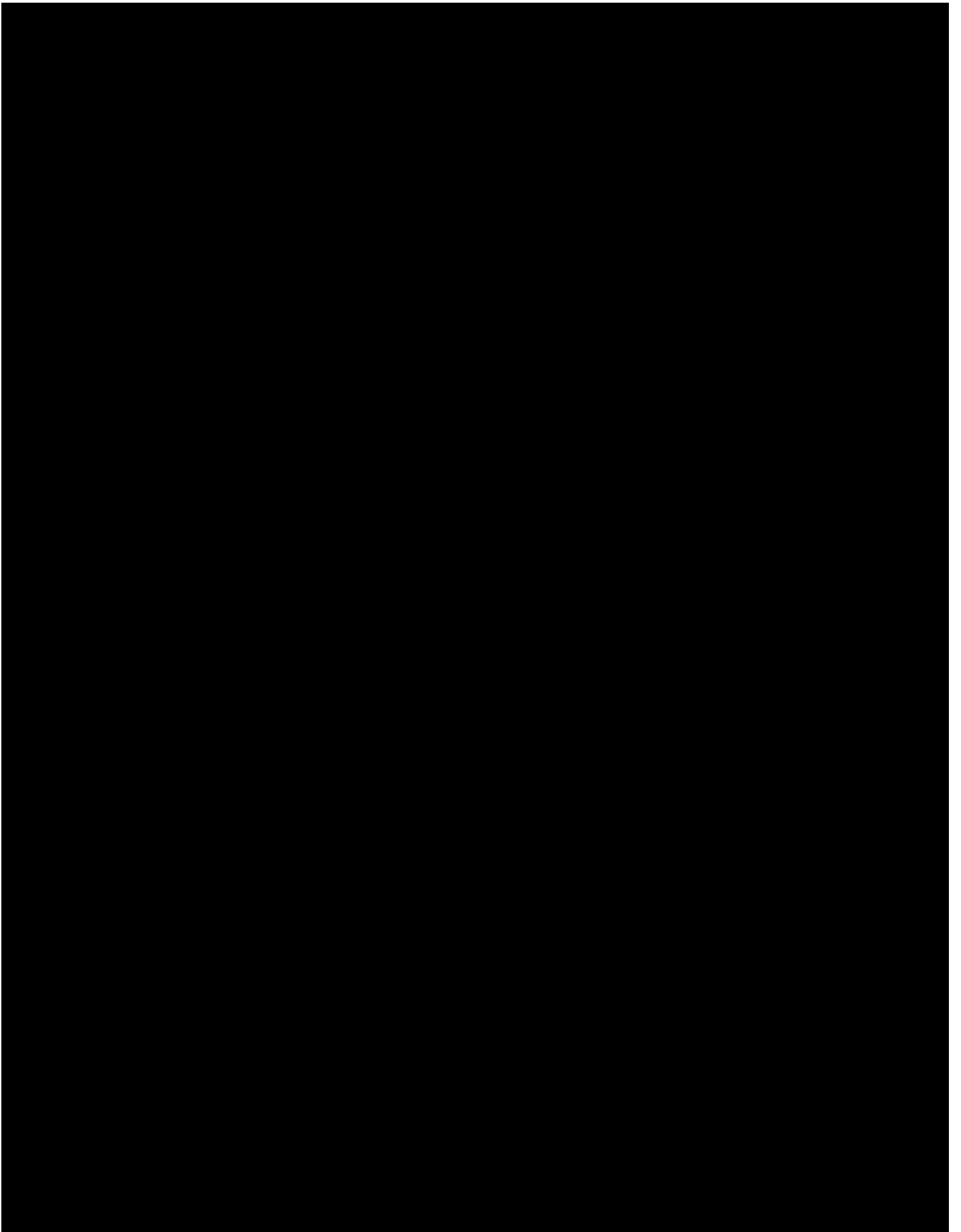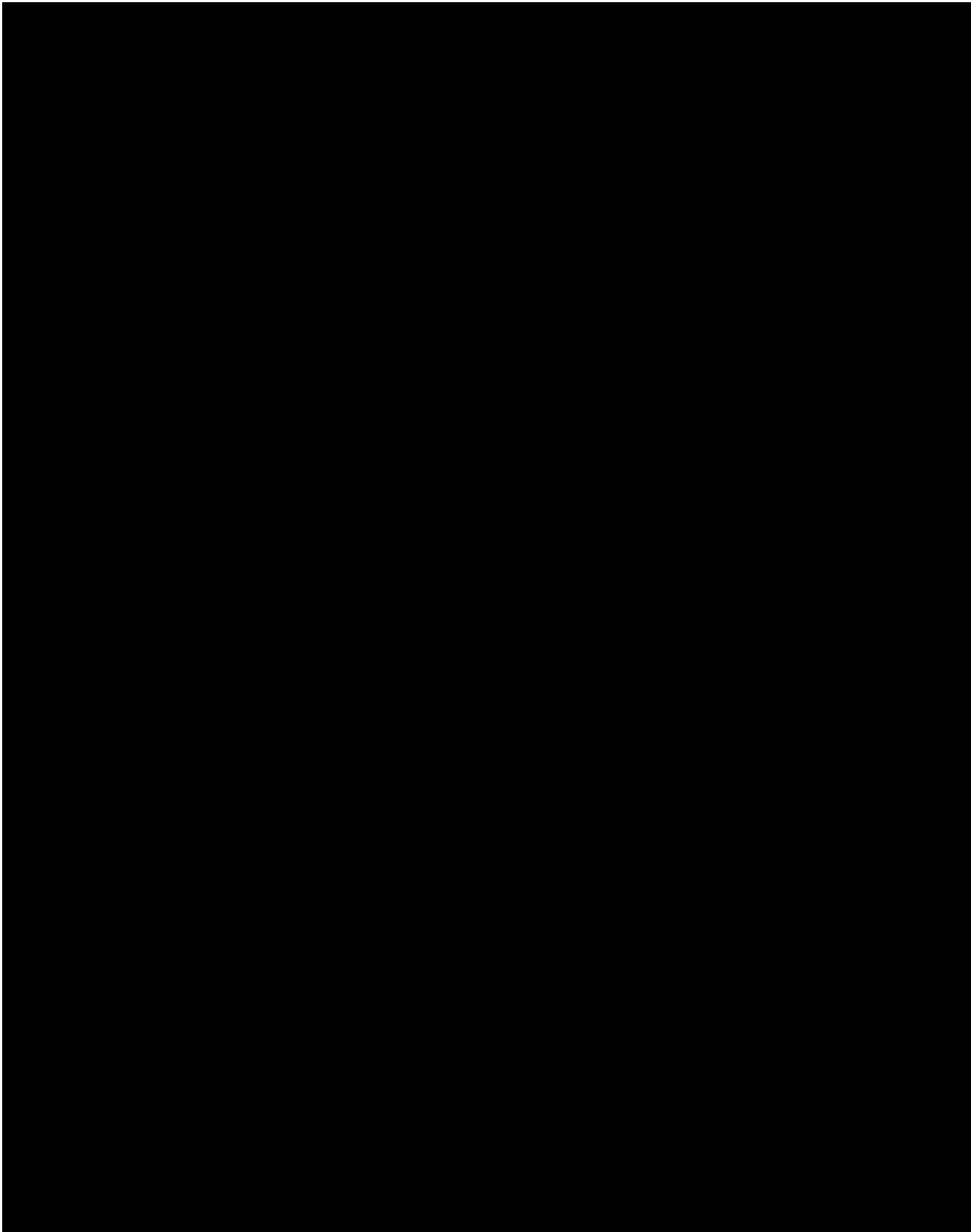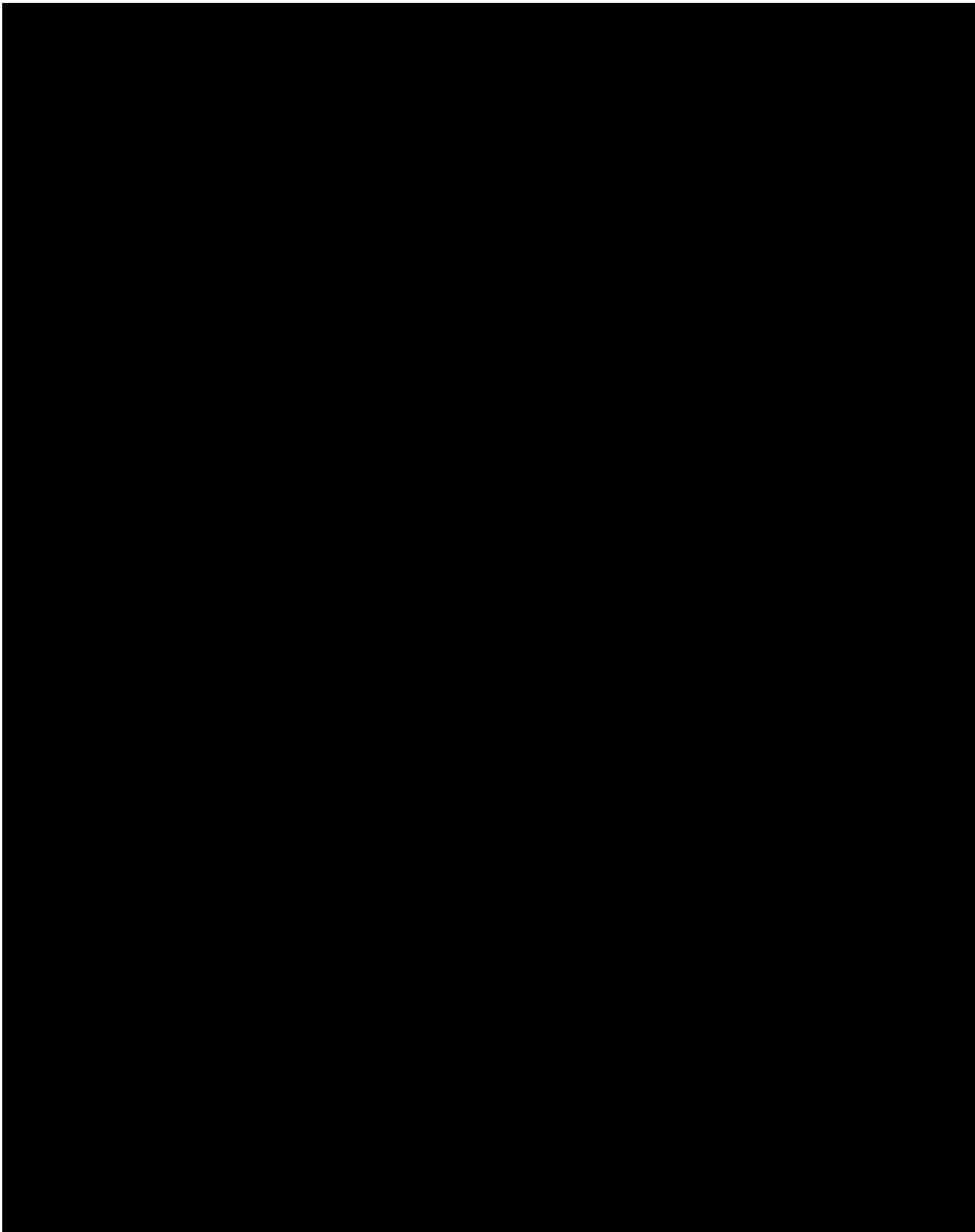