

Ministry of the  
Attorney General

Court Services Division  
Central East Region

Superior Court of Justice  
50 Eagle Street West,  
Newmarket, Ontario  
L3Y 6B1

Ministère du  
Procureur général

Division des services aux tribunaux  
Région du Centre-Est

Cour de justice de l'Ontario  
50, rue Égale Ouest  
Newmarket, Ontario  
L3Y 6B1



## First Appearance Hearing Information Package (August 2022)

To the Parties,

Your matter is now scheduled for a first appearance by Zoom.

If your contact information has recently changed, please send an email ahead of time to [NewmarketSCJFamily@ontario.ca](mailto:NewmarketSCJFamily@ontario.ca).

At the first appearance date the Clerk of the Court will confirm that all the required documentation has been filed so your matter can proceed as required by the Family Law Rules. *Example: For the Applicant: Form 6B Affidavit of Service. For the Respondent: Form 10: Answer, Form 13 Financial Statement*

We kindly ask you file these documents **prior** to the First Appearance date.

After the First Appearance Hearing has been conducted and all documents comply with the Family Law Rules the next step is as follows:

- (a) On an Application the matter proceeds to a Case Conference or a Dispute Resolution Officer (DRO) Conference (on consent). **DRO Conferences are often more readily available than Case Conferences.** To schedule a DRO Conference (on consent) please see below. To schedule a Case Conference you must complete the Request for a Family Conference and submit the form to [Newmarket.SCJ.TC@ontario.ca](mailto:Newmarket.SCJ.TC@ontario.ca).
- (b) On a Motion to Change the matter proceeds directly to a DRO Conference. Calendly is a cloud-based scheduling tool that is accessed via web at the following link: <https://calendly.com/dro-newmarket/>. The parties can view the court's availability and schedule a DRO Conference on their preferred date and time. Once a date and time is agreed upon, one party in the matter will use the Calendly link to schedule the conference with the Court.
- (c) In rare occasions the Court may provide directions that differ from (a) or (b) above, in response to a request for an Urgent attendance (and only when the moving party meets the legal test for emergency / urgency).

When booking a DRO Conference all parties **must** consent to the date and time of the conference before completing the scheduling process through Calendly. If parties have not consented to the date and time scheduled, the conference will be cancelled. In addition, the party booking the

DRO Conference through Calendly **must** add the opposing party (or their lawyer if represented) using the “Add Guest” option by including the email address of the opposing party or the opposing party’s lawyer. Failure to include this information will result in your conference being cancelled by the Court.

Please note that Calendly can only be used for scheduling a DRO Conference. Parties are still expected to follow the appropriate timelines, practices, and notices for filing documents and confirming their appearance. The Court will cancel any matter scheduled through Calendly if the matter is deemed ineligible to proceed.

If you do not have a lawyer and wish to speak to a lawyer provided by Legal Aid Ontario, please call (905) 967-0921 and leave your full name and a telephone number where you can be reached or send an email with your full name and telephone number to [gendcfamnewmascj@lao.on.ca](mailto:gendcfamnewmascj@lao.on.ca) at least one day before your court date. A lawyer will call you from a private number that will show up on your phone as a private or unknown caller.

Due to the recent pandemic there may be delay in obtaining a court date. We recommend parties take advantage of 3 hours of free mediation service provided by York Hills Family Mediation and Information Services. To access or get more information regarding mediation service, complete and email the Mediation Referral Form (attached) to the Information Referral Coordinator (IRC) at [irc@yorkhills.ca](mailto:irc@yorkhills.ca) or call (905) 853-4816.

Attached you will find the following resources for Family Law matters and instructions on how to proceed to Family Conference after your First Appearance Hearing has been completed:

- **York Hills Family Mediation and Information Services Brochure & Mediation Referral**
- **Request for a Conference Date, Case Conference & Settlement Conference Guides**
- **Resources for Family Law**
- **The Notice to the Profession (effective April 19, 2022)**  
<https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/notice-profession-parties-public-media/>

You can access all family court forms online by visiting [www.ontariocourtforms.on.ca](http://www.ontariocourtforms.on.ca) and selecting Family Law Rules forms. You may also wish to utilize the resources developed by Community Legal Education Ontario including Guided Pathways, a free online resource available to assist parties with the completion of their family court forms. You can access Guided Pathways by visiting: <https://stepstojustice.ca/family-law-guided-pathways/about>. The Ministry of the Attorney General has prepared guides to procedures in the family court. <https://www.ontario.ca/document/guide-procedures-family-court>

**For all conferences and motions: Materials must be served and filed, and then uploaded to CaseLines. Materials must comply with the page limits as set out below.**

We hope the information provided to you has been helpful.  
Administration Office  
Superior Court of Justice

## **Table of contents:**

- 1- York Hills Family Mediation and Information Services Brochure**
- 2- Request for a Conference Date**
- 3- Case Conference Guide (Superior Court of Justice)**
- 4- Settlement Conference Guide (Superior Court of Justice)**
- 5- Resources for Family Law**
- 6- Mandatory Information Program (MIP)**
- 7- Justice Services Online Filing Portal and CaseLines**
- 8- Province-wide Notice to the Profession Regarding Family Law Cases and Central East Practice Direction**

## 1- York Hills Mediation Services Brochure:

### WHY CHOOSE

#### Family Mediation with YH FMIS?

Mediation supports individuals to problem-solve their family issues cooperatively and safely.

It is a cost-effective, flexible, and impartial alternative to going to court. FMIS Mediators can assist with financial matters and developing parenting time schedules.

The Mediator may offer ideas and suggestions to establish common ground and facilitate negotiations for both individuals to reach the best possible arrangements for everyone involved. The Mediator keeps the focus on suitable outcomes for the best interest of the children and helps each individual move forward with clarity and confidence.

#### HOW LONG will mediation take?

The length of the mediation depends on the individuals, and on factors such as the number of issues being discussed during conversation and the desire to work cooperatively to reach agreements.

#### WHERE WILL THE sessions be held?

Mediations can be held in a hybrid setting of virtual or in person.

#### HOW MUCH DOES mediation cost?

The hourly fee is subsidized by the Ministry of Attorney General, fees can be decreased or waived in certain situations.

#### FAMILY MEDIATION IS:

- Voluntary
- Confidential
- Affordable and Subsidized
- Fast & Flexible
- Child-focused

#### MEDIATION CAN

##### help resolve issues such as:

- Decision-making Responsibility
- Parenting Time and Schedules
- Child Support, Section 7 Expenses/ Extra Curricular Activities
- Contact Orders
- Property Division
- Spousal Support

#### DO I need a lawyer?

We strongly recommend you review any proposed agreements with a family lawyer. It is important for you to understand your legal rights and responsibilities; therefore, we highly recommend you seek independent legal advice before, during, and after the mediation process. The YH FMIS mediators will not provide you with legal advice at any time during the mediation process.

#### WHAT IS THE Mandatory Information Program (MIP)?

When you begin the court process in family court, the individuals must attend the Mandatory Information Program (MIP).

The MIP is a two-hour session that provides information about the effects of separation, divorce, and relationship breakdown on children and adults. The session will inform the individuals about the family court process, local community resources, programs, webinars, and alternate dispute resolution methods.

You must attend your individual MIP session via ZOOM before the matter can come before a judge. Following receiving your MIP notice from the court or from your lawyer, you must contact the Information and Referral Coordinator (IRC) to schedule or confirm your MIP session date. The IRC can be reached at: 905.883.4816 and [irc@yorkhill.ca](mailto:irc@yorkhill.ca).

After you attended the MIP, the MIP coordinator will complete your MIP certificate of attendance, then email you the signed document.

If you do not have a lawyer you must file the certificate through the online filing portal: [www.onetario.ca/familysystem](http://www.onetario.ca/familysystem). In the event, you have a lawyer you should forward the signed MIP certificate to your lawyer.

The MIP is intended for Applicants and Respondents involved with family court proceedings; although, you do not have to be involved in a family court case to attend the MIP.



York Hills Family Mediation and Information Service  
 Family Mediation – Self Referral – ON-SITE

To access or get more information regarding virtual family mediation, complete and email this form to the Information Referral Coordinator (IRC) at [irc@yorkhills.ca](mailto:irc@yorkhills.ca) or call 905 853 4816

Currently because of COVID-19 closures and restrictions it may take up to two years for familylaw litigants to receive a court date regarding their family law case.

Family Mediation is a process which can help you to cooperatively problem solve their family separation and divorce issues, which may help you come to some agreements, quickly and cost-effectively. We are offering you **3 FREE hours of mediation services**. The mediator, a neutral profession, will offer ideas, suggestions and will facilitate negotiations for you and theother party to reach the best possible family agreement for all concerned, which can become part of your settlement.

You have an opportunity to participate in **3 hours of FREE family mediation services** whichincludes,

- IRC Intake process for both involved (free)
- A pre-mediation Technology Ability Check (free)
- Each person will participate in 30 minutes of individual screening with Family Mediator (free)
- Joint Session of Mediation for at least 1 hour (free)
- Memorandum of Understanding (MOU) (free)

Name: _____
Telephone #: _____
Email: _____

MEDIATION ISSUES:

<input type="checkbox"/> Travel Consent - Passport	<input type="checkbox"/> Decision Making / Responsibilities	<input type="checkbox"/> Child Support
<input type="checkbox"/> Problem Solving	<input type="checkbox"/> Section 7 Expenses	<input type="checkbox"/> Relocation
<input type="checkbox"/> Parenting Time / Parenting Schedule	<input type="checkbox"/> Primary Residence	<input type="checkbox"/> Property Division
<input type="checkbox"/> Spousal Support	<input type="checkbox"/> Financials	<input type="checkbox"/> Contact Order

Comments:

2- Request for a Conference Date:

ONTARIO <b>Superior Court of Justice, Family Court</b> <small>(Name of Court)</small> <small>Address of the Court</small>	Court File Number
<b>Request for a Dispute Resolution Hearing (all Case Conference on a Motion to Change)</b>	
<b>Applicant(s)</b>	
<small>Full legal name &amp; address for service — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>	<small>Lawyer's name &amp; address — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>
<b>Respondent(s)</b>	
<small>Full legal name &amp; address for service — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>	<small>Lawyer's name &amp; address — street &amp; number, municipality, postal code, telephone &amp; fax numbers and e-mail address (if any).</small>
<p>1. My name is <i>(full legal name)</i> _____          and I am <input type="checkbox"/> the lawyer for <i>(name)</i> _____  <input type="checkbox"/> the applicant in this case    <input type="checkbox"/> the respondent in this case  <input type="checkbox"/> other <i>(specify)</i> _____</p>	
<p>2. Is this form being submitted on behalf of all parties?  <input type="checkbox"/> Yes  <input type="checkbox"/> No</p>	
<p>3. Date of First Appearance: _____</p>	
<p>4. Outstanding Issues:  <input type="checkbox"/> Custody   <input type="checkbox"/> Access   <input type="checkbox"/> Child Support   <input type="checkbox"/> Spousal Support   <input type="checkbox"/> Section 7   <input type="checkbox"/> Travel   <input type="checkbox"/> Restraining Order</p>	
<p>5. Please provide a list of consented available dates.  <i>There is no guarantee you will obtain any of your requested dates however the court will consider your request. You must provide at least three different dates.</i></p> <p>1. _____          2. _____          3. _____</p>	
_____ Signature	_____ Date of signature
<a href="http://www.DIVORCEmatters.com">www.DIVORCEmatters.com</a>	

### **3- Case Conference Guide (Superior Court of Justice):**

#### **Case Conference Rules and Procedure (Updated August 2022)**

(For litigants and lawyers)

**NEW: All materials for conferences and motions must be served, filed and then uploaded to CaseLines. Materials must comply with the page limits set out below.**

- [1] In a family law case there must be at least one meeting with the judge. This is called a conference. There are several different kinds of conferences. Each has a different, and important, purpose and takes place at a different stage in the case. The first conference is called a “Case Conference”. This takes place at the beginning of a case after the parties have exchanged their positions in writing (their “pleadings”). This guide provides an overview of the case conference process and what is expected of each party, as set out in the *Family Law Rules* (“the *Rules*” or “*Rule*”) which govern procedures in family cases.
- [2] The Chief Justice of Ontario issued a **Province-wide Notice to the Profession Regarding Family Law Cases** effective September 13, 2021 (the “Family Notice”) and amended it on January 10, 2022. These Notices should be read in combination with the recent **Notice to the Profession for Central East Region** (effective April 19, 2022) **updated on June 1, 2022** (“the Notice”). All notices can be found on the Superior Court of Justice website at [www.ontariocourts.ca](http://www.ontariocourts.ca), the Family Notice under “Provincial Notices” and the Central East Region notice under “Regional Notices” (Home>>Notices and Orders-Covid-19>>Regional Notices (Central East-Family)). The website also contains additional information about family law rules and practice and can be accessed online by going to “A Guide to Process for Family Cases at the Superior Court of Justice” (Home>> Family Proceedings>> Resources-Family Proceedings) or you can contact the Family Law Information Centre (“FLIC”) at your local court. Additional guides can be found at <https://www.attorneygeneral.jus.gov.on.ca/english/family/guides/fc/>.

