



# The Advocates' Society La Société des plaideurs

May 1, 2024

VIA EMAIL

The Honourable Geoffrey B. Morawetz  
Chief Justice of the Ontario Superior Court of  
Justice  
Osgoode Hall  
130 Queen Street West  
Toronto, Ontario M5H 2N5

Beverly Leonard  
Assistant Deputy Attorney General  
Court Services Division  
Ministry of the Attorney General  
McMurtry-Scott Building  
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Toronto, Ontario M7A 2S9

Dear Chief Justice Morawetz and Ms. Leonard:

**RE: CaseLines**

As you know, The Advocates' Society is a not-for-profit organization representing approximately 5,500 diverse lawyers and students across the country, including approximately 4,500 in Ontario—unified in their calling as advocates. A core part of our mission as the leading national association of litigation counsel is to provide policymakers with the views of legal advocates on matters that affect the practice of law by advocates, among other issues.

In that regard, I am writing to convey to you feedback on the CaseLines program that has been gathered by The Advocates' Society's Young Advocates Standing Committee with a view to improving the functionality of the program for counsel and parties. The Young Advocates Standing Committee ("YASC") is a committee composed of advocates who were called to the bar within the last ten years.

The key takeaways from YASC's consultations with advocates on CaseLines are as follows:

- Update CaseLines to better preserve bookmarks from other programs. Bookmarks are not always preserved when documents are uploaded to CaseLines. This feature creates significant additional work for counsel to create the bookmarks again within CaseLines, leading to greater expense for clients.
- Standardize granting access to bundles earlier so that counsel have more time to complete the required hyperlinking and can take note of the CaseLines references thoroughly before a hearing. Access is often granted to counsel relatively late (sometimes the day before a hearing), meaning counsel's preparation of the bundle for the judge and preparation for the hearing has to occur in an unnecessarily compressed timeframe.
- Consider standardizing the addition of all counsel involved in the file to CaseLines bundles, to allow junior lawyers access for hyperlinking and tabbing purposes. Often, only the most senior

counsel is provided with access, while it is the junior counsel who prepare the bundle for the judge. Consider granting access to the entire public Court file to prevent inefficiencies.

- Create a practice direction regarding which page numbers should be used to reference documents uploaded to CaseLines to improve consistency. Currently, some judges prefer references to Master page numbers, while others prefer Current page numbers, and still others prefer the motion record page numbers, which makes it difficult for counsel to prepare the correct page references for the hearing.
- Investigate the bandwidth of CaseLines and/or minimum computer processing requirements to see if lagging issues can be prevented or identified to users in advance. Feedback was received from CaseLines users that they often encountered significant scrolling delays, especially when using the “direct” or “present” functions in the program or when dealing with voluminous records.
- Consider the use of linked indices in CaseLines to replace traditional compendiums, which would create efficiencies and cost savings for clients.
- Consider prioritizing expense and access to justice issues when developing practice directions concerning CaseLines. Some of what counsel is asked to do to make documents workable in CaseLines (e.g., hyperlinking and tabbing) creates significant additional work for counsel and expense for clients.
- Update CaseLines to be compatible with accessibility programs such as Voiceover. Currently, CaseLines presents significant accessibility issues for users with visual impairments because it saves documents as images rather than as text.

We invite you to consider this feedback in your continual improvement of the CaseLines program, and to contact us should you have any questions about the recommendations outlined above.

