



Federation of Ontario
Law Associations
Fédération des associations
de barreau de l'Ontario

October 2, 2026

Vaia Pappas
Director, Operational Support Branch
Court Services Division
Ministry of the Attorney General

Via Email (csd.operationalsupportbranch@ontario.ca)

Dear Ms. Pappas:

Re: Potential Elimination of Civil Notice of Action

We write to provide feedback regarding a potential change to eliminate the Notice of Action process currently set out in Rule 14.03(2) of the *Rules of Civil Procedure*. The Ministry of the Attorney General (“MAG”) is to be commended for the effort to streamline originating processes, insofar as it relates to the practice of civil litigation in Ontario.

FOLA does not support the elimination of the Notice of Action process, as set out in Rule 14.03(2). There is no question that the vast majority of litigation in Ontario commences within the applicable two-year limitation period as set out by the *Limitations Act*. However, the Notice of Action is an important tool which helps promote early resolution and preserve access to justice, by allowing claimants to properly file claims when the limitation period is about to expire.

We have also reviewed the submission authored by the Toronto Lawyers’ Association (“TLA”), in addressing the proposed elimination of the Notice of Action. FOLA is in support of the reasoning and position set out therein.

About FOLA

FOLA represents Ontario's 46 county and district law associations, and through them, their lawyer members. We are the voice of the practicing lawyer in Ontario, including thousands of our members who practice civil litigation.

The Civil Notice of Action Promotes Settlement Outside of Litigation

All civil claims require the diligent and detailed attention of counsel. When a demand letter fails to elicit a response, on account of inadvertence, wilful blindness and even avoidance, a Notice of Action can achieve a positive outcome where the demand letter failed. A large corporation will typically forward a Notice of Action to adjusters and in-house counsel, kick-

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starting settlement discussions and allowing the parties to avoid the time and cost of formally commencing litigation. Parties will take a Notice of Action seriously, in contrast to a simple demand letter - prompting the retention of counsel for the purpose of engaging in settlement discussions.

When a Notice of Action prompts settlement discussion, money and time is saved by all parties: a plaintiff with a smaller claim in which the facts are uncontested and known to all parties, is spared the expense necessary in issuing a Statement of Claim. Similarly, a defendant, cognizant of the prospect of a costs award and rising legal costs, is afforded the opportunity to resolve the matter early, likely with modest costs incurred. Perhaps most importantly, a Notice of Action allows straightforward disputes to avoid any further litigation step, which might preserve valuable Court time and judicial resources.

The Civil Notice of Action Increases Access to Justice in Preserving Last-Minute Claims

Many of our members meet clients who arrange meetings to advance a claim, only to discover that the limitation period is about to expire. Sophisticated clients who are familiar with the legal system will likely be aware of limitation period issues – these are not always the prospective civil litigants our members meet on a day-to-day basis. In situations where a party seeks out civil justice with an impending expiry of a limitation period, there is little to no time to investigate all relevant facts and draft an accurate/effective Statement of Claim.

In contemplation of the up-front evidence model, the minimum number of steps before drafting a Statement of Claim might include: a fulsome interview with the client (not just an intake meeting), obtaining evidence, counsel's review of evidence, and a subsequent review of evidence with the client. Clearly in the context of a last-minute claim being drawn to the attention of one of our members, these minimum steps cannot be taken prior to drafting a Statement of Claim. As such, the Notice of Action satisfies a critical role in preserving claimant rights and access to justice. The Notice of Action is, in fact, the *only* mechanism available that preserves the rights of last-minute claimants.

We also reiterate that the general public is not always aware of the typical 2-year limitation period, nor of the work required to commence a civil action. The minimum steps mentioned above are not typically contemplated by claimants as they seek out justice. A claimant might expect to attend at a lawyer's office on a day of their choice and have a Statement of Claim issued on the same day. The practical reality is that effective advocacy takes more time. An important role for the Notice of Action to preserve the rights of claimants.

Considerations To Eliminate the Notice of Action

MAG's email of September 15, 2026 states some considerations supposedly in favour of elimination of a Notice of Action:

"The notice of action was initially adopted in Ontario in 1985 to address concerns about insufficient time to prepare the then-new Statement of Claim form which was to replace the Writ of Summons. Given the current familiarity with the statement of claim, our understanding that there is a relatively low volume of Notices of Action

filed annually, and considering the continued ability to amend a statement of claim, the need for a secondary process to start an action is unclear...”

These considerations do not in fact favour the elimination of a Notice of Action, for the following reasons:

1. The Notice of Action has evolved beyond its beginnings as a transitory solution from the Writ of Summons. Decades of practice in the civil justice system have demonstrated, and our members continue to use, the Notice of Action as an important and helpful tool for early settlements and preserving the rights of last-minute claimants.
2. The relatively low volume of Notices of Action filed in Ontario is supportive of the conclusion that the Notice of Action is used properly and importantly is not being abused by claimants. There are not many last-minute claimants, but protecting their rights is as important as protecting the rights of any litigant seeking out justice.
3. The service of a Notice of Action is rarely a point of contention for defendants, as it is a simple step which allows enough time for a fulsome Statement of Claim to be drafted and served. The alternative is to risk hastily and poorly drafted claims which then require amendments, ultimately resulting in negligent pleadings, costly motions and a waste of judicial resources. A Notice of Action helps to promote a clean record for the Court.

We thank you for considering our feedback and look forward to continuing to work with you to reform the civil rules. Should you have any questions please contact Ian Hu, Director of Policy & Advocacy, at ian.hu@fola.ca.

Sincerely,



Kevin Cooke
2nd Vice Chair, FOLA