#### **Purpose of a Case Conference**

- [3] The purposes of a case conference are set in *Rule* 17(4). They include,
- (a) exploring the chances of settling the case;

- (b) identifying the issues that are in dispute and those that are not in dispute;
- (c) exploring ways to resolve the issues that are in dispute;
- (d) ensuring disclosure of the relevant evidence including the disclosure of financial information required to resolve any support or property issue;
- (d.1) identifying any issues relating to any expert evidence or reports on which the parties intend to rely at trial;
- (e) noting admissions that may simplify the case;
- (f) setting the date for the next step in the case;
- (g) setting a specific timetable for the steps to be taken in the case before it comes to trial;
- (h) organizing a settlement conference, or holding one if appropriate;
- (i) giving directions with respect to any intended motion, including the preparation of a specific timetable for the exchange of material for the motion and ordering the filing of summaries of argument, if appropriate; and,
- (j) in the case of a motion to change a final order or agreement under rule 15, determining the most appropriate process for reaching a quick and just conclusion of the motion.

#### **Orders at a Case Conference**

- [4] There are many kinds of Orders that a case conference judge can make so it is important to know what the judge can (or cannot) order.

17(8) At a case conference...the judge may, if it is appropriate to do so,

- (a) make an order for document disclosure (rule 19), questioning (rule 20) or filing of summaries of argument on a motion, set the times for events in the case or give directions for the next step or steps in the case;
- (a.1) make an order requiring the parties to file a trial management endorsement or trial scheduling endorsement in a form determined by the court
- (a.0.1) make an order about expert evidence, including hiring an expert for one or more parties, the use of an expert opinion and how and when experts' reports are to be served, filed and the opinion admitted into evidence;
- (b) make an order requiring one or more parties to attend,
  - (i) a mandatory information program,
  - (ii) a...settlement conference conducted by a non-judge who is a current or former lawyer or retired judicial officer of the Ontario Superior Court of Justice approved for that purpose by the regional senior judge;



- (iii) an intake meeting with a court-affiliated mediation service, or
- (iv) a program offered through any other available community service or resource.

(b.1) if notice has been served, make a final order or any temporary order, including any of the following temporary orders to facilitate the preservation of the rights of the parties until a further agreement or order is made:

- (i) an order relating to the designation of beneficiaries under a policy of insurance, registered retirement savings plan, trust, pension, annuity or a similar financial instrument;
  - (ii) an order preserving assets generally or particularly;
  - (iii) an order prohibiting the concealment or destruction of documents or property;
  - (iv) an order requiring an accounting of funds under the control of one of the parties;
  - (v) an order preserving the health and medical insurance coverage for one of the parties and the children of the relationship;
  - (vi) an order continuing the payment of periodic amounts required to preserve an asset or a benefit to one of the parties and the children;
- (d) make an unopposed order or an order on consent;
- (e) on consent, refer any issue for alternative dispute resolution.

[5] A judge can also make an Order pursuant to *Rule 17(4)(j)* giving directions with respect to Motions to Change proceedings (*Rule 15*).

[6] A judge **cannot** make an Order finally resolving the case, or any of its disputed issues, unless the parties agree beforehand or at the conference. Typically, the Order made is temporary (i.e., until there is a binding agreement between the parties or a final Order settling the case). In addition to the temporary relief set out in *Rule 17(8)(b.1)* above, the conference Order made will likely be procedural, setting out a roadmap for further steps in the case. Take, for example, disclosure. While an automatic Order for disclosure was made when the case was started a conference judge **can** make an Order adding to that Order (or further enforcing it, with penalties for ignoring the automatic Order). In fact, **the Family Notice requires that notice of what disclosure is missing or needed must be identified in the brief so that the court can make an Order, if the disclosure requested is reasonable, relates to the issues in the case and is proportional.** A support Order may also be made. Making a temporary

(usually child) support Order is more likely where no support is being paid and the parties have filed financial statements (as required by the *Rules*). This list is not exhaustive. **If there are specific procedural Orders needed, those should be identified in the brief.**

### **Combined Conference**

[7] In addition to the Orders that the case conference judge can make, a judge can now make *at any time* an Order combining case and settlement conference events if there have been prior efforts by the parties to resolve one or more of the issues in the proceeding. *Rules* 17(7) and (7.1) are intended to encourage parties to participate in mediation. Certain pre-conditions must be met before such an Order will be granted.

#### **COMBINED CONFERENCE**

(7) A judge may at any time order that part or all of a case conference, settlement conference and trial management conference be combined.

#### **COMBINED CASE AND SETTLEMENT CONFERENCE FOLLOWING DISPUTE RESOLUTION**

- (7.1) A judge may at any time, on a motion in Form 14B or on the judge's own initiative, order that all or part of a case conference and settlement conference be combined **if**,
- (a) the parties have resolved or attempted to resolve one or more of the issues in the proceeding through participation in,
    - (i) a family mediation conducted by a person that the judge determines met the criteria established by the Ministry of the Attorney General to provide government-funded mediation services or was qualified to conduct family mediation by virtue of the person's knowledge and experience in family law, or
    - (ii) a legal aid settlement conference conducted by a facilitator;
  - (b) the family mediation or legal aid settlement conference referred to in clause (a) included screening for power imbalances and domestic violence;
  - (c) the financial disclosure required in the case under these rules has been provided;

(d) no motions for a temporary order in the case are pending or are contemplated by any of the parties; and

(e) each party files a certificate of dispute resolution (**Form 17G**).

- [8] The Family Notice also permits parties to request an Order to proceed directly to a combined conference (on consent of the parties and if approved by the court) where they have already participated in another dispute resolution process (collaborative law, for example) *other than a hearing before a Dispute Resolution Officer*. While this procedure may be best suited to Motions to Change, there is no reason why it should not apply at any stage of an Application. The Certificate of Dispute Resolution should be filed with the 14B motion or by a deadline set by the judge.

### **Financial Disclosure**

- [9] **Meaningful financial disclosure is required for every family law case involving property and support issues.** The Ontario Court of Appeal has emphasized this repeatedly (*Roberts v. Roberts*, 2015 ONCA 450 (CanLII)):

The most basic obligation in family law is the duty to disclose financial information. This requirement is immediate and ongoing.

Failure to abide by this fundamental principle impedes the progress of the action, causes delay and generally acts to the disadvantage of the opposite party. It also impacts on the administration of justice. Unnecessary judicial time is spent and the final adjudication is stalled.”

Financial disclosure is automatic. It should not require court orders – let alone three to obtain production.

- [10] The court expects that all reasonable efforts will have been made to provide full and frank disclosure **before the case conference**. Pursuant to *Rule* 8.0.1(1) the court issues an automatic Order dealing with basic disclosure obligations when a case is started. This must be served with the originating court documents. In addition, *Rules* 13(3.1) to 13(3.2.1) require financial disclosure to be made before all scheduled court events where financial issues such as property and support are involved.

### **ADDITIONAL REQUIRED FINANCIAL DISCLOSURE, SUPPORT**

13(3.1) A party who is required under subrules (1) to (3) to serve and file a financial statement in relation to a claim for support shall, before the deadline set out in subrule (3.2), serve with the financial statement the following information, unless the court orders otherwise:

1. The income and financial information referred to in subsection 21 (1) of the child support guidelines.
2. If the party became unemployed within the last three years,
  - i. a complete copy of the party's Record of Employment, or other evidence of termination, and
  - ii. a statement of any benefits or income that the party is still entitled to receive from his or her former employer despite or as a result of the termination.
3. In the case of a claim for the support of a child, proof of the amount of any special or extraordinary expenses, within the meaning of section 7 of the child support guidelines. O. Reg. 69/15, s. 3 (2).

#### **GIVING OF INFORMATION BEFORE CASE CONFERENCE**

13(3.2.1) The party shall also give the information referred to in subrule (3.1) to the other party before any case conference in the case, unless the information has already been served on that party.

- [11] If you believe that the financial disclosure from the other party is insufficient (such as missing pages, redacted documents or just ignored) you should make an immediate written request to the other party and be prepared to show to the court in your brief (see paragraph [6] above) what you asked and what was not provided. This may entitle you to an Order for this information at the conference and an award of costs in your favour payable by the other party (see the section on **Costs Consequences** later in this guide). *Rule* 13(11) deals with insufficient information (see *Rule* 13(11.01) below in particular).

#### **INSUFFICIENT FINANCIAL INFORMATION**

13 (11) If a party believes that the financial disclosure provided by another party under this rule, whether in a financial statement or otherwise, does not provide enough information for a full understanding of the other party's financial circumstances,

- (a) the party shall make a request in writing to the other party for the necessary additional information; and

- (b) if any requested information is not given within seven days of the request, the court may, on motion or at a case conference or settlement conference, order the other party to give the information or to serve and file a new financial statement.

**SAME**

**13 (11.0.1) In seeking an order under clause (11) (b), the party shall specify in the motion, case conference brief or settlement conference brief the information that was requested under clause (11)(a) but not given. (bolding added)**

**UPDATING FINANCIAL INFORMATION**

13 (12) Before a case conference..., a party shall update their financial information by serving and filing the document specified in subrule (12.1) no later than the time specified in subrule (12.2), if the information in the last financial statement provided by the party would be,

- (a) for a case conference...more than 60 days old by the time the conference is held;

**DOCUMENT TO BE PROVIDED**

13(12.1) For the purposes of subrule (12), a party shall serve and file the following document:

1. If the information in the last statement has not changed, an affidavit saying that the information in the last statement has not changed and is still true.
2. If the information in the last statement has changed, the following document:
  - i. If the changes are only minor, an affidavit with details of the changes.
  - ii. In any other case, a new financial statement.

### **TIMING REQUIREMENT**

13(12.2) A party shall serve and file the document referred to in subrule (12.1) no later than the following time:

1. For a case conference...,
  - i. six days before the conference, in the case of the party requesting the conference or, if the conference is not requested by a party, the applicant or the party making the motion, as the case may be, and
  - ii. four days before the conference, in the case of the other party.

### **Parties required to confer before case conference**

[12] *Rules* 17(3.1) to (3.3) **require** parties to discuss the issues in their case **before** the conference.

### **REQUIREMENT FOR PARTIES TO CONFER**

(3.1) Before a conference, each party shall, subject to subrule (3.2), confer or make best efforts to confer orally or in writing with every other party respecting,

- (a) the parties' requests for financial disclosure; and
- (b) a temporary resolution of the issues that are in dispute; and,
- (c) *Not applicable provision.*

### **EXCEPTION**

(3.2) Subrule (3.1) does not apply with respect to a party if,

- (a) the party is prohibited from such communication by court order; or
- (b) there is a risk of domestic violence by a party who is not represented by a lawyer.

### **EFFECT OF FAILURE TO CONFER**

- (3.3) If a party fails to comply with subrule (3.1), the court may, for greater certainty, make any order under subrule 1(8.1) that is appropriate in the circumstances, including,
- (a) an order postponing the case conference until the requirements of subrule (3.1) are met; and
  - (b) an order for costs, regardless of whether the case conference is postponed.