Yours sincerely,



Dominique T. Hussey  
President

**Attachments:**

1. Young Advocates Standing Committee Practice Reform Working Group CaseLines Report (May 1, 2024)

**CC:** Paula Reid, Chief Administrative Officer, Ministry of the Attorney General  
Vicki White, Chief Executive Officer, The Advocates’ Society

## **Young Advocates Standing Committee Practice Reform Working Group CaseLines Report**

### **Overview**

The Young Advocates Standing Committee (“YASC”) 2021-2022 and 2022-2023 Practice Reform Working Groups sought the opinions of lawyers practising civil and commercial litigation and family law in various Ontario regions including downtown Toronto, the GTA, Ottawa, Kingston and Elliot Lake, concerning CaseLines. The working group organized three focus groups (one in April 2022 and two in April 2023), each comprising five to eight lawyers at the partner and associate levels, as well as sole practitioners, selected from The Advocates’ Society’s (“TAS”) volunteer pool. The focus group participants discussed seven questions selected by the Practice Reform Working Group. Additionally, the working group consulted with the Young Advocates Standing Committee (which includes 40 lawyers), as well as members of TAS’s Standing Committee on Advocacy & Practice (“SCAP”) about their views on CaseLines and ways to improve the program. Below is a summary of the feedback from the focus groups, YASC, and SCAP.

### **Key Ways to Improve CaseLines**

The key takeaways identified by the focus groups and members of YASC and SCAP are as follows:

1. Update CaseLines to better preserve bookmarks from other programs.
2. Standardize granting access to bundles earlier so that counsel have more time to complete hyperlinking and can take note of the CaseLines references thoroughly before a hearing.
3. Consider standardizing the addition of all counsel involved in the file to CaseLines bundles, to allow junior lawyers access for hyperlinking purposes. Consider granting access to the entire public Court file to prevent inefficiencies.
4. Create a practice direction regarding which page numbers should be used to reference documents uploaded to CaseLines to improve consistency.
5. Investigate the bandwidth of CaseLines and/or minimum computer processing requirements to see if lagging issues can be prevented or identified to users in advance.
6. Consider the use of linked indices in CaseLines to replace traditional compendiums.
7. Consider prioritizing expense and access to justice issues when developing practice directions concerning CaseLines.
8. Update CaseLines to be compatible with accessibility programs such as Voiceover.

## Questions Presented to Participants

The working group presented the following questions to each of the focus groups:

1. How often do you experience lag, delays or crashes while using the CaseLines platform? Have you detected any patterns as to when these occur and what may cause them?
2. In your experience in hearings, do judges more often request CaseLines page numbers or traditional motion record page numbers?
3. In your experience, how has CaseLines been used during your hearings?
4. Have you had any particularly difficult experiences using CaseLines?
5. Are there any specific changes that you would make to CaseLines?
6. Are there any support services that you believe would facilitate your use of CaseLines that are not currently provided?
7. What features of CaseLines have worked well for you during a hearing?

## Results

### *April 2022 Focus Group*

The first focus group, which met in April of 2022, was generally frustrated by CaseLines and had trouble pointing to any aspect of the program that provided greater functionality than using tabbed PDFs and screen sharing functions in Zoom. Participants noted that hyperlinking and tabulating in CaseLines creates considerable additional work, time and resources for counsel and is not always appreciated by judges. Hyperlinking and tabulating does not work very well in the program. Specifically, hyperlinks and tabulation are not always preserved from other programs and can depend on the order in which documents are uploaded.

Additionally, the expectations of judges with respect to tabbing, hyperlinking and using CaseLines during hearings is inconsistent across judges and regions. The 2022 focus group also noted that there is inconsistency in hearings with use of 'Master' page numbers, 'Current' page numbers and motion/application record page numbers. Finally, the focus group noted that counsel are often granted access to bundles late, making work to create hyperlinks and references more difficult to complete prior to a hearing.

In order to improve the program, participants suggested granting access to bundles earlier so that counsel have more time to complete hyperlinks and take note of the CaseLines references thoroughly before a hearing.

### *April 2023 Focus Groups*

The two focus groups which met in April of 2023 identified many of the same, as well as additional, issues. In particular, participants noted considerable scrolling delays, especially when using “direct” or “present” or when dealing with voluminous records. Some participants download everything to their desktop as a backup to share over Zoom out of concern with screensharing issues. Participants noted that this might be a computer processing power issue.