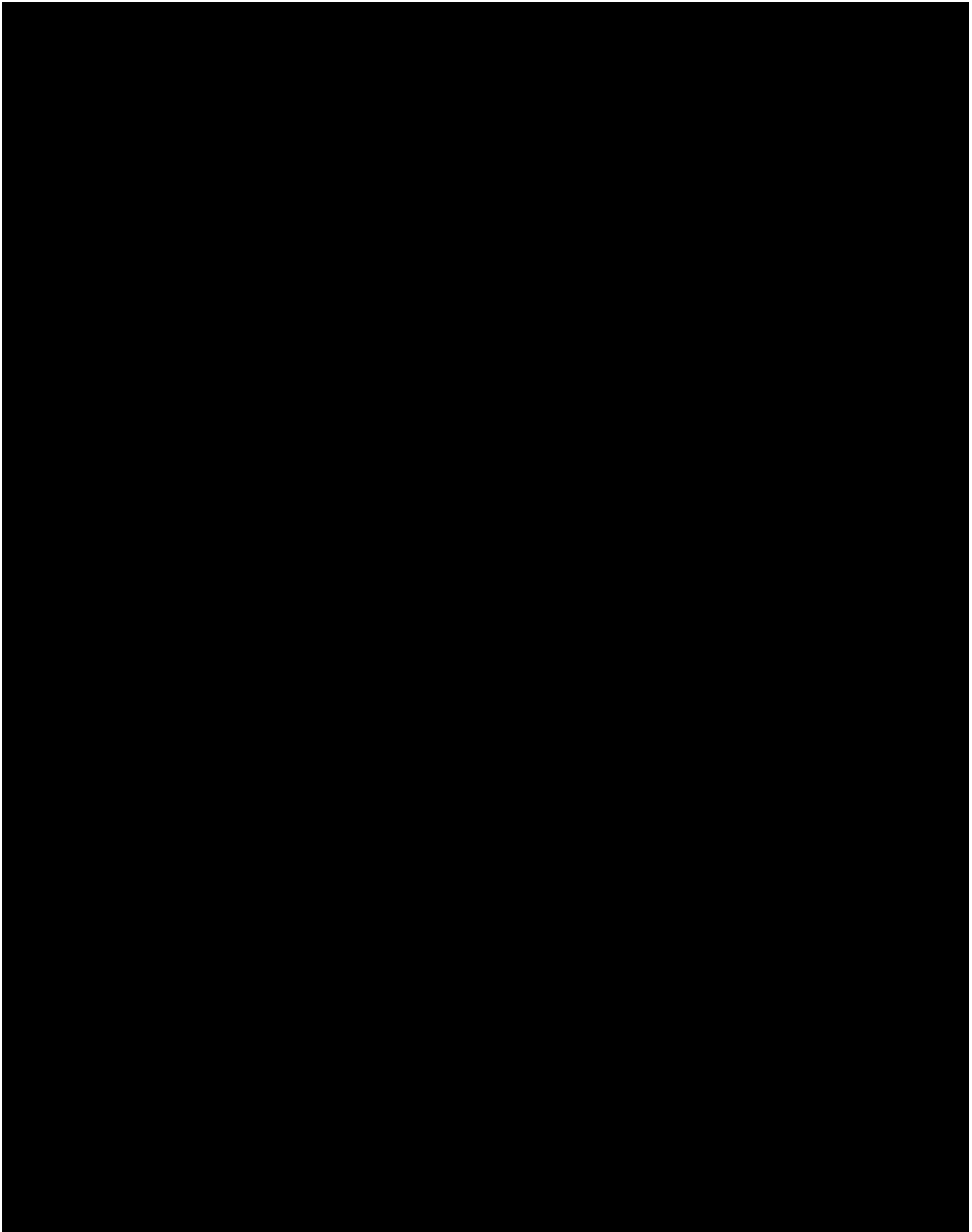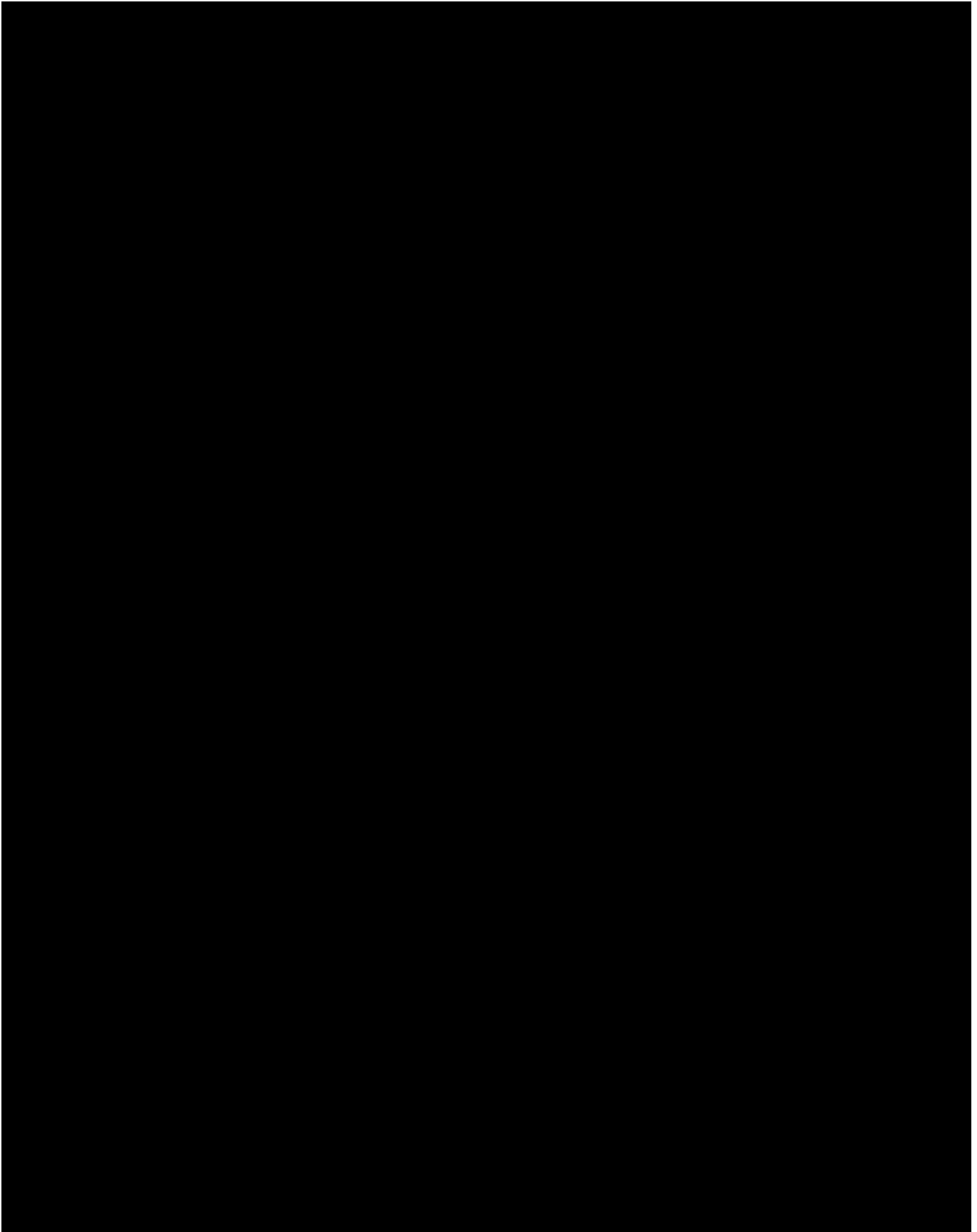
Annex J – Lecture Presentations