### **Case Conference Brief**

- [13] Each party must file a case conference brief before the date of the conference. This is a prescribed form (**Form 17A**). Some sections only require basic information about family members or answering a checklist. Others require more details about the case and what the party filing the brief would like to see the conference accomplish, and the judge to order. If there are portions of the Form that are inapplicable (such as the parenting sections where there are no parenting issues in dispute) those may be removed.
- [14] As pointed out in *Rule 17*(3.1) to (3.2) above, a case conference should **never** be the first time for the parties or their lawyers to meet or to discuss the issues for the conference, or the case. This is also made clear by paragraph 8 of Form 17A which specifically asks whether the parties have explored before the case conference settlement of any outstanding issues still being disputed and, if so, to give details of those efforts (see *Rule 17*(3.3)(b) about a judge's authority to order that a party ignoring this requirement pay conference costs to the other party).
- [15] A case conference brief is **NOT** the place to simply repeat the party's pleadings or to ask for Orders on disputed or final issues that a judge cannot make without an evidentiary hearing, such as a motion or trial (see above, **Orders at a Case Conference**). Keep in mind the purpose of the conference when preparing your brief. Lengthy briefs, briefs containing material irrelevant to the conference issues, baseless allegations and accusatory, inflammatory and unprofessional language are unacceptable and could result in an Order for costs being made against the offending party.

- [16] **Case conference briefs are not permitted to exceed 8 pages**, plus permissible documents (see immediately below what those are). The 8-page limit includes the brief itself (17A) and any additional facts/or arguments that are attached to the brief as an appendix or schedule.
- [17] Certain documents may accompany the brief and are not included in the 8-page limit. These include **relevant excerpts** from the following:
- a. Parenting assessments (pursuant to Section 30 of the *Children's Law Reform Act*), Office of the Children's Lawyer reports and Voice of the Child Reports;
  - b. Documents *that* establish a child's educational needs (for example, report cards or Individual Education Plans);
  - c. Lists of any disclosure that remains outstanding;
  - d. Income or business valuations, pension valuations or real estate appraisals (where the value of property is in dispute);
  - e. Proof of income for the relevant period(s) including pay stubs, confirmation of benefits received and/or Statement of Business or Professional Activities from a party's Income Tax Return; and,
  - f. Domestic contracts, including separation agreements, marriage contracts or cohabitation agreements that are relevant to the issues in dispute.

In addition, the parties should include with their materials:

- g. Relevant court Orders, including bail/release terms;
- h. Reports from the Children's Aid Society;
- i. Child Support or Spousal Support Advisory Guideline calculations.

These documents are also not included in the above page restrictions.

- [18] Voluminous texts, emails and/or social media postings must not be included but **relevant and necessary** excerpts may be referenced in the brief.
- [19] Briefs should be prepared with a view to a realistic agenda that can be fairly addressed by both sides in the time available with the court that day (typically no more than 45 minutes). Anything longer than the 8-page brief limit (with permitted attachments) or which includes unnecessary material may not be read and could expose the offending party to an Order for costs payable to the other side.



### **Certificate of Financial Disclosure**

- [20] Each party to a case must file and serve documents of a financial nature relating to their case depending on whether their case only involves child and spousal support and/or property claims. Some documents must be served with the party's Financial Statement – these are identified in *Rule* 13(3.1) dealing with support claims and they involve certain income and proof of child expense documents. *Rule* 13(3.2.1) lists additional documents which must also be served on the other party before the case conference (if not already served).
- [21] Where property claims are involved, *Rule* 13(3.3) lists what must also be served on the other party “no later than 30 days” after the date by which the party's Financial Statement must be served. The list corresponds to many of the several Parts of the Financial Statement. There must accompany the listed documents being served what is known as a “**Certificate of Financial Disclosure**” (**Form 13A**). **This Certificate must be signed by the party, served on the other party and it must be filed with the court six days before the case conference** (*Rule* 13(5.0.2)). If there have been Financial Statement changes or other documents discovered or whose service was overlooked, the Certificate must be updated (and the additional documents served) before the conference, also six days before the conference (*Rule* 13(13.1)). The other party has the same obligation.
- [22] Appendix A sets out the mandatory disclosure and filing requirements.

### **Service and Filing of Briefs**

- [23] Be mindful that there are different rules for the applicant and respondent for serving their briefs: **the applicant must serve and file with the court** their brief on the respondent at least **six days** before the conference date, and **the respondent must serve and file with the court** their brief **four days** before the conference date.

<i>Serving &amp; Filing of Briefs with the Court by the applicant (deadline for respondent in brackets)</i>	<i>For Conference date for the following week</i>
Monday (Wednesday)	Tuesday
Tuesday (Thursday)	Thursday
Wednesday (Friday)	Friday

Thursday (Monday)	Monday the second week afterwards
Conferences are not held on Wednesdays in Newmarket.	

- [24] Where the deadline for filing falls on a statutory holiday, add a day. For example, if Monday would ordinarily be the deadline for filing briefs in time for a Tuesday Case Conference the next week, and the Monday is a statutory holiday, then the briefs must be filed with the court on the preceding Friday. **Remember to serve and file with the court your brief as soon after service on the other side as possible to ensure that you comply with the rule.**
- [25] In Newmarket, the Court will accept a late brief if you have written consent by all the parties involved in the case. The brief must be served and filed with the court along with the consent by 2 pm no later than 2 days before your scheduled conference date.
- [26] Appendix B sets out service and filing deadlines.

#### **Mandatory Participatory/Attendance**

- [27] *Rule 17(15)*, deals with the mandatory participation/attendance of parties and their lawyers,
- (15) The following shall come to each conference:
1. The parties, unless the court orders otherwise.
  2. For each represented party, the lawyer with full knowledge of and authority in the case.
- [28] The lawyer, or lawyer's agent, who appears for a party must not only be familiar with the issues in the case but also have the authority to give recommendations to, and receive settlement instructions from, the client even if the issues are only procedural in nature or temporary in duration.

#### **Confirmation**

- [29] Even though the court, or either or both of the parties, have scheduled a case conference date, **each party must still confirm with the other side** and file with the court a confirmation that the conference will proceed. *Rule 17(14)* states:

#### **PARTIES TO CONFIRM ATTENDANCE**

- (14) Each party shall,

~~(a) confer or attempt to confer orally or in writing with every other party about the issues that are in dispute, subject to a party being prohibited from such communication by court order;~~

(b) before giving the clerk confirmation of the conference in Form 17F under clause (c), **give a copy of the confirmation of conference to every other party using mail, fax, email or any other method**, except in a child protection case; and

(c) not later than 2 p.m. **three** days before the conference date, give the clerk the confirmation of conference (Form 17F) by,

(i) delivering it to the court office;

(ii) sending it to the court office by email, or

(iii) submitting it through the Justice Services Online website.

[30] See also “Service and Filing of Briefs” above (paragraphs [23] and [24]).

[31] The Form 17F confirmation is a filing requirement **in addition to** the deadline for filing Briefs. **In other words, the filing of the Brief does not relieve a party from serving and filing their confirmation.**

[32] The Family Notice confirms the court’s expectation, and *Rule* 17(3.1) and Form 17F require, that the parties discuss with each other beforehand what are the specific issues for the conference and how much time each party expects will be needed to tell the judge what is needed for their case. **It is required that each party list what they think are the important issues for that conference.** This list is like an **Agenda** or checklist and will enable the judge, who will have read the briefs beforehand, to focus on the issues and consider how to handle them.

[33] The court will also expect the parties to alert it to any areas of agreement when filing their confirmations or at the outset of the conference.

[34] If no Confirmation is filed by either party (even though both parties are required to file one), the conference will be struck from the list and not heard unless the court orders otherwise. *Rule* 17(14.1) states:

#### **EFFECT OF FAILURE TO CONFIRM**

(14.1) Unless the court orders otherwise, a conference shall not be held if confirmation of the conference is not given to the clerk in accordance with clause (14) (c). O. Reg. 298/18, s. 12 (3).

- [35] If the conference is not confirmed, the file will be sent to a judge who may order that no further steps in the case may be taken without the parties obtaining from the court an Order pursuant to Form 14B supported by an affidavit satisfactorily explaining the reason why the conference was not confirmed.
- [36] If there should be any change to the information contained in the confirmation sent (such as certain issues being settled, or inadvertently omitted) the parties should let the court know right away.

#### **PARTIES TO UPDATE CONFIRMATION**

(14.1.1) If a party who has given a confirmation of conference determines at any time before the conference is held that the confirmation is no longer correct, the party shall, if possible, immediately,

- (a) give a copy of the corrected confirmation of conference in Form 17F to every other party using a method listed in clause (14) (b) and subsequently give the clerk the corrected confirmation of conference by a method listed in clause (14) (c); or
- (b) in a child protection case, give the clerk a corrected confirmation of conference in Form 17F by a method listed in clause (14) (c). O. Reg. 298/18, s. 12 (3).

#### **The Conference**

- [37] The conference will proceed on the date and at the time scheduled. Until September 6, 2022 the Trial Coordinator will forward a ZOOM link to the parties and their lawyers in advance. After September 6, 2022, all conference attendances (not conferences being held by a Dispute Resolution Officer) will held in-person unless an Order allowing a ZOOM conference has been made.
- [38] Once all parties are present for the conference, the judge will attend. If the parties have complied with the *Family Law Rules* and have properly identified the important issues, the judge will discuss with them what can, or should, be done. Sometimes the judge may direct the parties to breakout rooms to discuss the issues and then have them return to the court

later for further discussions and/or an Order. The judge can make any Order that is considered appropriate (see **Orders at a Case Conference** above) or the judge can make an Order to which the parties have consented in writing at the conference: this could include a final Order settling one or more of the disputed issues. If your case is one that may involve the valuation of assets, analysis of a party's income or any other matter that may require expert opinion evidence it is a good idea to make a request for that Order at the case conference because an expert's written opinion or report must be served and filed at least six days before the settlement conference, which is the next (mandatory) event in the case. This may avoid having to bring a motion for this relief later.

- [39] When the conference has ended, the judge will make an endorsement in the court file that a case conference has been held and note whether any Orders are being made. A copy of that endorsement will be sent to the parties and their lawyers by the court Registrar or a judicial assistant afterwards. If an Order is made, it is the responsibility of the lawyers (if there are lawyers involved) to draft the formal version of the Order and to have it issued by the court. If the parties are representing themselves, court administration will prepare the Order and send an issued copy to each party.
- [40] If experts are going to be involved in the case, then even if there are no reports at the conference but will be obtained later, remember that **expert reports must be served and filed 6 days before the settlement conference**. Only relevant excerpts of an expert's report should accompany a settlement conference brief (such as the expert's conclusion or summary).
- [41] Briefs will be destroyed after the conference. The court can order that a case conference brief be filed as part of the Continuing Record maintained by the court (*Rule 17(22)*) but if there are references to settlement of the case that portion of the brief must be deleted (*Rule 17(22.1)*).
- [42] **Note:** Section 136 of the *Courts of Justice Act* prohibits any person from copying, recording, publishing, broadcasting or disseminating a court hearing or a portion of it, **including a hearing conducted over videoconference or teleconference**, without the court's permission. **This prohibition includes screenshots.**

**Costs Consequences**

[43] The judge hearing the conference may make an Order for costs in appropriate circumstances.

**COSTS**

17(18) Costs shall not be awarded at a conference unless a party to the conference was not prepared, did not serve a required brief, did not make any required disclosure, otherwise contributed to the conference being unproductive or otherwise did not follow these rules, in which case the judge shall, despite subrule 24 (10)<sup>1</sup>,

- (a) order the party to pay the costs of the conference immediately;
- (b) decide the amount of the costs; and
- (c) give any directions that are needed. O. Reg. 114/99, r. 17 (18); O. Reg. 235/16, s. 3.

**COSTS MAY BE AWARDED LATER**

17(18.1) Subrule (18) does not prevent the court from awarding costs in relation to the conference at a later stage in the case, if costs are not awarded at the conference. O. Reg. 298/18, s. 12 (5).

[44] In addition to the provisions of *Rule* 17(18), the court also has the power to award costs pursuant to *Rules* 13(3)(b) and 13(17) if a party (or parties) has/have not conferred before the conference or if either or both of the parties a party has/have not served or filed a document required by the *Rules*. This can be requested in a party's brief, or the court may order costs on its own initiative. *Rule* 2(8) may also be used to reflect the court's displeasure with inflammatory language, irrelevant issues raised or rambling and incoherent briefs. Non-compliance with the Family Law Notice may also result in costs being ordered against an offending party.