Similar to the 2022 focus group, the 2023 participants also found that the hyperlinking and tabulation in CaseLines often requested by judges consumes considerable resources, is expensive for clients, and creates an access to justice issue. There is inconsistency with respect to which page numbers will be used. In Toronto, the inconsistency is largely between CaseLines Master page numbers versus Current page numbers. However, in some regions, judges avoid using any CaseLines page numbers and prefer to rely on motion record numbers. The inconsistency makes it hard to have the appropriate references prepared for hearings.

The 2023 participants also identified that access to bundles is often given only at the last minute (i.e. the night before a hearing). Moreover, clerks only send the link to the most senior lawyer, while it is usually the junior associates doing the uploading and tabulation. There are also delays with access to endorsements and orders being uploaded by the Court in CaseLines.

The participants found that email notifications of changes in CaseLines are unnecessarily vague. Instead of indicating generally that a change has been made, the emails could indicate what change happened or which documents were uploaded. CaseLines does not delete closed Court files from the hearing list, and so the list of cases is unnecessarily cumbersome. This could potentially be resolved by archiving closed Court files.

There are issues with the order in which materials are required to be uploaded and the effect on factum page numbers. Tabulation from other programs (e.g. Adobe) is not preserved when uploaded to CaseLines. CaseLines either breaks up tabs into separate documents or does not include tabs, depending on how it is uploaded. Generally, participants did not identify benefits to CaseLines that are not already available using the screen share function in Zoom. Many lawyers simply find ways to work around using CaseLines.

Parties can easily remove their documents and reload them differently, resulting in different page numbers. This is problematic to opposing counsel who may have linked their documents, or made references in their facta, based on original upload order. Participants suggested that it would be helpful to have a “Sample” matter to practice how materials will be uploaded to avoid this issue.

One benefit of CaseLines identified by participants was that it creates a centralized location for all hearings. However, participants did not understand why they could not simply access the whole Court file in CaseLines, as the Court file is public record. Participants also found the universal numbering system for all documents in CaseLines helpful.

Participants found that CaseLines makes it easy to navigate the other side’s documents in addition to your own. Participants also suggested that CaseLines could eliminate the need for compendiums.

Participants indicated that one way to improve the program would be to have a live person to address issues with CaseLines (although they acknowledged that some program-specific live support exists). They also noted that anyone who already has access to the case should be able to give access to others to any bundle within the case.

### **Issues Identified by the Young Advocates Standing Committee**

On November 14, 2023, the Young Advocates Standing Committee (which includes 40 lawyers under ten years of call) held a brainstorming session with respect to the CaseLines questions referenced above. YASC members noted that some of the positives of CaseLines include that CaseLines has many features and is universal. The committee also felt that CaseLines in many ways could help create a “pseudo compendium” (without a separate compendium) by the use of linking throughout the bundle. For these reasons, many YASC members had a positive impression of CaseLines.

Some issues identified by YASC included that if someone moves documents in CaseLines, the reference numbers change. This happens frequently where a party notices that there is an error in a document and then deletes it. Participants have found judges can become frustrated by parties moving and deleting documents in CaseLines, and that judges have generally directed lawyers and litigants to leave documents in CaseLines, even if incorrect, to preserve the numbering. Another issue that YASC members found is that judges like the use of the “direct” feature in Caselines; however, there are often significant lag issues when this feature is used. Moreover, YASC members expressed concerns that CaseLines is not equipped for technology for the visually impaired.

YASC felt that the program could be improved by granting judges, lawyers and litigants access to the entire Court file rather than just one bundle. Only having access to one bundle is inefficient, and the Court file is public record. One member noted that the Federal Court has a system which allows access to all documents that have been filed, including all letters, etc. Members noted that only email addresses on the back page of motion records or pleadings tend to receive CaseLines links, which could pose issues in situations where one’s email address might change throughout the course of a file (i.e. if someone changes their last name).