1. Procedural Fairness
2. Ten Tips for Legal Careers
3. Digital Disruption
4. Oral and Written Advocacy
5. Canada vs. Australia - Various Similarities and Distinctions

Anyone with Judicloud Access can click here or on the link above to see these presentations.

Canadian Study Leave-related Lectures included:

1. TMU 2L Students with Prof. Simon Wallace on Technology and the Courts (Sept 2023)
2. TMU Class Lecture and Tech Project Judging with Professor Jake Effoduh (March 2024)
3. Bond University Alumni Canada – Written and Oral Advocacy Skills (April 2024)
4. CBA Montreal – AI Policy and Study Permit/ODR Pilot at the Federal Court (May 2024)
5. CCAT Administrative Law Week: Basics of AI for Tribunal Members (June 2024)
6. CIAJ Lunch and Learn - Under the Hood of AI (June 2024)
7. NJI Judging Better Judging Smarter - AI & Disruption in Legal Service Delivery (June)

Annex K – Exit Report

From: Alan Diner - December 1, 2023
To: Dean Nick James; Associate Dean Louise Parsons; Professor Lisa Bonin, Denise Noblet
Re: My time at Bond

The purpose of this brief note is to provide you with a short summary of my activity highlights with students, faculty, and others in the legal community. In sum, the time I spent at the University (Oct. 10-Dec. 1) have been a wonderful experience from my perspective. I hope that from your perspectives, the short stay has been enriching for the law and graduate students, and staff.   hope that the stars will align so that I may return to Bond one day.

HIGHLIGHTS OF STAY AT AND AROUND BOND:

Oct 9: Attendance at Federal Court hearings with Justice Downes in Brisbane;
Oct 13: Prof Narelle Bedford's Admin. Law Class – The Law of Procedural Fairness*
Oct 17: Attendance at HopgoodGanim to meet with lawyers regarding digital procedures in practice
Oct 19: Attendance at Federal Court hearing; lunch with Justice Michael Jarrett (FCFCOA)
Oct 24: Attendance at the Michael Kirby Public Lecture and Mooting Dinner
Nov 2: Attendance at QSC hearings with Justice Muir and others;
Nov 2:   Presentation on event at the AAT with senior tribunal leadership;
Nov 2: Attendance at Justice Rangiah lecture for end-of-year event, Administrative Law Asssociation
Nov 6: Attendance at Dean's Awards
Nov 10: Attendance with Justice Kyrou, President of the AAT, at Kumar hearing
Nov 15: Lunch presentation to CLSA and law students on Top 10 Career Tips*
Nov 16: Attendance at Civil Procedure Class with Prof. High Zillman
Nov 17 and 24 – Attendance at Constitutional Class with Prof. Gerard Carney
Nov 23: Attendance on bench at Full Court Hearing with Justices Collier, Meagher, Horan (FCA)
Nov 23: Guest lecture on Digital Disruption in the Legal Industry for Prof. Ying Chen's class*
Nov 24: Lecture to Bond Mooting students on Oral and Written Advocacy*
Nov 27: Research Seminar – Comparison of Canadian and Australia Legal System and Practice*
Nov 28: Attendance at Denning Luncheon
Nov 28: Guest Q&C session at Prof. Matt Raj Criminal and Public Law class
Nov 29: Informal Q&A with students

I would be remiss not to mention the superb attendance, active participation, and research assistance at the various sessions and class lectures listed above. And most of all I wish to thank you four for all your assistance in supporting my Study Leave, as well as the unexpected assistance you provided when my housing became an issue mid-stay. That, along with the great hospitality of the entire Bond team (including Housing and Security), has made me feel like a part of the faculty, despite my relatively short stay here. All much appreciated on my end, and which I will fondly remember! Alan

Annex L – Study Permit Pilot Project

Annex L.1 – Study Permit Pilot Project Background and Update Presentation – Canadian Bar Association Immigration Law Conference – May 10, 2024

Student Permit Pilot Project Background and Update

Alan Diner

Canadian Bar Association Immigration Law Conference
Montreal, QC
May 10, 2024

1

Project overview

- Timeline: initiated two years ago

- Initial objectives: Find means to simplify and make more efficient the judicial review process

- Had contemplated ODR, meaning

  ➤ (i) asynchronous decision(s);

  ➤ (ii) on a dedicated online platform.