*Guide effective April 19, 2022*

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<sup>1</sup> *Rule* 24(10) provides that the court should deal with costs of each step in a case promptly.

## APPENDIX A

### CERTIFICATE OF FINANCIAL DISCLOSURE

[45] Depending on whether a claim for support and/or a claim to property is being made each party must serve what is known as a Certificate of Financial Disclosure on the other party no later than 30 days after the date on which their Financial Statement must be served. The information listed in the Certificate must include the following.

(3.3) A party who is required to serve and file a financial statement in relation to a claim under Part I of the *Family Law Act* shall, no later than 30 days after the day by which the financial statement is required to be served, serve on the other party the following information, unless the court orders otherwise:

1. The statement issued closest to the valuation date for each bank account or other account in a financial institution, pension, registered retirement or other savings plan, and any other savings or investments in which the party had an interest on that date.
2. A copy of an application or request made by the party to obtain a valuation of his or her own pension benefits, deferred pension or pension, as the case may be, if any, as of the valuation date.
3. A copy of the Municipal Property Assessment Corporation's assessment of any real property in Ontario in which the party had a right or interest on the valuation date, for the year in which that date occurred.
4. If the party owned a life insurance policy on the valuation date, the statement issued closest to that date showing the face amount and cash surrender value, if any, of the policy, and the named beneficiary.
5. If the party had an interest in a sole proprietorship or was self-employed on the valuation date, for each of the three years preceding that date,
  - i. the financial statements of the party's business or professional practice, other than a partnership, and
  - ii. a copy of every personal income tax return filed by the party, including any materials that were filed with the return.
6. If the party was a partner in a partnership on the valuation date, a copy of the partnership agreement and, for each of the three years preceding the valuation date,

- i. a copy of every personal income tax return filed by the party, including any materials that were filed with the return, and
- ii. the financial statements of the partnership.

7. If the party had an interest in a corporation on the valuation date, documentation showing the number and types of shares of the corporation and any other interests in the corporation that were owned by the party on that date.

8. If the corporation in which a party had an interest was privately held, for each of the three years preceding the valuation date,

- i. the financial statements for the corporation and its subsidiaries, and
- ii. if the interest was a majority interest, a copy of every income tax return filed by the corporation.

9. If the party was a beneficiary under a trust on the valuation date, a copy of the trust settlement agreement and the trust's financial statements for each of the three years preceding that date.

10. Documentation showing the value, on the valuation date, of any property not referred to in paragraphs 1 to 9 in which the party had an interest on that date.

11. Documentation that supports a claim, if any, for an exclusion under subsection 4 (2) of the *Family Law Act*.

12. The statements or invoices issued closest to the valuation date in relation to any mortgage, line of credit, credit card balance or other debt owed by the party on that date.

13. Any available documentation showing the value, on the date of marriage, of property that the party owned or in which he or she had an interest on that date, and the amount of any debts owed by the party on that date.

[46] There are different Rules for serving the required documents and filing the Certificate of Financial Disclosure.

[47] Rule 13(5.0.2) requires a party who is required to serve these documents to serve them with the Certificate and to afterwards file the Certificate in the Continuing Record at least six days before the case conference, or a motion,

(5.0.2) A party who is required to serve documents under subrule (3.1), (3.3), (3.4) or (5.0.1) shall confirm service by,

(a) **servicing a certificate of financial disclosure** (Form 13A) together **with the documents**; and

(b) **filing the certificate** no later than,



(i) six days before a case conference, in the case of the applicant or the party making the motion, as the case may be, and

(ii) four days before the case conference, in the case of the other party.

[48] The documents served with the Certificate are NOT to be filed with the court, only the Certificate is filed.

[49] There is no need to file another Certificate in the case unless there are new or additional documents disclosed or corrections are needed. In that situation, an updated Certificate must be served (with the documents, or corrections, noted) and that Certificate then filed in the Continuing Record six days before the next conference event,

(13.1) Before any settlement conference or trial management conference, a party who has served a corrected, updated or new version of a document referred to in subrule (3.1), (3.3), (3.4) or (5.0.1) in accordance with subrule (15), or additional documents in accordance with subrule (16), shall serve and file an updated certificate of financial disclosure (Form 13A), no later than,

(a) six days before the conference, in the case of the party requesting the conference or, if the conference is not requested by a party, the applicant or the party making the motion, as the case may be; and

(b) four days before the conference, in the case of the other party.

(16) As soon as a party discovers that he or she failed to serve a document required to be served under subrule (3.1), (3.3), (3.4) or (5.0.1), the party shall serve the document on the other party.

**APPENDIX B**

**SERVICE AND FILING DEADLINES**

<b>Name of Document</b>	<b>Form</b>	<b>Service and Filing Deadlines (not later than)</b>	<b>Rule</b>
Certificate of Financial Disclosure	13A	6 days before the conference (4 days for the other side)	13(5.0.2)(a) and (b)
Certificate of Dispute Resolution	17G	With 14B motion or by deadline ordered by a judge	17(7.1)
Updated Financial Statements [or affidavit confirming financial information is the same]	13 or 13.1 [14A]	6 days before the conference (4 days for the other side)	13(12.2) 1
Case Conference Brief	17A	6 days before the conference (4 days for the other side)	17(13.1)
Confirmation	17F	3 days before the conference (both parties) by 2:00 p.m.	17(14)

## APPENDIX A

### CERTIFICATE OF FINANCIAL DISCLOSURE

[1] Depending on whether a claim for support and/or a claim to property is being made each party must serve what is known as a Certificate of Financial Disclosure on the other party no later than 30 days after the date on which their Financial Statement must be served. The information listed in the Certificate must include the following.

(3.3) A party who is required to serve and file a financial statement in relation to a claim under Part I of the *Family Law Act* shall, no later than 30 days after the day by which the financial statement is required to be served, serve on the other party the following information, unless the court orders otherwise:

1. The statement issued closest to the valuation date for each bank account or other account in a financial institution, pension, registered retirement or other savings plan, and any other savings or investments in which the party had an interest on that date.
2. A copy of an application or request made by the party to obtain a valuation of his or her own pension benefits, deferred pension or pension, as the case may be, if any, as of the valuation date.
3. A copy of the Municipal Property Assessment Corporation's assessment of any real property in Ontario in which the party had a right or interest on the valuation date, for the year in which that date occurred.
4. If the party owned a life insurance policy on the valuation date, the statement issued closest to that date showing the face amount and cash surrender value, if any, of the policy, and the named beneficiary.
5. If the party had an interest in a sole proprietorship or was self-employed on the valuation date, for each of the three years preceding that date,
  - i. the financial statements of the party's business or professional practice, other than a partnership, and
  - ii. a copy of every personal income tax return filed by the party, including any materials that were filed with the return.
6. If the party was a partner in a partnership on the valuation date, a copy of the partnership agreement and, for each of the three years preceding the valuation date,

- i. a copy of every personal income tax return filed by the party, including any materials that were filed with the return, and
- ii. the financial statements of the partnership.

7. If the party had an interest in a corporation on the valuation date, documentation showing the number and types of shares of the corporation and any other interests in the corporation that were owned by the party on that date.

8. If the corporation in which a party had an interest was privately held, for each of the three years preceding the valuation date,

- i. the financial statements for the corporation and its subsidiaries, and
- ii. if the interest was a majority interest, a copy of every income tax return filed by the corporation.

9. If the party was a beneficiary under a trust on the valuation date, a copy of the trust settlement agreement and the trust's financial statements for each of the three years preceding that date.

10. Documentation showing the value, on the valuation date, of any property not referred to in paragraphs 1 to 9 in which the party had an interest on that date.

11. Documentation that supports a claim, if any, for an exclusion under subsection 4 (2) of the *Family Law Act*.

12. The statements or invoices issued closest to the valuation date in relation to any mortgage, line of credit, credit card balance or other debt owed by the party on that date.

13. Any available documentation showing the value, on the date of marriage, of property that the party owned or in which he or she had an interest on that date, and the amount of any debts owed by the party on that date.

[2] There are different Rules for serving the required documents and filing the Certificate of Financial Disclosure.

[3] Rule 13(5.0.2) requires a party who is required to serve these documents to serve them with the Certificate and to afterwards file the Certificate in the Continuing Record at least six days before the case conference, or a motion,

(5.0.2) A party who is required to serve documents under subrule (3.1), (3.3), (3.4) or (5.0.1) shall confirm service by,

(a) **serving a certificate of financial disclosure** (Form 13A) together **with the documents**; and

(b) **filing the certificate** no later than,

(i) six days before a case conference, in the case of the applicant or the party making the motion, as the case may be, and

(ii) four days before the case conference, in the case of the other party.

[4] The documents served with the Certificate are NOT to be filed with the court, only the Certificate is filed.

[5] There is no need to file another Certificate in the case unless there are new or additional documents disclosed or corrections are needed. In that situation, an updated Certificate must be served (with the documents, or corrections, noted) and that Certificate then filed in the Continuing Record six days before the next conference event,

(13.1) Before any settlement conference or trial management conference, a party who has served a corrected, updated or new version of a document referred to in subrule (3.1), (3.3), (3.4) or (5.0.1) in accordance with subrule (15), or additional documents in accordance with subrule (16), shall serve and file an updated certificate of financial disclosure (Form 13A), no later than,

(a) six days before the conference, in the case of the party requesting the conference or, if the conference is not requested by a party, the applicant or the party making the motion, as the case may be; and

(b) four days before the conference, in the case of the other party.

(16) As soon as a party discovers that he or she failed to serve a document required to be served under subrule (3.1), (3.3), (3.4) or (5.0.1), the party shall serve the document on the other party.

**APPENDIX B**

**SERVICE AND FILING DEADLINES**

<b>Name of Document</b>	<b>Form</b>	<b>Service and Filing Deadlines (not later than)</b>	<b>Rule</b>
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Certificate of Dispute Resolution	17G	With 14B motion or by deadline ordered by a judge	17(7.1)
Updated Financial Statements [or affidavit confirming financial information is the same]	13 or 13.1 [14A]	6 days before the conference (4 days for the other side)	13(12.2) 1
Case Conference Brief	17A	6 days before the conference (4 days for the other side)	17(13.1)
Confirmation	17F	3 days before the conference (both parties) by 2:00 p.m.	17(14)

#### 4- Settlement Conference Guide (Superior Court of Justice):

##### Settlement Conference Rules and Procedure (Updated August 2022)

##### Settlement Conference Rules and Procedure

(For litigants and lawyers)

**NEW: All materials for conferences and motions must be served, filed and then uploaded to CaseLines. Materials must comply with the page limits set out below.**

- [1] The Settlement Conference is the next to last step before a trial. It is a final opportunity for a judicial review and discussion about the disputed issues in the case, and to try to resolve them, in whole or in part to avoid or shorten a trial. It is a confidential process. **The judge holding the conference will not be the trial judge.** Everything that is said by anyone participating in the conference is confidential and cannot be repeated in court or later presented at trial. The settlement conference documents (briefs) which each party must file before the conference are returned or destroyed afterwards. In order for the judge to make meaningful settlement recommendations, the parties must prepare a number of important documents before the conference and file them with the court.
- [2] The *Family Law Rules* (“the *Rules*”) govern what is required and what happens at a settlement conference. There are consequences if these rules are not followed. What follows is a procedural guide (and some tips) to the settlement conference process. Be mindful that the Chief Justice of Ontario issued a **Province-wide Notice to the Profession Regarding Family Law Cases** effective September 13, 2021 (the “Family Notice”) and amended it on January 10, 2022. These Notices should be read in combination with the recent **Notice to the Profession for Central East Region** effective April 19, 2022 **updated on June 1, 2022** (“the Notice”). All notices can be found on the Superior Court of Justice website at [www.ontariocourts.ca](http://www.ontariocourts.ca), the Family Notice under “Provincial Notices” and the Central East Region notice under “Regional Notices” (Home>>Notices and Orders-Covid-19>>Regional Notices (Central East-Family)). The website contains additional information about family

law rules and practice. This can be accessed online by going to “A Guide to Process for Family Cases at the Superior Court of Justice” (Home>> Family Proceedings>> Resources-Family) or you can contact the Family Law Information Centre (“FLIC”) at your local court. Additional guides can be found at <https://www.attorneygeneral.jus.gov.on.ca/english/family/guides/fc/>.

