



The Advocates' Society La Société des plaideurs

June 14, 2021

VIA EMAIL: Andrew.Baumberg@fct-cf.gc.ca

Andrew Baumberg
Secretary to the Federal Courts Rules Committee
Federal Court of Appeal and Federal Court
90 Sparks Street, 12th Floor
Ottawa, Ontario K1A 0H9

Dear Mr. Baumberg:

RE: Amendments to the *Federal Courts Rules* with respect to Federal Court of Appeal Motions

The Advocates' Society writes in follow-up to its letter to the Federal Courts Rules Committee dated June 9, 2021, regarding the proposed amendments to the *Federal Courts Rules* that were pre-published in the *Canada Gazette*, Part I, Volume 155, Number 15, on April 10, 2021.

In that letter, the Society provided comments on the proposed Rule 369.2, which provides that “all motions brought in the Federal Court of Appeal shall be decided on the basis of written representations”, unless the Court orders otherwise on its own motion or at a party’s request.¹ In this regard, we advised the Rules Committee of a forthcoming report of the Society’s Modern Advocacy Task Force that may assist the Rules Committee when further considering the proposed Rule 369.2.

On June 14, 2021, the Modern Advocacy Task Force published its Report, entitled [*The Right to be Heard: The Future of Advocacy in Canada*](#). The Society encourages the Rules Committee to refer to the report’s recommendations, and in particular, Part IV.3, the Model Framework for Determining the Mode of Hearing, on pages 94-98 of the Report, which provides specific guidance on when a hearing should be heard orally, as opposed to in writing. The full Report is attached to this letter. For the Rules Committee’s convenient reference, the extract from the Report that contains the Model Framework has also been attached separately.

We would be pleased to discuss the Modern Advocacy Task Force’s report and recommendations with you further, and how the Modern Advocacy Task Force’s recommendations may be applied in the context of the proposed Rule 369.2 of the *Federal Courts Rules*.

¹ Proposed Rule 369.2 of the *Rules Amending the Federal Courts Rules* found in the April 10, 2021, issue of the *Canada Gazette*, Part I, Volume 155, Number 15.

Yours sincerely,



Guy J. Pratte
President

Attachments:

1. The Advocates' Society's letter to the Federal Courts Rules Committee dated June 9, 2021
2. Final Report of the Modern Advocacy Task Force, *The Right to be Heard: The Future of Advocacy in Canada* (June 2021)
3. Model Framework for Determining the Mode of Hearing, Extract from the Final Report of the Modern Advocacy Task Force's *The Right to be Heard: The Future of Advocacy in Canada*

CC: Vicki White, Chief Executive Officer, The Advocates' Society