- Target type of IMM case: ALJR seeking mandamus

2

Project overview

- Current objectives
    - Streamline the content and resolution of JR applications incl.
        - ➢Time from filing to outcome;
        - ➢Steps in ALJR process;
        - ➢Extent of documentation filed, incl. CTR, record, submissions
        - ➢Decision made without need for a hearing
        - ➢Limited to cases with non-complex factual and legal context
    - **Overall:** improve access to justice and decrease wait times for judicial review applications

3

Project scope: non-complex ALJRs

- To be eligible for the pilot project, applications must be non-complex:
    - ➢Refusal of a SP application (and any TRV application associated with the study permit application)
    - ➢Only documents necessary: Notice of Application, Notice of Appearance, Simplified CTR, parties' simplified submissions
    - ➢No complex factual or legal issues such as inadmissibility or national security, when an applicant has been interviewed for credibility concerns, or other issues of similar character, or cases that raise certified question requests
    - ➢Parties agree on underlying facts as supported by the CTR

4

Proposed measures of success

- Proportion of discontinued applications compared to non-participating study permit applications;

- Proportion of applications where leave is granted as compared to the overall average of leaves granted in study permit applications;

- Proportion of applications "opting in" per month as compared to the total number of study permit applications received each month;

- Average amount of pages in documents filed for participating applications as compared to the average amount of pages in documents filed for non-participating study permit applications;

- Average length of time between filing a Notice of Application and a determination on the merits; and,

- Average length of time between the perfection of an application and a determination on the merits.

5

Simplified Procedure to apply for judicial review – new process

Simplified Submissions Form for parties to makes submissions and references to the Certified Tribunal Record

- Will replace all other written submissions

- Will include both grounds for leave and reasons for judicial review

6

Simplified Procedure to apply for judicial review

• **Purposes of Simplified Procedure:**

- Streamline the adjudication of study permit refusals from the initial application to a determination on the merits

- Shorten the length and number of legal submissions for study permit judicial reviews

7

3 major procedural changes

1. No hearings for Applicants which opt into Simplified Procedure

2. Shortened timeline so entire procedure is complete within 5 months rather than 20-24 month period

3. Simultaneous determination of leave and the merits of the judicial review

8

Procedural changes

- Court has three options

    1. Dismiss leave and dismiss application (no reasons will be issued)

    2. Grant leave and deny application (reasons will be provided)

    3. Grant leave and grant application (reasons will be provided)

9

Procedural changes

- Bring back the ability for a single application for leave and judicial review for associated applications
    - ➢ Eg. Denial of a study permit that has an associated temporary residence or work permit application (individual accompany study permit applicant)
- Add the ability to change an application proceeding under the simplified procedure to the general procedure, by an R-369 motion by either party
- Court can also move the file on our own to the general procedure

10

Pilot advantages

- Reduce number of hearings
- Decrease time of average file in Registry significantly
- Expedited decisions
- Reduce costs for both sides
- Eliminate paper records
- Continue to engage the prospect of settlement
- Improve Access to Justice
- Possibility for outcome in same academic year as filing

11

Pilot containment

- Opt-in for both sides
- Can decide to opt out with motion
- Not for complex cases
- Target cap: 200 cases
- Assessment after 180 days

12

Annex L.2 – Study Permit Pilot Project Quick Reference Guide

SIMPLIFIED STUDY PERMIT PILOT PROGRAM: OVERVIEW AND ROLLOUT PLAN:

RATIONALE: The simplified judicial review procedure for study permits was developed as a response to an acknowledged need across the Bar that certain types of IMM applications could benefit from a streamlined application process. While ongoing CAS priorities are providing much-needed business process improvements and efficiencies to IMM files, the Court must continue to explore new processes will be necessary to ensure the FC's long-term ability to deal with the volume of immigration filings, which has grown by approximately 300% over the past three years.

BENEFITS: The Pilot will alleviate strain on judicial and registry resources, providing quicker and streamlined resolution of disputes. The increased access to justice will benefit applicants whether or not they are represented. The Pilot uses existing tools to limit strain on financial and human resources.

DESIGN: The simplified judicial review pilot project is designed as a one-instance simplified resolution procedure, exercised initially through the Court's use of Rule 55 of the *Federal Courts Rules*, SOR/98-106. Judges of the Federal Court deal with study permit cases on a regular basis and keep themselves up to date with respect to the Court's latest cases.

SCOPE: Planning will begin over the next few weeks and we hope to launch the project this Fall.

COMMUNICATIONS: Two prior expedited Pilot programs (2012 and 2018) failed to attract sufficient participants. In order to avoid a similar outcome, CAS communications staff would finalize marketing materials such as the Key Benefits to Users and social media messaging. Key communications opportunities will begin with a May 10 panel dedicated to the Pilot at the CBA IMM Conference (Mtl).

BACKGROUND: The Pilot has been refined over two years by the Online Dispute Resolution Working Group (ODRWG), which consists of members of the immigration bar. Originally contemplating mandamus applications, the ODRWG ultimately decided to proceed with the Pilot for "non-complex" study permit applications.

CHANGES: Initial implementation of the simplified judicial review procedure requires the following three modifications from regular-stream JRs, all within FC authority:
1. Modifying the existing procedure governing applications for leave and judicial review of temporary visa decisions (*Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22) through the FC's discretion in Rule 55 of the *Federal Courts Rules*, SOR/98-106 to vary a rule or dispense with compliance with a rule;
2. Empowering the Registry to request Simplified Certified Tribunal Records from IRCC in a manner similar to requests for Rule 9 Reasons; and,
3. Modifying procedure to eliminate hearings for Pilot applications, reduce the volume and length of documents received, reduce the timeline of stages of simplified proceedings, and make a final determination on the merits of a simplified application at the same time as leave determination.

REGISTRY PREPARATION: Specific steps to be taken by the Registry under the Pilot are:
- Identify and manage applications proceeding under the simplified procedure;
- Modify Bring Forward (BF) timelines for simplified applications;

- Confirm the proposed bilingual Submissions Form in PDF of the ODRWG, with one page of written submissions, with an additional half-page for an Applicant to make reply submissions; and
- Track and cap the number of applications filed at 200, subject to further modification.

FUTURE POSSIBLE ADDITIONS: Should the Pilot be successful, consider the following points:
- Direct integration with the e-filing portal;
- Establish a "Navigator" tool to assist self-represented litigants in complying with the simplified procedure; and
- Identifying essential data points and metrics for CAS and the FC, subsequently building methods for the collection and analysis of these data points and metrics into the digital infrastructure of the simplified procedure.

OTHER ADVANTAGES OF PILOT
- No further impact on privacy than existing processes.
- Procedural in nature thus no additional consideration of the gender-based analysis plus framework.
- Initial implementation of the simplified procedure requires reallocation of a small team of Registry staff to administer the procedure, including training on the procedure.
- Only an expansion of the Pilot would require additional financial and human resources, for which the Registry and IT teams would need to assist in the preparation of a budget.

RISKS
As this proposal constitutes a pilot project for civil procedure reform, consideration must be given to the following:
- Long-term concerns that the simplified procedure will need to be implemented by an amendment to the applicable FC Rules in order to be scaled up and made permanent.

Annex L.3 – Study Permit Pilot Project Flowchart

Applicant files Notice of Application, opts in to Pilot Project

10 days

Respondent files Notice of Appearance

Registry sends CTR request to Tribunal, then either:

45-60 days

Upper path:

Respondent opts in, parties receive Simplified CTR

15 days

Applicant files Submissions Form

30 days

Respondent files Submissions Form

5 days

Applicant inserts Reply and files complete Submissions Form

At least 15 days

Application considered by Court based on Simplified CTR and Submissions Form

Leave dismissed

Leave granted and JR determined

Lower path:

Respondent opts out and Parties receive Rule 9 Reasons

30 days

Application proceeds normally, Applicant files Record

Annex L.4 – Study Permit Pilot Project – Simplified Submissions Form

SIMPLIFIED JUDICIAL REVIEW

Court File No.[＿＿＿＿＿]

FEDERAL COURT

BETWEEN:

[＿＿＿＿＿＿＿＿＿＿]

Applicant(s)

AND:

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

SIMPLIFIED SUBMISSIONS FORM

(Application for Leave and Judicial Review under Simplified Procedure)

Instructions

This form is for the applicant and the respondent to provide their simplified submissions regarding this application for leave and judicial review of a study permit refusal. The Court knows the basic principles governing judicial review and its recent jurisprudence regarding study permits.