### **Purpose of a Settlement Conference**

[3] The purposes of a settlement conference are set out in *Rule 17(5)* of the *Family Law Rules*,

#### **PURPOSES OF SETTLEMENT CONFERENCE**

17(5) The purposes of a settlement conference include,

- (a) exploring the chances of settling the case;
- (b) settling or narrowing the issues in dispute;
- (c) ensuring disclosure of the relevant evidence;
- (c.1) settling or narrowing any issues relating to any expert evidence or reports on which the parties intend to rely at trial;
- (d) noting admissions that may simplify the case;
- (e) if possible, obtaining a view of how the court might decide the case;
- (f) considering any other matter that may help in a quick and just conclusion of the case;
- (g) if the case is not settled, identifying the witnesses and other evidence to be presented at trial, estimating the time needed for trial and scheduling the case for trial;
- (h) organizing a trial management conference or holding one if appropriate; and
- (i) in the case of a motion to change a final order or agreement under rule 15, determining the most appropriate process for reaching a quick and just conclusion of the motion.

[4] It is important to note what the settlement conference is not – **it is NOT a repetition, or duplication, of the case conference. It is not the place to reargue what may have happened, or been ordered, at earlier steps in the court proceeding like a case conference or a motion.**



### **Required Documents**

- [5] These are the documents that **must** be prepared, served and filed with the court before a settlement conference can proceed:
- (a) a **Net Family Property statement**, if the parties are married and there are property issues involved;
  - (b) a **Comparison of Net Family Property** statements (if (a) applies);
  - (c) a **Certificate of Financial Disclosure**;
  - (d) an **updated Financial Statement, or an affidavit** saying that the information in a previous financial statement sworn more than 60 days before the conference has not changed and is still true;
  - (e) an **Expert Report**;
  - (f) a **Settlement Conference Brief**;
  - (g) an **Offer to Settle**, either in the settlement conference brief (where noted) or separately attached.
- [6] Appendix A sets out when these documents must be served on the other party and filed with the court, along with the governing *Rule*. Some of these documents, such as (a) to (e) above, are filed in the court record (this is called the “Continuing Record”). A settlement conference brief and any Offer to Settle **do not** form part of the Continuing Record and are returned to the parties or destroyed after the conference (see **Confidentiality** below).
- [7] Failure to comply with the *Rules* wastes the time of the parties and the court. Non-compliance will usually result in costs being awarded payable by the offending party (see **Cost Consequences** below).

### **Orders at a Settlement Conference**

- [8] *Rule* 17(8) sets out the kind of Orders that the judge can make at a settlement conference.

#### **ORDERS AT CONFERENCE**

- (8) At a ... settlement conference ... the judge may, if it is appropriate to do so,

- (a) make an order for document disclosure (rule 19), questioning (rule 20) or filing of summaries of argument on a motion, set the times for events in the case or give directions for the next step or steps in the case;
- (a.0.1) make an order about expert evidence, including hiring an expert for one or more parties, the use of an expert opinion and how and when experts' reports are to be served, filed and the opinion admitted into evidence;
- (a.1) make an order requiring the parties to file a trial management endorsement or trial scheduling endorsement in a form determined by the court;
- (b) make an order requiring one or more parties to attend,
  - (i) a mandatory information program,
  - (ii) a ... settlement conference conducted by a non-judge who is a current or retired lawyer or a retired judicial officer of the Ontario Superior Court approved for that purpose by the regional senior judge;
  - (iii) an intake meeting with a court-affiliated mediation service, or
  - (iv) a program offered through any other available community service or resource;
- (b.1) if notice has been served, make a final order or any temporary order, including any of the following temporary orders to facilitate the preservation of the rights of the parties until a further agreement or order is made:
  - (i) an order relating to the designation of beneficiaries under a policy of life insurance, registered retirement savings plan, trust, pension, annuity or a similar financial instrument,
  - (ii) an order preserving assets generally or particularly,
  - (iii) an order prohibiting the concealment or destruction of documents or property,
  - (iv) an order requiring an accounting of funds under the control of one of the parties,
  - (v) an order preserving the health and medical insurance coverage for one of the parties and the children of the relationship, and
  - (vi) an order continuing the payment of periodic amounts required to preserve an asset or a benefit to one of the parties and the children;
- (c) make an unopposed order or an order on consent; and
- (d) on consent, refer any issue for alternative dispute resolution.

- [9] While the *Rule* is worded to include case and trial management conferences, each of those has a different purpose than the settlement conference, although there will be some overlap. Some of the *Rule*'s provisions, like sub-paragraphs (a), (a.0.1), (b) and (b.1) above, should have already been ordered at the case conference, or even motion – **a settlement conference is not the place to raise for the first time, for example, issues about disclosure or questioning**. If, for example, you have a complaint about failure by the other party to comply with an Order made at the case conference for disclosure or if you think that the disclosure provided is inadequate, then consider bringing a motion well before the settlement conference.

**Parties required to confer before settlement conference**

- [10] Rules 17(3.1) to (3.3) **require** parties to discuss the issues in their case **before** the conference.

**REQUIREMENT FOR PARTIES TO CONFER**

- (3.1) Before a conference, each party shall, subject to subrule (3.2), confer or make best efforts to confer orally or in writing with every other party respecting,
- (d) the parties' requests for financial disclosure; and
  - (e) a temporary resolution of the issues that are in dispute; and,
  - (f) in the case of a settlement conference..., a final resolution of the issues that are in dispute.

**EXCEPTION**

- (3.2) Subrule (3.1) does not apply with respect to a party if,
- (c) the party is prohibited from such communication by court order; or
  - (d) there is a risk of domestic violence by a party who is not represented by a lawyer.

**EFFECT OF FAILURE TO CONFER**

(3.3) If a party fails to comply with subrule (3.1), the court may, for greater certainty, make any order under subrule 1(8.1) that is appropriate in the circumstances, including,

(c) an order postponing the case conference until the requirements of subrule (3.1) are met; and

(d) an order for costs, regardless of whether the case conference is postponed.

[11] Although the lawyers (and the parties, if not represented by a lawyer) are required to file a confirmation (prescribed **Form 17F**) before the conference can proceed (see **Confirmation** below), they are required to discuss the issues before the conference dealing with disclosure and a resolution of their disputed issues (on a temporary or final basis), failing which costs will likely be imposed against a non-compliant party.

**Settlement Conference Briefs**

[12] There is a group of *Rules* that governs what documents must be served and filed by each party before a settlement conference can be held, and when those must be served and filed (see **Required Documents** above). These *Rules* include expert opinion evidence (see also **Expert Evidence** below). There is a prescribed **Form 17C** for a settlement conference brief not involving protection of children. The Family Notice limits the contents of your settlement conference brief and any additional pages of facts and/or documents that are attached as an appendix or schedule to 12 pages.

[13] Certain documents may accompany the brief and are **not** included in the 12-page limit. These include **relevant excerpts** from the following:

- a. Parenting assessments (pursuant to Section 30 of the *Children's Law Reform Act*), Office of the Children's Lawyer reports and Voice of the Child Reports;
- b. Documents *that* establish a child's educational needs (for example, report cards or Individual Education Plans);
- c. Lists of any disclosure that remains outstanding;
- d. Income or business valuations, pension valuations or real estate appraisals (where the value of property is in dispute);

- e. Proof of income for the relevant period(s) including pay stubs, confirmation of benefits received and/or Statement of Business or Professional Activities from a party's Income Tax Return; and,
- f. Domestic contracts, including separation agreements, marriage contracts or cohabitation agreements that are relevant to the issues in dispute.

In addition, the parties should include with their materials:

- g. Relevant court Orders, including bail/release terms;
- h. Reports from the Children's Aid Society;
- i. Child Support or Spousal Support Advisory Guideline calculations.

These documents are also not included in the above page restrictions.

- [14] Voluminous texts, emails and/or social media postings must not be included but **relevant and necessary** excerpts may be referenced in the brief.
- [15] Note that Expert Reports are not exempted from these page limitations because they are required to be filed in the Continuing Record **before** the conference (see *Rules* 20.2(2) and (14)). A summary of the expert(s) opinion(s) can be included in the brief so long as the page limitations are obeyed: if a party believes it necessary to exceed the page limit, the Notice (paragraph [37]) requires that leave of the court be obtained by 14B motion in advance of the conference **before** the brief is filed.
- [16] *Rules* 17(13), (13.1) and (14.2) set out the requirements for service and filing of settlement conference briefs.

#### **PARTIES TO SERVE BRIEFS**

(13) ...[E]ach party shall serve and file a ... settlement conference brief (Form 17C)

#### **TIME FOR SERVICE OF BRIEFS**

(13.1) **The party requesting the conference** (or, if the conference is not requested by a party, the applicant or party making the motion) **shall serve and file a brief not later than six days before the date scheduled for the conference and the other party shall do so not later than four days before that date.** (bolding added)

#### **REQUIREMENT TO BRING DOCUMENTS TO SETTLEMENT CONFERENCE**

(14.2) The following documents shall be brought to a settlement conference:

1. Any document that supports a party's position in respect of a dispute regarding the value of property or regarding the amount of a debt, in the case of a property claim under Part I of the *Family Law Act*.
2. Any document required to be served under rule 13 (financial disclosure), if there is a dispute as to whether it was served.

[17] An Offer to Settle must be included in, or accompany, the brief (see **Offers to Settle** below). It is prudent to consider having the Offer accompany the brief (rather than being included in it) because that may have later cost implications. The Offer should comply with *Rule* 18.

[18] Above all, briefs should be prepared with a view to a realistic agenda that can be fairly addressed by both sides in the time available with the court that day. Anything longer than the 12-page brief limit (with permitted attachments) or which includes unnecessary material may not be read and could expose the offending party to an Order for costs payable to the other side.

#### **Expert Evidence**

[19] *Rule* 20.2 deals with expert opinion evidence. A party can hire their own expert or the court can make an Order that an expert be hired by or for one or more of the parties. There are several kinds of experts described in *Rule* 20.2(1). Whether the expert is hired by a party or a court Order has been made, the expert report must be served and filed with the court **at least 6 days before the settlement conference**. There are minimum requirements that must be met if you want to call an expert as a witness at trial (a "litigation" or "joint litigation" expert) or if you only want to file an expert's written opinion (a "participation expert"). These requirements include listing the documents or other sources of information relied on by the expert and serving copies of the documents on the other party or parties unless they have already been served.

[20] **It is usually a good idea to serve and file a copy of the expert report well in advance of the conference. Don't wait until 6 days before the conference.**

#### **Financial Disclosure**

[21] Financial disclosure already made must be updated for the settlement conference. *Rules* 13(12), (12.1) and (12.2) 1. and 2. provide as follows:

**UPDATING FINANCIAL STATEMENT**

(12) Before a ...settlement conference...a party shall update their financial information by serving and filing the document specified in subrule (12.1) no later than the time specified in subrule (12.2), if the information in the last financial statement provided by the party would be,

(b) for a ...settlement conference...more than 60 days old by the time the conference is held;

**DOCUMENT TO BE PROVIDED**

(12.1) For the purposes of subrule (12), a party shall serve and file the following document:

3. If the information in the last statement has not changed, an affidavit saying that the information in the last statement has not changed and is still true.

4. If the information in the last statement has changed, the following document:

iii. If the changes are only minor, an affidavit with details of the changes.

iv. In any other case, a new financial statement.

**TIMING REQUIREMENT**

(12.2) A party shall serve and file the document referred to in subrule (12.1) no later than the following time:

2. For a ...settlement conference,

iii. six days before the conference, in the case of the party requesting the conference or, if the conference is not requested by a party, the applicant or the party making the motion, as the case may be, and

iv. four days before the conference, in the case of the other party.