YASC members from jurisdictions outside of Ontario discussed the programs currently used in their jurisdictions. British Columbia has the CaseLines program; however, it is not typically used, with Courts favouring the use of Zoom. Quebec has an electronic filing platform; however, members noted that it does not function well, and so lawyers and litigants typically put their documents on a USB drive to file electronically.

In New Brunswick, lawyers and litigants have the ability to file electronically but do not use CaseLines. In Nova Scotia, Courts use hard copies of documents and have not adopted CaseLines; however, depending on the judge, lawyers and litigants are sometimes permitted to file documents electronically on a USB drive. The Federal Court has an electronic filing system. It was unknown what system is used on PEI or in Newfoundland.

## Issues Identified by SCAP Members

SCAP also provided the Practice Reform Working Group feedback with respect to issues with CaseLines. The committee found the program can work well when used by sophisticated parties.

However, the two most problematic issues identified by SCAP were hyperlinking and timely access to materials. In particular, members noted the fact that hyperlinks do not hyperlink to different bundles, and the considerable work and resources that hyperlinking and tabbing in CaseLines creates for lawyers, which is potentially prohibitive for sole practitioners. SCAP did not find the new practice directions ([CaseLines in the Superior Court of Justice: A Guide to Requirements](#) and the various [regional practice directions](#)) helpful. Additionally, members were concerned about judges having access to pre-trial materials at trial, and judges not being able to download the CaseLines page numbers with bookmarked tabs.

With respect to matters being uploaded and taken down, a user transaction history could indicate what has been done by parties and when. There could be an option to test out “presentation mode” and the “direct” function before a hearing so that counsel have an idea of what it will look like to the judge. There are issues with parties uploading documents to CaseLines before they have been served. SCAP also identified that there are issues with appeal lawyers not having access to bundles from decisions below, and/or links being broken.

SCAP identified that the program could be improved by allowing parties to upload documents in Word format, since draft orders are typically requested in Word format.

## Other Feedback

In addition to receiving feedback from the focus groups and SCAP, the Practice Reform Working Group also received feedback from additional members of The Advocates’ Society. These lawyers noted issues with hyperlinking and tabbing (and the associated time and resources), unnecessary use of Master numbers, Current numbers and Court record numbers, lagging in the program, and inconsistency between judges and regions with respect to the use of CaseLines as their main sources of concern. Additionally, there is duplication of work both for counsel (when they have to file materials using the online portal, upload them to CaseLines and prepare hard copy materials in case they are requested) and for Court staff, who must maintain the Court file as well as a file in CaseLines.

There are concerns that CaseLines relies on the ‘honour system’, as documents can be uploaded without having been served, and opposing parties can alter each other’s documents, both through removing documents, and through adding additional documents, consequently altering the Master page numbers. This is problematic when dealing with self-represented litigants. Furthermore, CaseLines does not properly upload documents in landscape orientation.

CaseLines is seen as a way to get all parties to the same page during a hearing, but otherwise providing little if any function. Improving hyperlinking and tabbing, as well as preventing parties from having the ability to alter each other’s work, were identified as ways to improve the program.

CaseLines presents significant accessibility issues for people with visual impairment. That is because the documents in CaseLines are produced as images rather than text. For this reason, the software most often

used by people with visual impairment (i.e. “Voiceover”) cannot read documents on CaseLines. As a result, people with visual impairment cannot use CaseLines in any meaningful way. If documents were produced with text instead of images, this would likely solve this accessibility issue. Doing so would also benefit all CaseLines users, as text from CaseLines documents could then be copy-pasted into other documents, which might be useful for judges in particular.

## **Conclusion**

Issues with CaseLines, including those that are perceived to be easily resolvable, continue to persist. Use of CaseLines, as well as many of the issues experienced while using CaseLines, varies by different regions and consistency is a problem that was emphasized by all of the groups. Also, issues with scrolling delays, difficulties with hyperlinking and tabulation, features not being preserved when uploaded from other document types such as PDFs, and issues with receiving bundles or Court documents in a timely manner (creating last-minute work to hyperlink and tabulate in CaseLines) were consistently recognized.