Submissions should focus on the facts of the case and the grounds of judicial review arising out of the reasons of the decision under judicial review, with clear references where possible to relevant pinpoints in the Simplified Certified Tribunal Record. Parties may include references for up to three (3) decisions they wish to bring to the Court's attention, but such references must include no more than one sentence explaining why the party is bringing this decision to the Court's attention.

The applicant must first add their submissions within up to one page of allotted space, then serve and file this Simplified Submissions Form. The respondent will then provide its submissions within up to one page of allotted space. Lastly, the applicant may provide a reply within up to one half-page.

No submissions contained within the Simplified Submissions Form require a Declaration of Use of Artificial Intelligence. Any attempt to alter this Simplified Submissions Form or the content of this Form after it is filed with the Court and served upon a party will constitute misconduct before the Court and may warrant sanction.

SIMPLIFIED JUDICIAL REVIEW

<u>Applicant</u>: Between your original and reply submissions you may include references for up to three (3) decisions, but such references must be hyperlinked and include no more than one sentence explaining why you are bringing this decision to the Court's attention.

(max. 400 words)

All of this submitted by: **Name**:

Signature:

Date:

SIMPLIFIED JUDICIAL REVIEW

<u>Respondent</u>: You may include references for up to three (3) decisions, but such references must be hyperlinked and include no more than one sentence explaining why you are bringing this decision to the Court's attention.

(max. 400 words)

All of this submitted by: **Name**:

Signature:

Date:

Applicant in Reply: Between your original and reply submissions you may include references for up to three (3) decisions, but such references must be hyperlinked and include no more than one sentence explaining why you are bringing this decision to the Court's attention.

(max. 200 words)

All of this submitted by: **Name**:

Signature:

Date:

Annex L.5 – Applications for Leave and Judicial Review at Canada's Federal Court

Federal Court of Canada Immigration Judicial Review Filings

2023 vs. 2022 vs. 2019

	7,782	13,487	16,726
	2019	2022	2023
non-refugee/non-réfugié	4,659	9,813	13,215
refugee/réfugié	3,123	3,674	3,510

refugee/réfugié   non-refugee/non-réfugié
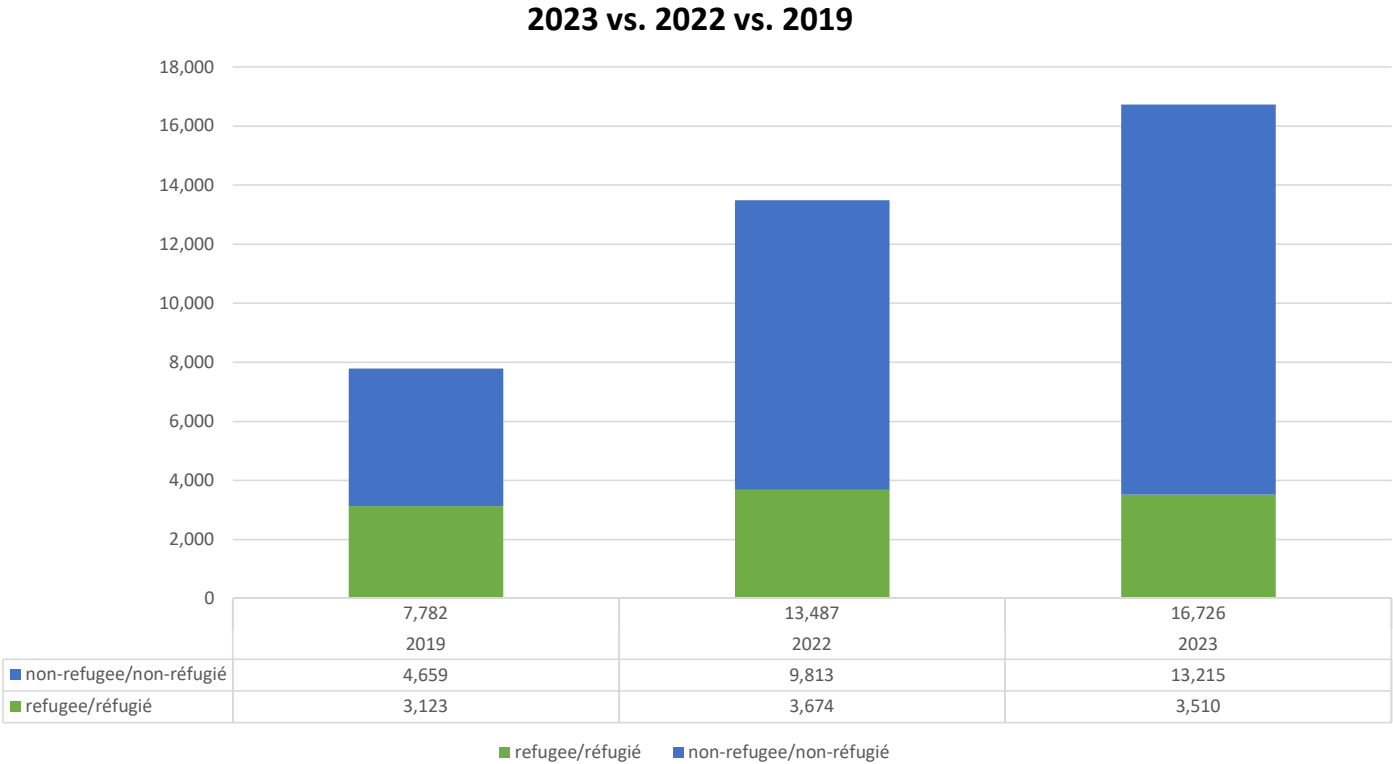
Annex M – Federal Court on Artificial Intelligence

Annex M.1 – FC AI Notices Background and Update Presentation –
Canadian Bar Association Immigration Law Conference – May 10, 2024

FC AI Notices
Background and Update

Alan Diner

Canadian Bar Association Immigration Law Conference
Montreal, QC
May 10, 2024

1

Steps taken to develop AI Notices

- They had been in contemplated for a couple of years prior to their Dec 20 publications
- CJC released their guidelines after some controversy in Manitoba and Yukon's statements
- We decided to release them after the CJC released suggested AI Guidelines, which were adopted verbatim by some courts
- Ours are more comprehensive, and include a declaration
- Had several rounds of consultation
- Those have included AIWG, both before and after their publication

2

2

AIWG: External Members

IP AND CIVIL LITIGATION COUNSEL
· Ron Dimock (Gowling WLG)
· Mannu Chowdhury (Paliare Roland)
· Eric Mayzel (Cassels)

IMMIGRATION AND CITIZENSHIP COUNSEL
· Zeynab Ziaie Moayyed (Visa Law Group PC)
· William Tao (Heron Law)
· Cedric Marin (Marin Immigration Law)
· Raj Sharma (Stewart Sharma Harsanyi)
· Steven Meurrens (Larlee Rosenberg)

GOVERNMENT COUNSEL
· Anna Lillicrap (DOJ)
· Dupe Oluyomi-Obasi (DOJ)

ACADEMIC REPRESENTATIVES
· Prof Amy Salyzyn (UO Law Faculty)
· Prof Abdi Aidid (UofT Law Faculty)
· Prof Jake Effoduh (TMU Law Faculty)

JUDUCIARY
· Justice Chris Corkery (OSC)

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Feedback from Dec 20 Notices

- Some positions are diametrically opposed – including IMM and IP bars
- Generally positive responses from lawyers, professors, media, other judges who have commented
- Feedback provided to Tech Comm members, AIWG members
- Primary points of feedback have been addressed in the following 6 revisions

4

4

Questions raised by AIWG Feb 8

- Will the Court treat documents containing a Declaration differently than those that do not? Would the Court use the inclusion of a Declaration as justification to make a negative inference on the contents of the document?
- What is the onus on counsel, when taking a matter from either a SRL or previous counsel, to verify whether documents that were filed with the Court before they took over contain content that should have been declared?
- Can the Court be more specific in discussing the purpose of the Declaration and how it addresses some of the harms identified by the Court in the Notice?
- Where does the Court draw the line between uses of AI that must be declared and those that do not need to be declared?
- Can the Declaration be more specific in highlighting where and/or how AI-generated content has been included in documents?
- Can the Court clarify our commitment to consult stakeholders on future iterations of Court policy on the use of AI?