[22] If there is any document earlier served as required by the *Rules* which has been corrected, updated or is a new version, an updated Certificate of Financial Disclosure must be served and filed in the Continuing Record. *Rule* 13(13.1) governs this,

#### **UPDATING CERTIFICATE OF FINANCIAL DISCLOSURE**

(13.1) Before any settlement conference ... a party who has served a corrected, updated or new version of a document referred to in subrule (3.1), (3.3), (3.4) or (5.0.1) in accordance with subrule (15), or additional documents in accordance with subrule (16), shall serve and file an updated certificate of financial disclosure (Form 13A), no later than,

(a) six days before the conference, in the case of the party requesting the conference or, if the conference is not requested by a party, the applicant or the party making the motion, as the case may be; and

(b) four days before the conference, in the case of the other party.

[23] *Rule* 13(16) provides,

#### **DUTY TO ADDRESS OMISSIONS IN FINANCIAL DISCLOSURE**

(16) As soon as a party discovers that he or she failed to serve a document required to be served under subrule (3.1), (3.3), (3.4) or (5.0.1), the party shall serve the document on the other party.

#### **Property Claims**

[24] Where the case involves property claims between married (not common law) spouses, two important documents must be prepared. The first is a **Net Family Property statement** (Form 13B) and the other is a **Comparison of Net Family Property Statements** (Form 13C) both of which must be prepared and filed **six** days before the settlement conference.

[25] *Rules* 13(14), (14.0.1), (14.02), (14.2) and (14.3) are the applicable rules.

#### **NET FAMILY PROPERTY STATEMENT**

(14) Before a settlement conference...each party to a property claim under Part 1 of the Family Law Act shall, no later than the time specified in subrule (14.0.1), serve and file,

(a) a net family property statement (Form 13B);



- (b) if the party has already served a net family property statement and the information in that statement has not changed, an affidavit saying that the information in the statement has not changed and is still true.

#### **SAME, TIMING REQUIREMENT**

(14.0.1) A party shall serve and file the document referred to in subrule (14) no later than,

- (a) for a settlement conference,
  - (i) six days before the conference, in the case of the party requesting the conference or, if the conference is not requested by a party, the applicant or the party making the motion, as the case may be, and
  - (ii) four days before the conference, in the case of the other party; and
- (b) for a trial, 30 days before the earlier of the start of the trial and of the trial sitting, as applicable.

#### **COMPARISON OF NET FAMILY PROPERTIES, JOINT**

(14.2) Parties who have served and filed net family property statements in accordance with subrule (14) shall file a joint comparison of net family property statements (Form 13C) no later six days before a settlement conference, subject to subrule (14.3).

#### **COMPARISON OF NET FAMILY PROPERTIES, SEPARATE**

(14.3) If the parties fail to agree on a joint comparison of net family properties, each party shall serve and file the party's own comparison of net family property statements (Form 13C) no later than,

- (a) **six days before a settlement conference**, in the case of the party requesting the conference or, if the settlement conference is not requested by a party, the applicant or the party making the motion, as the case may be; and
- (b) **four days before the settlement conference**, in the case of the other party.

[26] These documents must be filed in the Continuing Record.

#### **Service and Filing of Briefs**

[27] Be mindful that there are different rules for the applicant and respondent for serving their briefs: the applicant must **serve and file** their brief on the respondent at least **six days** before

the conference date, and the respondent **must serve and file** their brief **four days** before the conference date.

<i>Serving &amp; Filing of Briefs with the Court by the applicant (deadline for respondent in brackets)</i>	<i>For Conference date for the following week</i>
Monday (Wednesday)	Tuesday
Tuesday (Thursday)	Thursday
Wednesday (Friday)	Friday
Thursday (Monday)	Monday the second week afterwards
Conferences are not held on Wednesdays in Newmarket.	

[28] Where the deadline for filing falls on a statutory holiday, add a day. For example, if Monday would ordinarily be the deadline for filing briefs in time for a Tuesday Settlement Conference the next week, and the Monday is a statutory holiday, then the briefs must be filed with the court on the preceding Friday. **Always remember to serve and file your brief as soon after service on the other side as possible to ensure that you comply with this rule.**

[29] In Newmarket, the Court will accept a late brief if you have written consent from all the parties involved in the case. The brief must be served and filed with the court along with the consent by 2 pm no later than 2 days before the scheduled conference date.

[30] See Appendix A for service and filing deadlines.

### **Offers to Settle**

[31] An Offer to Settle must be made as part of the settlement conference process. Its terms are confidential and **cannot** be mentioned in any document filed in the Continuing Record or until after a judge has made a decision dealing with the subject matter of the Offer (i.e., after a trial or other hearing). *Rule 18* deals with offers to settle, who must sign them, the consequences of withdrawing an offer, and accepting or failing to serve or accept an offer.

[32] The settlement conference brief requires (at paragraph 19) that a party include the terms of their offer to settle. Please remember that while the Form requires each party to set out the terms on which they are prepared to settle the issues in the case, the settlement conference

process and all associated documents associated are considered confidential. In other words, the offer referenced in the settlement conference brief will **not** qualify as a *Rule 18* Offer that a party will be allowed to mention after a trial when dealing with the issue of costs. The best practice is to refer to the terms of an offer in the brief or separately attach it. **In every case an Offer to Settle must be served and accompanied by an affidavit proving its service on the other party.**

### **Confirmation**

[33] Even though the court, or either or both of the parties, have scheduled a settlement conference date, **each** party must still confirm with the other side and file with the court a confirmation that the conference will proceed. *Rule 17(14)* states:

#### **PARTIES TO CONFIRM ATTENDANCE**

(14) Each party shall,

~~(a) confer or attempt to confer orally or in writing with every other party about the issues that are in dispute, subject to a party being prohibited from such communication by court order;~~

(b) before giving the clerk confirmation of the conference in Form 17F under clause (c), **give a copy of the confirmation of conference to every other party using mail, fax, email or any other method**, except in a child protection case; and

(c) not later than 2 p.m. **three days before the conference date**, give the clerk the confirmation of conference (Form 17F) by,

(i) delivering it to the court office,

(ii) sending it to the court office by email, or

(iii) submitting it through the Justice Services Online website.

[34] See also “Service and Filing of Briefs” above (paragraphs [27] and [28]).

- [35] The Form 17F confirmation is a filing requirement **in addition to** the deadline for filing briefs. **In other words, the filing of the brief does not relieve a party from serving and filing their confirmation.**
- [36] The Family Notice confirms the court's expectation, and *Rule* 17(3.1) and Form 17F require, that the parties discuss with each other beforehand what are the specific issues for the conference and how much time each party expects will be needed to tell the judge how they think that the case can be settled. **It is required that each party list what they think are the specific issues for the conference.** This list is like an **Agenda** and will enable the judge, who will have read the briefs beforehand, to focus on the issues, consider how to handle them and make settlement recommendations.
- [37] The court will also expect the parties to alert it to any areas of agreement when filing their confirmations or at the outset of the conference.
- [38] If no Confirmation is filed by either party (both parties are required to file one), the conference will be struck from the list and not heard unless the court orders otherwise. *Rule* 17(14.1) states:

#### **EFFECT OF FAILURE TO CONFIRM**

(14.1) Unless the court orders otherwise, a conference shall not be held if confirmation of the conference is not given to the clerk in accordance with clause (14) (c). O. Reg. 298/18, s. 12 (3).

- [39] If the conference is not confirmed, the court may endorse the Record that no further steps in the case may be taken without the parties obtaining from the court an Order pursuant to Form 14B supported by an affidavit satisfactorily explaining the reason why the conference was not confirmed.
- [40] If there is any change to the confirmation sent (such as certain issues being settled, or inadvertently omitted) the parties should let the court know right away.

#### **PARTIES TO UPDATE CONFIRMATION**

(14.1.1) If a party who has given a confirmation of conference determines at any time before the conference is held that the confirmation is no longer correct, the party shall, if possible, immediately,

- (a) give a copy of the corrected confirmation of conference in Form 17F to every other party using a method listed in clause (14) (b) and subsequently give the clerk the corrected confirmation of conference by a method listed in clause (14) (c); or
- (b) in a child protection case, give the clerk a corrected confirmation of conference in Form 17F by a method listed in clause (14) (c). O. Reg. 298/18, s. 12 (3).

### **Participation/Attendance**

[41] *Rule 17(15)* deals with the mandatory participation/attendance of parties and their lawyers at the settlement conference,

(15) The following shall come to each conference:

1. The parties, unless the court orders otherwise.
2. For each represented party, the lawyer with full knowledge of and authority in the case.

[42] The lawyer, or lawyer's agent, who appears for a party must not only be familiar with the issues in the case but also have the authority to give recommendations to, and receive settlement instructions from, the client.

[43] **Note:** Section 136 of the *Courts of Justice Act* prohibits any person from copying, recording, publishing, broadcasting or disseminating a court hearing or a portion of it, **including a hearing conducted over videoconference or teleconference**, without the court's permission. **This prohibition includes screenshots.**

### **Confidentiality**

[44] The settlement conference is confidential. These are the rules that were mentioned at the beginning of this summary,

#### **CONTINUING RECORD, SETTLEMENT CONFERENCE BRIEFS**

17(22.2) Settlement conference briefs do not form part of the continuing record and shall be returned at the end of the conference to the parties who filed them or be destroyed by the court staff immediately after the conference.

#### **CONFIDENTIALITY OF SETTLEMENT CONFERENCE**

17(23) No brief or evidence prepared for a settlement conference and no statement made at a settlement conference shall be disclosed to any other judge, except in,

- (a) an agreement reached at a settlement conference; or
- (b) an order.

**SETTLEMENT CONFERENCE JUDGE CANNOT HEAR ISSUE**

17(24) A judge who conducts a settlement conference about an issue shall not hear the issue, except as subrule (25) provides.<sup>2</sup>

**The Conference**

- [45] The Conference will proceed on the date and at the time scheduled.
- [46] Once all parties are present for the conference the judge will attend. If the parties have complied with the *Rules* and have properly identified the specific issues, the judge will explore with the parties their settlement options and try to narrow the issues in dispute. Recommendations will be given. Sometimes the judge may direct the parties to breakout rooms to discuss the issues and then have them return to the court for further discussions and/or an Order. The judge can make any Order that is considered appropriate (see **Orders at a Settlement Conference** above) or the judge can make an Order to which the parties have consented in writing: this could include a final Order settling one or more of the disputed issues.
- [47] If there are experts involved in the case, it is worthwhile that the party planning to use that expert's opinion evidence to have the expert available on a stand-by basis in case the court (or the parties) have questions touching on the expert's qualifications or opinion.
- [48] When the conference has ended, the judge will make an endorsement in the court file that the settlement conference has been held and note whether any Orders are being made. A

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<sup>2</sup> Subrule (25) deals with child protection cases.

copy of that endorsement will be sent to the parties and their lawyers by the court Registrar or a judicial assistant.

### **Costs Consequences**

[49] There are cost consequences where a party fails to obey the settlement conference rules. These can apply before, or at, the conference.

#### **ORDER, IF DOCUMENT NOT PROVIDED**

13(17) If a party has not [served](#) or filed a document in accordance with the requirements of this rule or an Act or regulation, the court may on motion order the party to serve or file the document and, if the court makes that order, it shall also order the party to pay costs.

[50] If a settlement conference must be adjourned because a party has not complied with the *Rules*, a judge is required to order that party pay costs. *Rule 17(18)* provides as follows,

#### **COSTS OF ADJOURNED CONFERENCE**

(18) Costs shall not be awarded at a conference unless a party to the conference was not prepared, did not serve a required brief, did not make any required disclosure, otherwise contributed to the conference being unproductive or otherwise did not follow these rules, in which case the judge shall, despite subrule 24 (10),<sup>3</sup>

- (a) order the party to pay the costs of the conference immediately;
- (b) decide the amount of the costs; and
- (c) give any directions that are needed. O. Reg. 114/99, r. 17 (18); O. Reg. 235/16, s. 3.

#### **COSTS MAY BE AWARDED LATER**

(18.1) Subrule (18) does not prevent the court from awarding costs in relation to the conference at a later stage in the case, if costs are not awarded at the conference. O. Reg. 298/18, s. 12 (5).

[51] This *Rule* (as well as *Rule 17(3.3)* above dealing with the failure to confer before the conference) emphasizes the importance of the settlement conference. Parties who have not followed the preceding rules can be held financially responsible to the other party by an

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<sup>3</sup> Rule 24(10) provides that the court should deal with costs of each step in a case promptly.

award of costs immediately payable or payable by them at some later time or event as the settlement conference judge thinks appropriate.

