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March 24, 2014

VIA EMAIL: lucille.collard@cas-satj.gc.ca

Lucille Collard
Acting Secretary of the Federal Court Rules Committee
Courts Administration Service
90 Sparks Street, 5th floor
Ottawa, ON K1A 0H9

Dear Ms. Collard:

RE: Proposed Revisions to the *Federal Courts Rules*

I write as chair of the Federal Courts Rules Task Force of The Advocates' Society (the "Society") to provide comments on the proposed amendments to the *Federal Courts Rules* which were pre-published in the January 25, 2014 issue of the *Canada Gazette*, Part I. The Society speaks on behalf of litigation lawyers from across the country. With more than 5,000 members, the Society reflects diverse and considered views of the litigation bar. Our membership includes counsel who act before the Federal Court and the Federal Court of Appeal on a variety of matters.

Application of the Proposed Amendments to the *Rules*

The Society is concerned that the changes to the *Rules* appear only to apply to non-immigration matters in the Federal Courts. The Society is of the view that the *Rules* should be changed to allow electronic filing in immigration matters.

Proposed Amendment to Rule 71.1(2)

This Rule stipulates that the time of receipt of a document sent to the Registry by electronic transmission is deemed to be that time in the Eastern time zone. The Society is concerned that this Rule will prejudice parties or parties whose counsel are based in time zones west of the Eastern time zone, particularly for matters that are brought on an urgent basis. The Society believes that the time zone that governs the time of receipt of a document sent to the Registry should be the Pacific time zone.

Proposed Amendment to Rule 72.3

The Society believes this revision requires some clarification. The Rule requires the retention of a paper copy of a document bearing a signature for 30 days after all appeal periods expire. This appears to permit the destruction of the document after the 30-day period has expired both where an appeal has not been filed *and* where an appeal has been filed. It would be helpful to have clarity on whether it is still necessary, in the event an appeal has been filed, to retain a document bearing a signature until all proceedings (including all appeals) have ended or until the time specified has passed.

Proposed Amendment to Rule 138

The Society is of the view that this Rule should be amended to permit service of an originating document other than by personal service on the consent of the parties.

Proposed Amendment to Rule 141(5)

The Society believes that electronic service should be effective even if formal consent has not been received. While parties may provide their verbal consent to accepting electronic service, the Society is conscious that parties are not always prompt in serving their formal consents, and time limits may run out if a document is not served in time because an opposing party is awaiting such formal consent.

We would be pleased to answer any questions the Subcommittee may have about the above.

Yours very truly,



Nancy Brooks
Chair, The Advocates' Society *Federal Courts Rules* Task Force

The Advocates' Society *Federal Courts Rules* Task Force

Nancy Brooks (Chair)
Peter K. Doody
Barbara Jackman
Barbara McIsaac, Q.C.
David Yazbeck