'One Judge' case management promises
big efficiency gains

**By AdvocateDaily.com Staff**

A Superior Court pilot project has the potential to significantly boost the efficiency of the civil justice system, Brampton civil litigator [Edwin Upenieks](http://www.lawrences.com/lawyers/details/edwin-upenieks) tells [AdvocateDaily.com](http://www.advocatedaily.com/).

Launched at the beginning of February, the One Judge civil case management pilot project is scheduled to run for two years. The same judge assigned to case-manage an action will preside over all pre-trial hearings, case management conferences and the trial itself, with the exception only of conferences dedicated entirely to settlement.

Upenieks, partner with [Lawrence, Lawrence, Stevenson LLP](http://www.lawrences.com/home), is a member of the working group that recommended the pilot, and he and recently participated in a [webinar](https://www.cbapd.org/details_en.aspx?id=ON_19CIV225X) hosted by the Ontario Bar Association, where he joined Associate Chief Justice Frank N. Marrocco and Tom Curry of Lenczner Slaght LLP, to talk to an audience of practising lawyers throughout Ontario about the pilot’s functioning.

“The overarching aim is to enhance the efficiency of civil case management, and it has been very well-received by the legal community,” Upenieks says. “It makes sense to have a judge at conferences and hearings who knows the parties and all the issues, rather than forcing a new judge who knows nothing about the case to start from scratch reading up on it each time you’re in court.”

Upenieks explains that the pilot has its roots in a [report](https://soar.on.ca/sites/soar.ca/files/documents/ACTL.Cda_.Working_Smarter_Not_Harder_compressed.pdf) by the American College of Trial Lawyers’ judiciary committee entitled ‘Working Smarter But Not Harder in Canada: the Development of a Unified Approach to Case Management in Civil Litigation,’ and says that the idea met with the approval of all eight regional senior justices of the Ontario Superior Court.

One judge in each region has been assigned responsibility for implementation, except for the busier Toronto region, where three judges will guide the project which is expected to feature early trial dates and fewer interlocutory motions.

“The judge sets a timetable early on, and motions can only be brought with his or her leave,” Upenieks says. “It’s a lighter-touch approach, with less extensive briefs and formal decisions.

“Another thing that has emerged is that with one judge in charge, you get plenty of feedback on the case and a sense of which arguments are ultimately going to fly or not,” he adds.

The pilot eschews strict guidelines or time frames for the judges involved, giving them leeway to proceed according to the needs of the parties before them.

“There’s no one-size-fits-all. It’s more like bespoke tailoring, where everything is customized according to the particular case,” Upenieks says. “It’s probably going to require a great deal more work to be done upfront by lawyers because they have to get their documents and assessments of the case ready at an earlier stage. It’s definitely a change, but it will pay off in terms of efficiency.”

Upenieks says only new cases, where both parties consent, are eligible for inclusion in the project for now.

“For the purposes of comparison and evaluation, we only want cases starting from the beginning, rather than having them coming in part way through, when it’s harder to measure the impact,” he says. “We want to collect data so that we can conduct a rigorous assessment of what works, and make tweaks along the way, if necessary.”

Although the project is in its early stages, Upenieks says Curry and Marrocco gave webinar viewers an idea of the kind of impact they can expect. In a kind of precursor to the project, Curry asked the judge to case manage a large matter he was handling as counsel.

“It proceeded very efficiently, and rather than taking more than 10 years, as they expected, it was finished in about three years,” Upenieks says.