**Summary**

[52] The settlement conference is the best, and likely the last, chance to get a judge's opinion about each party's case before trial. Settlement options are discussed: recommendations will be given. Compliance with the settlement conference rules and preparation of the documents required are essential. As already noted, some or all the disputed issues can be finally settled and made into a final Order at the conference. An expensive trial can be avoided or shortened, along with its costs to the parties, by complying with the *Rules*.

*Guide effective April 19, 2022*



**APPENDIX A**

**DOCUMENTS THAT HAVE TO BE SERVED AND FILED WITH THE COURT BEFORE A SETTLEMENT CONFERENCE (AND WHICH WILL FORM PART OF THE CONTINUING RECORD, EXCEPTING THE BRIEF AND CONFIRMATION)**

<b>Name of Document</b>	<b>Form</b>	<b>Deadline (not later than)</b>	<b>Rule</b>
Net Family Property Statement	13B	6 days before the conference	13(14.0.1)
Comparison of Net Family Property Statements	13C	6 days before the conference	13(14.2) and 13(14.3)(a)
Updated Financial Statements [or affidavit confirming financial information is the same]	13 or 13.1 [14A]	6 days before the conference (4 days for the other side)	13(12.2)
Updated Certificate of Financial Disclosure	13A	6 days before the conference (4 days for the other side)	13(13.1)
Settlement Conference Brief (with enclosed or attached Offer to Settle)	17C	6 days before the conference (4 days for the other side)	17(13.1)
Expert report	Report must comply with Rule 20.2(2)	6 days before the conference	20.2(2)
Confirmation	17F	3 days before the conference (both parties) by 2:00 p.m.	17(14)(c)

## 5- Resources for Family Law:

### **RESOURCES FOR LITIGANTS IN FAMILY CASES**

May 2022, Ontario Superior Court of Justice (Newmarket)

**Note:** This is not a comprehensive list of all resources available for Family Law issues, and the provision of this list should not be seen as an endorsement of any of the respective content, but rather a starting point for your own research.

### **DIRECTIONS FOR ATTENDANCES, MATERIALS AND FILING**

**Conferences and Motions are scheduled for one hour** and are set by the trial coordinator.

**Case Conference Guide: (Tab 3)**

**Settlement Conference Guide: (Tab 4)**

**Motion Guide:** The Form 14 (Notice of Motion) and 14a (Affidavit(s)) shall be served and filed 30 days prior to the scheduled date. The Responding materials (and any cross-motion authorized by the Court and properly booked through the Trial Co-ordinator) shall be served and filed 14 days prior to the motion date. The Response to the cross-motion or reply, if any, shall be served and filed seven (7) days before the motion with the reply to the cross motion four (4) days before the motion. In the event the motion materials are not served and filed 30 days before the event, the Trial Coordinator is authorized to vacate the date.

For short or regular motions, each party is restricted to one primary affidavit in support of their position on the motion and cross-motion (if applicable) which shall not exceed 12 pages of narrative. If a party also intends to rely on an affidavit that has been previously filed with the Court, the length of that affidavit is included in the 12 page limit. This limit does not include third party and reply affidavits, where required, which shall not exceed 5 pages each, or affidavits relating to a party's financial statement in accordance with Rule 13(12)(b).

In addition, exhibits to each party's affidavit shall be limited to only the **necessary and relevant** evidence and are generally expected not to exceed 10 pages. Litigants **shall not** include voluminous texts, emails and/or social media postings. Instead, only the relevant and necessary **excerpts** from these communications should be attached as exhibits. Certain documents set out in the Notice to Professional do not count towards the limit.

These restrictions do not apply to long motions, motions for summary judgment or hearings with respect to the wrongful removal or retention of a child. Additional direction regarding the materials that may be filed for these events may be included in the applicable regional Notice to the Profession. **Leave is required to file material beyond what is permitted above which will only be granted in exceptional circumstances.** For motion materials, leave should be sought at least 15 days before the filing deadline set out above. Unless approval has been obtained in

advance or a regional Notice to the Profession permits otherwise, material that is filed in excess of these restrictions will not be reviewed by the presiding judge and may result in an adjournment.

To assist the Court in finalizing family orders more quickly, litigants should also provide a draft order that lists the specific relief that they are seeking with reference to the appropriate legislative authority in accordance with the new [Form 25 Order \(General\)](#). References to legislation that do not apply can be removed. Sample order clauses that can be used in the preparation of draft orders are available at: <http://ontariocourtforms.on.ca/en/family-law-rules-forms/standard-clauses/>.

Earlier affidavits cannot be relied upon unless they fall within the 12 page limit. All affidavits are 12 font, double space. Materials should include a 12 month draft parenting plan (if applicable), and draft orders.

The Court may determine the motion on the written record, or by limiting submissions to the responses to questions. In the alternative the Court may opt for oral submissions. **A one hour motion provides: moving party 15 minutes; responding party 15 minutes; reply 5 minutes.** The balance of time is used by the judge.

A bill of costs and offer to settle should be emailed the registrar prior to motion. Parties may be directed to argue costs orally at the motion (5 minutes each side).

**Court materials filed late (even with the consent of the other party) may not be available to the judge on the hearing date. Early filing is recommended.**

**If at any time you need to contact the family section of the Newmarket filing office, the best way to reach them is via email at:**

[newmarketcjfamily@ontario.ca](mailto:newmarketcjfamily@ontario.ca)

**NEW: All materials for conferences and motions must be served, filed and then uploaded to CaseLines. Materials must comply with the page limits set out above.**

### **GENERAL RESOURCES**

#### **Finding Community Services**

Visit your local Family Law Information Centre  
[www.attorneygeneral.jus.gov.on.ca/english/family/family\\_justice\\_services.php#flic](http://www.attorneygeneral.jus.gov.on.ca/english/family/family_justice_services.php#flic)

Listings at 211.ca  
<https://211ontario.ca/211-for-help/looking-for-help/>

#### **Finding Legal Services**

Legal Aid Ontario Toll Free: 1-800-668-8258

<https://www.legalaid.on.ca/services/family-legal-issues/>

### **LEGAL AID/ADVICE LAWYER**

Legal Aid has also created a new line for clients who are seeking to get legal advice (up to 20 min) they can access that service for **Duty Counsel (for your court date)** or **Legal advice (any other time)** by calling [905-967-0921](tel:905-967-0921) or [1-888-616-0119, ext. 18](tel:1-888-616-0119). It is a call back service, so please leave a message and then wait for a call back.

**You will get a quicker response for Duty Counsel and Legal Advice via EMAIL**  
[gendcfamnewmascj@lao.on.ca](mailto:gendcfamnewmascj@lao.on.ca)

To apply or learn more about Legal Aid Certificates the alternative is to contact the Client Service Centre (Summary Legal Advice – Family) at [1-800-668-8258](tel:1-800-668-8258)

### **York Region Law Association:**

<https://yorklaw.ca/family>

### **Law Society of Ontario**

#### **Law Society Referral Service:**

<https://lsrs.lso.ca/lsrs/defineLocale.action?currentLang=en>, or email [lsrs@lso.ca](mailto:lsrs@lso.ca)

Law Society Referral Service [1-855-947-5255](tel:1-855-947-5255)

#### **Law Society Lawyer and Paralegal Directory:**

<https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/lawyer-and-paralegal-directory>

#### **Ontario Bar Association Directory of Lawyers:**

<http://www.oba.org/for-the-public/find-a-lawyer>

**Unbundled Services** in family law and Ontario’s Family Law Limited Scope Services Project where you can hire a lawyer on an as-needed basis called “unbundled services”

<https://www.familylawlss.ca/>

**Advice and Settlement Counsel** - One hour of legal assistance at an affordable rate. No appointment needed. Virtual services

[www.ascfamily.com](http://www.ascfamily.com)

**Family Justice Centre** – Legal advice and assistance with court forms

[www.probonostudents.ca](http://www.probonostudents.ca)

### **URGENT/EMERGENCY FAMILY LAW REFERRAL TELEPHONE LINE – [1-800-268-7568](tel:1-800-268-7568) OR [416-947-3310](tel:416-947-3310)**

- to provide assistance to people who are self-represented (SRLs)
- to determine whether or not their family court matter meets the criteria to be heard by the Court on an “urgent” basis

- if so, how to proceed in making their request

This emergency service will connect SRLs with a family lawyer, working on a pro bono basis, who **will provide 30 minutes of legal advice** specific to determining whether or not their family court matter is **urgent** and will provide referrals to other available legal services.

### **Family Law Mediation Services**

#### **York Hills Family Mediation and Information Services – 905-853-4816**

- If you would like to try to settle your family matter outside of court, mediation may be appropriate for you.
- Visit their website for more information: <https://www.yorkhills.ca/services/mediation/>
- To start the mediation process, call the Information and Referral Coordinators at **905-853-4816**. It is a callback service, please leave a message and wait for a call back.

**Court-Connected Family Mediation** Programs in Ontario, Ministry of the Attorney General  
<https://www.ontario.ca/page/family-mediation>

**Locate an accredited family mediator** through, Ontario Association for Family Mediation, Family Dispute Resolution Institute of Ontario or ADR Institute of Ontario

[www.oafm.on.ca/](http://www.oafm.on.ca/)  
[www.fdrio.ca/members/](http://www.fdrio.ca/members/)  
<http://adric.ca/>

### **Family Law: General**

Steps to Justice, Community Legal Education Ontario  
<https://stepstojustice.ca/legal-topic/family-law>

Family Law Information Program, Legal Aid Ontario  
<http://www.legalaid.on.ca/en/getting/flip.asp>

Family law legislation, rules and forms  
[www.ontariocourts.ca/scj/family/legislation-forms/](http://www.ontariocourts.ca/scj/family/legislation-forms/)

### **Family Law Court Procedures and Forms**

Guide to Process, Superior Court of Justice  
<http://www.ontariocourts.ca/scj/news/publications/guide-family/>

Family Court Forms, Ministry of the Attorney General  
<http://ontariocourtforms.on.ca/en/>

Assistance Completing Your Court Forms, Community Legal Education Ontario (Guided Pathways)  
<https://stepstojustice.ca/guided-pathways>

**Commented [JK(1)]:** I removed "mediation services via" because the subheading immediately above this line indicates "mediation services"

Guide to Procedures at Family Court, Ministry of the Attorney General (court filings)  
<http://www.attorneygeneral.jus.gov.on.ca/english/family/guides/fc/>

Family Law Rules  
<http://www.ontario.ca/laws/regulation/990114>

Family law flowchart (Community Legal Education Ontario)  
<https://familycourt.cleo.on.ca/en/about-flowcharts>

### **Procedures in the Superior Court of Justice**

Practice Directions of the Superior Court of Justice  
[www.ontariocourts.ca/scj/practice/](http://www.ontariocourts.ca/scj/practice/)

List of Often Cited Family Law Cases  
[www.ontariocourts.ca/scj/practice/practice-directions/list/](http://www.ontariocourts.ca/scj/practice/practice-directions/list/)

### **Domestic Violence**

Assaulted Women's Helpline  
<https://www.awhl.org/home>

Services for Women Experiencing Domestic Violence, [www.settlement.org](http://www.settlement.org)  
<https://settlement.org/ontario/health/family-health/domestic-abuse/where-can-i-get-help-for-domestic-abuse/>

Information about Violence in the Family, Ministry of the Attorney General  
[www.attorneygeneral.jus.gov.on.ca/english/family/violence.php](http://www.attorneygeneral.jus.gov.on.ca/english/family/violence.php)

Family Court Support Worker Program, Ministry of the Attorney General  
[www.attorneygeneral.jus.gov.on.ca/english/ovss/family\\_court\\_support\\_worker\\_program/service\\_providers.php](http://www.attorneygeneral.jus.gov.on.ca/english/ovss/family_court_support_worker_program/service_providers.php)

Legal Aid Ontario Domestic Violence Legal Advice Certificates  
<https://www.legalaid.on.ca/services/domestic-abuse/>

### **Court Support with Yellow Brick House**

**Urgent** matters such as accessing our shelter or having any safety concerns, please call the **24-hour crisis-line at 1-800-263-3247**. A crisis counsellor will be able to provide immediate assistance.