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6 Modifications to Dec 23 Notice

1. Declaration requires more detail on extent of GenAI use … by "stating in the first paragraph that AI was used in preparing the document, either in its entirety or only for specifically identified paragraphs". Sample declaration provided: "AI was used to generate content at paragraphs 20-30."

2. The purpose of the disclosure … "so that they [the Court and parties] can govern themselves accordingly."

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3. Details of when disclosure is required:

"A Declaration **is required if content in the material was directly provided by AI**, whether or not it was inserted from an external source like a web-based generative AI.

A Declaration is not required if AI was used to merely **suggest changes, provide recommendations, or critique content** already created by a <u>human who could then consider and manually implement the changes</u>.

A Declaration **is required** <u>when the role AI plays</u> in the preparation of materials for the purpose of litigation <u>resembles that of a co-author</u>."

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4. New counsel obligations

"The Court understands that when a member of the Bar takes over a matter as counsel from a previous lawyer or Self-Represented Litigant, it may be difficult to ascertain whether documents previously filed with the Court in connection with the matter contain content created, generated, or modified by AI. The same may be true with respect to drafts of documents that have been transferred to such new counsel. <u>In these cases, it is reasonable to expect new counsel to make best efforts to ascertain whether any such content has been included in that documentation, and to provide a Declaration in respect of any documents they have reason to believe *may* include such content</u>."

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5. Principle of Neutrality

"**Neutrality**: The Court confirms that the inclusion of a Declaration, in and of itself, will not attract an adverse inference by the Court. Similarly, any use of AI by parties and interveners that does not generate content that falls within the scope of this Notice will not attract any adverse inference. Parties and interveners will continue to be held to the existing standards under the *Federal Court Rules*. In this regard, the party signing a document submitted to the Court bares responsibility for the accuracy and veracity of its contents. The primary purpose for the Declaration is simply to notify the other party or parties, as well as the Court that AI has been used to generate content."

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6. Notice does not apply to:

"For greater certainty, this Notice does not apply to:

(i) **Certified Tribunal Records** submitted by tribunals or other third-party decision-makers, or

(ii) **Expert reports**, which the Court understands ought to require disclosure of the use of AI in the summary of methodology used under subparagraph 3(i) of the *Expert Witnesses Code of Conduct* as referred to in Rule 52.2 of the *Federal Courts Rules*.

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One AI Declaration to date

Déclaration

1. L'intelligence artificielle (IA) a été utilisée pour générer au moins une partie du contenu de ce document.

2. ChatGPT-3.5 a été utilisé. Aucune jurisprudence suggérée par l'IA n'a été retenue. Parmi la panoplie de réponses fournies, les seules affirmations retenues se trouvent aux paragraphes 13[1] et 42[2] de ces prétentions.

---

[1] « Cette affirmation est non fondée ; le demandeur a soigneusement articulé les motifs de succès de la demande. »
[2] « Il serait injuste de rejeter l'intégralité de la demande même si une seule réparation peut être octroyée. »

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Annex M.2 – Explanatory Note to the Update – May 7, 2024

Federal Court

Cour fédérale

NOTICE TO THE PARTIES AND THE PROFESSION
Explanatory note to the
Update to the Use of Artificial Intelligence in Court Proceedings
May 7, 2024

Today, the Court published a Notice to the parties and the profession to update its prior Notice entitled *The Use of Artificial Intelligence in Court Proceedings*, originally published on December 20, 2023.

The updates address issues raised within the *Artificial Intelligence Working Group*.

The issues raised were as follows:

- Will the Court treat documents containing a Declaration on the use of AI differently than those that do not? More particularly, would a member of the Court use the inclusion of a Declaration to make a negative inference on the contents of the document?
- What is the onus on counsel, when taking over a matter from either a self-represented litigant or previous counsel, to verify whether documents that were previously filed with the Court contain content that should have been declared?
- Can the Court be more specific in discussing the purpose of the Declaration and how it addresses some of the harms identified by the Court in the Notice?
- Where does the Court draw the line between uses of AI that must be declared and those that do not need to be declared?
- Can the Declaration be more specific in highlighting where and/or how AI-generated content has been included in documents?
- Can the Court clarify its commitment to consult stakeholders in relation to future iterations of Court policy on the use of AI?

Paul S. Crampton
Chief Justice

Annex M.3 – Updated Notice on the Use of Artificial Intelligence – May 7, 2024

Federal Court   Cour fédérale

NOTICE TO THE PARTIES AND THE PROFESSION
The Use of Artificial Intelligence in Court Proceedings
May 7, 2024

The Court expects parties to proceedings before the Court to inform it, and each other, if documents they submit to the Court, that have been prepared for the purposes of litigation, include content created or generated by artificial intelligence ("AI"). This shall be done by a Declaration in the first paragraph stating that AI was used in preparing the document, either in its entirety or only for specifically identified paragraphs (the "Declaration"). For greater certainty, the Declaration is only intended to notify the Court and parties so that they can govern themselves accordingly.

This Notice requires counsel, parties, and interveners in legal proceedings at the Federal Court to make the Declaration, and to consider certain principles (the "Principles"), when using AI to prepare materials filed with the Court. The Court offers below an explanation of why the Declaration and Principles are in the interests of justice, the specific type of AI to which this Notice applies, and how the Court will update its approach to the use of AI at the Court in the future.

1. Declaration for AI-Generated Content

This Notice applies to all materials that are (i) submitted to the Court, and (ii) prepared for the purpose of litigation. For greater certainty, this Notice does not apply to: (i) Certified Tribunal Records submitted by tribunals or other third-party decision-makers, or (ii) Expert reports, which the Court understands ought to require disclosure of the use of AI in the summary of methodology used under subparagraph 3(i) of the Expert Witnesses Code of Conduct as referred to in Rule 52.2 of the *Federal Courts Rules*.

The Court recognizes that AI may offer substantial benefits in the preparation of documents. However, the Court also has obligations to maintain the integrity of judicial proceedings, safeguard public confidence in the justice system, and uphold the rule of law.

To ensure that the Court understands the role AI has played in the preparation of materials for the purpose of litigation, and submitted to the Court by or on behalf of a party or intervener, such materials must include the Declaration whenever they contain content created or generated directly by AI. For clarity, a Declaration is required if content in the material was directly provided by AI, whether or not it was inserted from an external source like a web-based generative AI. However, a Declaration is not required if AI was used to merely suggest changes, provide recommendations, or critique content already created by a human who could then consider and manually implement the changes. A Declaration is required when the role AI plays in the preparation of materials for the purpose of litigation resembles that of a co-author.

The Court understands that when a member of the Bar takes over a matter as counsel from a previous lawyer or Self-Represented Litigant, it may be difficult to ascertain whether materials previously filed with the Court in connection with the matter contain content created or generated by AI. The same may be true with respect to draft materials that have been transferred to such new counsel. In these cases, it is reasonable to expect new counsel to make best efforts to ascertain whether any such content has been included in those materials, and to provide a Declaration in respect of any materials they have reason to believe *may* include such content.

The Declaration shall be made in the first paragraph of the document in question, for instance, the first paragraph of a Memorandum of Fact and Law or Written Representations. An example of the Declaration follows:

<u>Sample Declaration</u>

Artificial intelligence (AI) was used to generate content in this document at paragraphs 20-30.

<u>Exemple d'une déclaration</u>

Ce document contient du contenu créé par l'intelligence artificielle (IA) aux paragraphes 20 à 30.

2. Principles on the Use of AI

The Court recognizes that emerging technologies often bring both opportunities and challenges. Significant concerns continue to be raised regarding the use of AI in Court proceedings, including with respect to "hallucinations"[1] and "deepfakes"[2], the potential fabrication of legal authorities through AI, and the use of generative decision-making tools by government officials. It is incumbent on the Court and its principal stakeholders to take steps to address such concerns.

Further, the Court understands that there are both ethical and access to justice issues regarding a lawyer's use of AI when their client may not be familiar with AI and its various applications. Before using AI in a proceeding, the Court encourages counsel to consider providing traditional, human services to clients if there is reason to believe a client may not be familiar with, or may not wish to use, AI.

The following principles are intended to guide the use of AI in documents submitted to the Court:

Caution: The Court urges caution when using legal references or analysis created or generated by AI, in documents submitted to the Court. When referring to jurisprudence, statutes, policies, or commentaries in documents submitted to the Court, it is crucial to use only well-recognized and reliable sources. These

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[1] "Hallucination" is a term used to refer to facts, citations, and other content generated by AI that are not true, and have been fabricated by AI in response to a prompt or request.

[2] "Deepfake" is a term used to refer to AI-generated images of human subjects that either replace one person's likeness convincingly with that of another, or that do not exist in real life.

include official court websites, commonly referenced commercial publishers, or trusted public services such as CanLII.

"Human in the loop": To ensure accuracy and trustworthiness, it is essential to check documents and material generated by AI. The Court urges verification of any AI-created content in these documents. This kind of verification aligns with the standards generally required within the legal profession.

Neutrality: The Court confirms that the inclusion of a Declaration, in and of itself, will not attract an adverse inference by the Court. Similarly, any use of AI by parties and interveners that does not generate content that falls within the scope of this Notice will not attract any adverse inference. Parties and interveners will continue to be held to the existing standards under the *Federal Courts Rules*. In this regard, the party signing a document submitted to the Court bears responsibility for the accuracy and veracity of its contents. The primary purpose for the Declaration is simply to notify the other party or parties, as well as the Court, that AI has been used to generate content.

3.   Explanation of this Notice

Through consultations with the stakeholders, the Court has developed its Declaration and Principles concerning certain uses of AI, including large language models.[3] The Court will continue to update this guidance periodically as the Court's understanding of AI evolves.

The Declaration requirement only applies to certain forms of AI, defined as a computer system capable of generating new content and independently creating or generating information or documents, usually based on prompts or information provided to the system. This Notice does not apply to AI that lacks the creative ability to generate new content. For example, this Notice does not apply to AI that only follows pre-set instructions, including programs such as system automation, voice recognition, or document editing. It bears underscoring that this Notice only applies to content that was created or generated by AI.

The Court recognizes that counsel have duties as Officers of the Court. However, these duties do not extend to individuals representing themselves. It would be unfair to place elevated AI-related responsibilities only on these self-represented individuals, and allow counsel to rely on their duties. Therefore, the Court provides this Notice to ensure fair treatment of all represented and self-represented parties and interveners.

The Court recognizes both the risks and benefits of AI, and the potential for bias in AI programs, their underlying algorithms, and data sets. The Court also recognizes that counsel, parties, interveners and the administrative bodies whose decisions they may challenge may increasingly rely on - or be impacted by - AI.

This guidance has benefited from feedback received from various stakeholders. The Court is committed to full transparency and continuing consultations with respect to future iterations of this Notice through the Court's *Artificial Intelligence Working Group*. That group consists of members of the Court, members of the Bar, experts on AI in law, law clerks and other interested stakeholders.

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[3] The term "large language model" refers to a type of AI capable of processing and generating human-like text based on vast amounts of training data.

For its part, the Court will not use AI, and more specifically automated decision-making tools, to make its decisions or render its judgments, without first engaging in public consultation. For more information, please consult the *Interim Principles and Guidelines on the Court's Use of Artificial Intelligence*.

Paul S. Crampton
Chief Justice

Annex M.4 – Notice on the Use of Artificial Intelligence

NOTICE TO THE PARTIES AND THE PROFESSION
The Use of Artificial Intelligence in Court Proceedings
December 20, 2023

The Court expects parties to proceedings before the Court to inform it, and each other, if they have used artificial intelligence to create or generate new content in preparing a document filed with the Court. If any such content has been included in a document submitted to the Court by or on behalf of a party or a third-party participant ("intervener"), the first paragraph of the text in that document must disclose that AI has been used to create or generate that content.

This Notice requires counsel, parties, and interveners in legal proceedings at the Federal Court to make a Declaration for AI-generated content (the "Declaration"), and to consider certain principles (the "Principles") when using AI to prepare documentation filed with the Court. The Court offers below an explanation of why the Declaration and Principles are in the interests of justice, the specific type of AI to which this Notice applies, and how the Court will update its approach to the use of AI at the Court in the future.

1. Declaration for AI-Generated Content

This Notice applies to all documents that are (i) submitted to the Court, and (ii) prepared for the purpose of litigation. For greater certainty, this Notice does not apply to Certified Tribunal Records submitted by tribunals or other third party decision-makers.

The Court recognizes that AI may offer substantial benefits in the preparation of documents. However, the Court also has obligations to maintain the integrity of judicial proceedings, safeguard public confidence in the justice system, and uphold the rule of law.

To ensure that the Court understands how AI has been used, any document prepared for the purpose of litigation, and submitted to the Court by or on behalf of a party or intervener that contains content created or generated by AI, must include the Declaration.

The Declaration shall be made in the first paragraph of the document in question, for instance, the first paragraph of a Memorandum of Fact and Law or Written Representations. An example of the Declaration follows:

<div align="center">

Declaration

Artificial intelligence (AI) was used to generate content in this document.

</div>

<u>Déclaration</u>

L'intelligence artificielle (IA) a été utilisée pour générer au moins une partie du contenu de ce document.

2. Principles on the Use of AI

The Court recognizes that emerging technologies often bring both opportunities and challenges. Significant concerns have recently been raised regarding the use of AI in Court proceedings, including in relation to "deepfakes," the potential fabrication of legal authorities through AI, and the use of generative decision-making tools by government officials. It is incumbent on the Court and its principal stakeholders to take steps to address such concerns.

Further, the Court understands that there are both ethical and access to justice issues regarding a lawyer's use of AI when their client may not be familiar with AI and its various applications. Before using AI in a proceeding, the Court encourages counsel to consider providing traditional, human services to clients if there is reason to believe a client may not be familiar with, or may not wish to use, AI.

The following principles are intended to guide the use of AI in documents submitted to the Court:

Caution: The Court urges caution when using legal references or analysis created or generated by AI, in documents submitted to the Court. When referring to jurisprudence, statutes, policies, or commentaries in documents submitted to the Court, it is crucial to use only well-recognized and reliable sources. These include official court websites, commonly referenced commercial publishers, or trusted public services such as CanLII.

"Human in the loop": To ensure accuracy and trustworthiness, it is essential to check documents and material generated by AI. The Court urges verification of any AI-created content in these documents. This kind of verification aligns with the standards generally required within the legal profession.

3. Explanation of this Notice

Through consultations with the stakeholders, the Court has developed its Declaration and Principles concerning certain uses of AI, including large language models ("LLMs").[1] The Court will update this guidance periodically as the Court's understanding of AI evolves.

The Declaration requirement only applies to certain forms of AI, defined as a computer system capable of generating new content and independently creating or generating information or documents, usually based on prompts or information provided to the system. This Notice does not apply to AI that lacks the creative ability to generate new content. For example, this Notice does not apply to AI that only follows pre-set instructions, including programs such as system automation, voice recognition, or document editing. It bears underscoring that this Notice only applies to content that was created or generated by AI.

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[1] The term "large language model" refers to a type of AI capable of processing and generating human-like text based on vast amounts of training data.

The Court recognizes that counsel have duties as Officers of the Court. However, these duties do not extend to individuals representing themselves. It would be unfair to place AI-related responsibilities only on these self-represented individuals, and allow counsel to rely on their duties. Therefore, the Court provides this Notice to ensure fair treatment of all represented and self-represented parties and interveners.

The Court recognizes both the risks and benefits of AI, including "hallucinations"[2] and the potential for bias in AI programs, their underlying algorithms, and data sets. The Court recognizes that counsel, parties, interveners and the administrative bodies whose decisions they may challenge may increasingly rely on — or be impacted by — AI.

This guidance has benefited from feedback received from various stakeholders. The Court is committed to full transparency and continuing consultations with members of the Bar and other stakeholders on the development of future iterations of this guidance and related policies.

For its part, the Court will not use AI, and more specifically automated decision-making tools, to make its decisions or render its judgments, without first engaging in public consultation. For more information, please consult the *Interim Principles and Guidelines on the Court's Use of Artificial Intelligence*.

        Paul S. Crampton
        Chief Justice

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[2] "Hallucination" is a term used to refer to facts, citations, and other content generated by an AI that are not true, and have been fabricated by an AI in response to a prompt or request.

Annex M.5 – Interim Principles and Guidelines

Federal Court   Cour fédérale

Interim Principles and Guidelines on the Court's Use of Artificial Intelligence
December 20, 2023

Federal Court will follow the Principles and Guidelines in this policy when using Artificial Intelligence (AI). The Court will not use AI, and more specifically automated decision-making tools, in making its judgments and orders, without first engaging in public consultations. For greater certainty, this includes the Court's determination of the issues raised by the parties, as reflected in its Reasons for Judgment and its Reasons for Order, or any other decision made by the Court in a proceeding. For information regarding the use of AI by parties, self-represented litigants and interveners, please refer to the Notice on the Use of Artificial Intelligence in Court Proceedings.

Background

The Federal Court's Strategic Plan 2020-2025 references the Court's interest in exploring the use of AI. After consultations with stakeholders, the Court has developed the following principles and guidelines to guide the potential use of AI by members of the Court and their law clerks.

The Court will begin investigating and piloting potential uses of AI for internal administrative purposes through its Technology Committee. For example, the Court will pilot a new process for translating decisions written by members of Court by using a form of AI to translate text. A translator and/or jurilinguist will review these AI-assisted translations to ensure that the translation accurately reflects the original reasons and outcome.

The Court understands the potential benefits, and risks, of using AI. In particular, the Court recognizes that AI can improve the efficiency and fairness of the legal system. For instance, it can assist with tasks such as analyzing large amounts of raw data, aiding in legal research, and performing administrative tasks. This can save time and reduce workload for judges and Court staff, just as it can for lawyers.

Other examples of potential benefits for all stakeholders in the justice system include streamlining aspects of case management, improving the accuracy and thoroughness of legal research, helping self-represented litigants to navigate Court procedures, and supporting alternative dispute resolution.

Alongside these potential benefits, the Court acknowledges the potential for AI to impact adversely on judicial independence. The Court also recognizes the risk that public confidence in the administration of justice might be undermined by some uses of AI. The Court will exercise the utmost vigilance to ensure that any use of AI by the Court does not encroach upon its decision-making function.

The Court will continue to consult experts and stakeholders as its understanding of AI evolves.

Principles

The following principles will guide the potential use of AI by members of the Court and their law clerks:

Accountability: The Court will be fully accountable to the public for any potential use of AI in its decision-making function;

Respect of fundamental rights: The Court will ensure its uses of AI do not undermine judicial independence, access to justice, or fundamental rights, such as the right to a fair hearing before an impartial decision-maker;

Non-discrimination: The Court will ensure that its use of AI does not reproduce or aggravate discrimination;

Accuracy: For any processing of judicial decisions and data for purely administrative purposes, the Court will use certified or verified sources and data;

Transparency: The Court will authorize external audits of any AI-assisted data processing methods that it embraces;

Cybersecurity: The Court will store and manage its data in a secure technological environment that protects the confidentiality, privacy, provenance, and purpose of the data managed; and,

"Human in the loop": The Court will ensure that members of the Court and their law clerks are aware of the need to verify the results of any AI-generated outputs that they may be inclined to use in their work.

Guidelines

For the potential use of AI by members of the Court and their law clerks, the Court will adhere to the following guidelines:

1. The Court will not use AI, and more specifically automated decision-making tools, in making its judgments and orders, without first engaging in public consultation. For greater certainty, this includes the Court's determination of the issues raised by the parties, as reflected in its Reasons for Judgment and its Reasons for Order, or any other decision made by the Court in a proceeding;

2. The Court will embrace the Principles listed above in any internal use of AI; and,

3. If a specific use of AI by the Court may have an impact on the profession or public, the Court will consult the relevant stakeholders before implementing that specific use.

Annex M.6 – Mapping of AI Companies

Early-Stage LegalTech Generative AI Landscape: Oct 2023

Meet the next generation of companies bringing generative AI to the legal ecosystem

The LegalTech Fund

Law Firms

Business Operations
- xpens.ai
- Precedent
- TALENT ENGINES
- Emmi
- AJAX
- 273
- simplexico
- LEGA
- FOUNDATION AI
- FirmPilot
- alchemy machines

Litigation
- bench iq
- Briefpoint
- patterndata
- Beagle
- PERJURY.AI
- AMICUS
- SMARTDEPO
- Uncover
- Skribe
- webnyay
- Syllo
- midpage
- LAER.AI
- ALTUMATIM
- Clearbrief
- Optimalex
- EvenUp

Research
- atla
- Atticus
- alexi
- aiLawDocs
- Harvey.
- YELLOWPAD
- deepjudge
- ali
- wexler.ai
- PAXTON LEGAL AI
- DocLens.ai

IP (Firms)
- POWER PATENT
- IPAuthor BY DOLCERA
- SOLVE INTELLIGENCE
- NLPatent

Corporate
- Spellbook
- MARVERI
- ndaOK
- noetica
- Standd
- Due

Other Practice Areas
- Casehopper
- Formally

Corporate

Contracting
- thecontractnetwork
- docsum.
- CALLIDUS
- Ozeki
- CLEARLAW
- PINCITES
- responsiv
- Lexi
- aline
- MACRO
- ContractKen
- kaveat
- centari
- SPEEDLEGAL
- Catylex
- BLACKBOILER

GRC
- Proxie
- CLOVERLEAF AI
- Josef
- tennis
- Saidot
- Deasie
- DynamoFL
- LEXVERIFY
- Gracenote
- AML
- 4CRISK.ai
- Global-Regulation
- LighthouseAI
- abstract
- HData
- RELYANCE AI

IP (In-House)
- tradespace
- IP COPILOT
- EN

Finance and M&A
- Lexata
- dili
- Hadrius
- QUANTUMERGE

Consumer & SMB
- muse
- Corpora
- SWEAPEL
- LifeLegacy
- William
- AI Lawyer
- Brief

Contact us for more information: **legaltech.com** and see some of these companies on the stage: **tltfsummit.com**

Annex M.7 – List of Jurisprudence Addressing AI

- *Ardestani v Canada (Citizenship and Immigration)*, 2023 FC 874.
- *Barre v Canada (Citizenship and Immigration)*, 2022 FC 1078.
- *Cass v 1410088 Ontario Inc*., 2018 ONSC 6959.
- *Floryan v Luke et al*, 2023 ONSC 5108.
- *Haghshenas v Canada (Citizenship and Immigration)*, 2023 FC 464 (reiterated at *Kumar v Canada (Citizenship and Immigration)*, 2024 FC 81).
- *Jamali v Canada (Citizenship and Immigration)*, 2023 FC 1328.
- *Khosravi v Canada (Citizenship and Immigration)*, 2023 FC 805.
- *Luk v Canada (Citizenship and Immigration)*, 2024 FC 623.
- *Mata v Avianca, Inc*., 22-cv-1461 (PKC) (SDNY June 22, 2023).
- *Ocran v Canada (Citizenship and Immigration)*, 2022 FC 175.
- *Osman v Canada (Citizenship and Immigration)*, 2023 FC 1644.
- *R c Pryde*, 2024 QCCQ 1794.
- *Raja v Canada (Citizenship and Immigration)*, 2023 FC 719.
- *Varghese v China South Airlines Ltd*, 925 F 3d 1339 (11th Cir 2019).
- *State of Washington v Puloka* - Washington Superior Court.
- *Zhang v Chen*, 2024 BCSC 285.