### **Court Support with Yellow Brick House**

For other non-emergency inquiries, please call our outreach intake screening at **1-877-222-8438 Ext. 5004**

A worker will triage and direct caller to receive appropriate services. Messages will be checked during business hours on a daily basis except holidays and weekends.

If need be (especially for D.V. cases) individuals can contact Florence via email at [florencec@yellowbrickhouse.org](mailto:florencec@yellowbrickhouse.org) **OR IF YOU ARE IN DANGER CALL 911**

### Parenting Issues

Steps to Justice – Community Legal Education Ontario

<https://stepstojustice.ca/legal-topic/family-law>

Decision-making, parenting time and parenting plans (Community Legal Education Ontario)

<https://yourlegalrights.on.ca/resource/separation-and-divorce-child-custody-access-and-parenting-plans>

### Guides, Checklists and Tools to Help Create a Parenting Plan

Department of Justice Canada

<https://www.justice.gc.ca/eng/fl-df/parent/plan.html>

Association of Family and Conciliation Courts (AFCC-Ontario)

<https://afccontario.ca/parenting-plan-guide-and-template/>

Steps to Justice, Community Legal Education Ontario

<https://stepstojustice.ca/steps/family-law/2-make-agreement-court-can-enforce>

Parenting Scheduling and Communications Tools

<https://www.ourfamilywizard.com/> (subsidies may be available)

<http://coparently.com/>

<https://coparenter.com/>

<https://www.2houses.com/en/>

<https://appclose.com/>

<https://www.custodyjunction.com>

Information about child custody assessments, including hiring a private assessor and services that are available through the Office of the Children's Lawyer

<https://stepstojustice.ca/questions/family-law/what-assessment-why-would-i-want-one/>

<https://www.ontario.ca/page/office-childrens-lawyer-family-law>

Intake materials for the Office of the Children's Lawyer

<http://ontariocourtforms.on.ca/en/office-of-the-childrens-lawyer-forms/>

Information about supervised parenting time services in Ontario

<https://www.ontario.ca/page/parenting-time-decision-making-responsibility-and-contact>

Field Code Changed

### **Child Protection Issues**

Information about child protection cases, Ontario Association of Children's Aid Societies  
<https://www.oacas.org/childrens-aid-child-protection/>

Steps to Justice – Community Legal Education Ontario  
<https://stepstojustice.ca/legal-topic/family-law/child-protection>

**Let's Talk Child Witness Program** (run by sand house & Sandgate Women's Shelter)  
To help children 4-18 years old) throughout York Region understand the cycle of abuse and deal with their feelings as witnesses or victims of domestic violence. The program aims to provide children with a safe and supportive environment where they can talk about their experiences and participate in a variety of activities aimed at assisting them in working through their feelings.  
Yellow Brick House 1-877-222-8438 [www.yellowbrickhouse.org](http://www.yellowbrickhouse.org)  
Sandgate 1-800-661-8294 [www.sandgate.ca](http://www.sandgate.ca)

### **Support Issues**

Steps to Justice, Community Legal Education Ontario  
<https://stepstojustice.ca/legal-topic/family-law>

General information regarding child support and spousal support

### **Community Legal Education Ontario**

<https://yourlegallrights.on.ca/legal-topic/family-law/child-support>

<https://yourlegallrights.on.ca/resource/separation-and-divorce-spousal-support>

How to determine child support  
<https://www.justice.gc.ca/eng/fl-df/child-enfant/index.html>

<https://www.justice.gc.ca/eng/rp-pr/fl-lf/child-enfant/guide/>

<https://www.justice.gc.ca/eng/fl-df/child-enfant/ft-tf.html>

How to determine spousal support  
<https://www.ontario.ca/page/spousal-support>

<https://www.justice.gc.ca/eng/fl-df/spousal-epoux/index.html>

Spousal Support Advisory Guidelines  
<https://www.justice.gc.ca/eng/fl-df/spousal-epoux/ssag-ldfpae.html>

Set up or update child support online and support calculation tools



<https://www.ontario.ca/page/set-up-or-update-child-support-online>

<https://www.mysupportcalculator.ca/>

Information about enforcement of support orders

<https://stepstojustice.ca/questions/family-law/how-does-family-responsibility-office-enforce-child-support>

<https://www.ontario.ca/page/paying-and-receiving-child-and-spousal-support>

<https://www.justice.gc.ca/eng/fl-df/enforce-execution/index.html>

### **Property Issues**

General information regarding division of property for married spouses (includes information about pensions and the matrimonial home)

<https://www.ontario.ca/page/dividing-property-when-marriage-or-common-law-relationship-ends/>

Steps to Justice – Community Legal Education Ontario

<https://stepstojustice.ca/legal-topic/family-law/property-and-debts-married-couples>

Property Division, Community Legal Education Ontario

[www.cleo.on.ca/en/publications/propertydiv](http://www.cleo.on.ca/en/publications/propertydiv)

Matrimonial Real Property on Reserves: Indigenous Services Canada

<https://www.sac-isc.gc.ca/eng/1100100032553/1581773144281>

### **Restraining Orders**

Getting a Restraining Order

<https://www.ontario.ca/page/getting-restraining-order>

### **Corollary Relief: a Consolidated Web Page with Various Links and Case Summaries**

Educational Posters that set out the duty to disclose, financial statements and equalization

<http://www.disclosureclinic.com/education/posters>

Links to court decisions, practice directions, legislation, legal links, a financial disclosure program, useful apps and other services/resources

<http://www.protopage.com/corollaryrelief>



50 Eagle Street West, Newmarket, Ontario, L3Y 6B1  
Tel: (905) 853-4809 Fax: (905) 853-4864

Newmarket Administration Email Address General Inquires: [NewmarketSCJadmin@ontario.ca](mailto:NewmarketSCJadmin@ontario.ca)  
Family Urgent Matters: [Newmarketscjfamily@ontario.ca](mailto:Newmarketscjfamily@ontario.ca)  
Civil Urgent Matters: [Newmarket.scj.courts@ontario.ca](mailto:Newmarket.scj.courts@ontario.ca)  
Estates Urgent Matters: [Newmarketestates@ontario.ca](mailto:Newmarketestates@ontario.ca)  
Small Claims Urgent Matters: [Newmarketscourts@ontario.ca](mailto:Newmarketscourts@ontario.ca)  
Newmarket Enforcement Office: [NewmarketEnforcement@ontario.ca](mailto:NewmarketEnforcement@ontario.ca)  
Newmarket Trial Coordinators Email Address: [Newmarket.SCJ.TC@ontario.ca](mailto:Newmarket.SCJ.TC@ontario.ca)  
Law Society Referral Service Tel: 1-855-947-5255 [www.findlegalhelp.ca](http://www.findlegalhelp.ca)

**Attorney General Website**

<https://www.ontario.ca/page/ministry-attorney-general>

**Court Forms**

[www.ontariocourtforms.on.ca](http://www.ontariocourtforms.on.ca)

**Information about Family Law**

**Guide to Procedures in Family Court**

<https://www.ontario.ca/document/guide-procedures-family-court>

**Mandatory Information Program Contact Information**

Family Law Information Centre (905) 853-4816 Email: [IRC@yorkhills.ca](mailto:IRC@yorkhills.ca)

**Family Law in Ontario**

<https://stepstojustice.ca/>

**JusticeNet**

<https://www.justicenet.ca/>

**CLEO-Steps IN A FAMILY LAW CASE**

<https://cleoconnect.ca/legal-topic/familylaw>

<https://www.cleo.on.ca/en/family-flowchart/steps-family-law-case>

**Child Support Online**

<https://www.ontario.ca/page/set-up-or-update-child-support-online>

**Divorce Online**

<https://www.ontario.ca/page/file-divorce-application-online>

**Divisional Court Guides**

[https://www.attorneygeneral.jus.gov.on.ca/english/courts/divisional/What\\_is\\_Divisional\\_Court\\_EN.html](https://www.attorneygeneral.jus.gov.on.ca/english/courts/divisional/What_is_Divisional_Court_EN.html)

**Estate Matters**

[https://www.attorneygeneral.jus.gov.on.ca/english/justice-ont/estate\\_planning.php](https://www.attorneygeneral.jus.gov.on.ca/english/justice-ont/estate_planning.php)

**Ministry of the  
Attorney General**

Court Services Division  
Central East Region

Superior Court of Justice  
50 Eagle Street West,  
Newmarket, Ontario  
L3Y 6B1

**Ministère du  
Procureur général**

Division des services aux tribunaux  
Région du Centre-Est

Cour de justice de l'Ontario  
50, rue Égale Ouest  
Newmarket, Ontario  
L3Y 6B1



**6- Mandatory Information Program (MIP):**

**Mandatory Information Program (MIP)**

To the Parties,

To schedule your Mandatory Information Program, please contact York Hills Family Mediation and Information Services by email at [irc@yorkhills.ca](mailto:irc@yorkhills.ca) or by calling (905) 853-4816.

Once you have completed the program, York Hills Family Mediation and Information Services will provide you with a signed certificate of completion. This Certificate is required to be filed with the court. You may wish to email the signed completed certificate to [Newmarketscjfamily@ontario.ca](mailto:Newmarketscjfamily@ontario.ca).

Thank you,  
*Administration Office*  
Superior Court of Justice

## **7- Justice Services Online Filing Portal and CaseLines:**

### **Justice Services Online Filing Portal and CaseLines**

We are encouraging the Legal Profession to use the Justice Service Online Filing Portal **rather than email**. Court hearings are currently being held virtually. To assist the Judiciary in reviewing the documents prior to the hearing, the judiciary requires electronic documents that can be accessed offsite. **Documents for all events must also be uploaded to CaseLines.**

#### **1. JSO Portal**

On August 5, 2020, the Justice Services Online platform (<https://www.ontario.ca/page/file-family-court-documents-online> and [ontario.ca/page/file-civil-claim-online](https://www.ontario.ca/page/file-civil-claim-online)) was expanded to enable the online submission of close to 400 more types of civil and family court documents. The new services, “Civil Submissions Online” and “Family Submissions Online,” will provide simple and quick ways to electronically submit court documents, at every step in a case, in any new or existing:

- civil action or application in the Superior Court of Justice (SCJ); and
- family proceeding in the SCJ

Users can pay court filing fees online securely by debit or credit card. Individuals can also use the system to request a fee waiver certificate or submit documents with an existing fee waiver certificate.

By making it possible to submit most civil and family court documents online, the Ministry is increasing efforts to protect the health and safety of Ontarians by reducing the need to attend a courthouse in person.

The new services complement Civil Claims Online and Family Claims Online as reflected in the prior Notice to the Profession and **REPLACES** email filing processes established in response to COVID-19

#### **The Benefits of Justice Services Online Filing Portal**

- Original Documents are not required to be filed in person
- Payments are processed Online as the document has been accepted for filing.
- When filing the documents through the Portal, an email confirmation will be sent to advise the court has received the document through the Online Portal.
- Once the documents have been processed, an additional email will be sent to advise if the documents have been accepted or rejected for filing.

### **Getting Access to Justice Services Online Filing Portal**

To access Justice Services Online Filing Portal, users are required to create an account using their Ontario ONE-Key ID. ONE-key is a unique electronic credential that allows you to communicate securely with online government services. Setting up your ONE-Key ID is fast and simple. To learn more, visit <https://www.one-key.gov.on.ca/iaalogin/overview.jsp>.

### **Providing Feed back for Justice Services Online Filing Portal**

The Ministry will enhance the service based on user feedback. If you have any questions or would like to provide feedback about the service, please contact Alexey Togunov, Director, Project Implementation Branch at [Alexey.Togunov@ontario.ca](mailto:Alexey.Togunov@ontario.ca).

### **Filing Documents by Email**

The Administration Office has been receiving multiple duplications of filings. Documents are being emailed **AND** sent through the Justice Service Online Portal. This causes a duplication of work for the Administration Office and the Judiciary.

The Newmarket Court is asking **that** documents are **ONLY** to be emailed if the matter is urgent and requires to be processed prior to five business days and a court date has been set and, pursuant to the rules which may indicate that documents are to be filed less than five business days.

### **Example of Urgent Matters:**

- **MOTION WITHOUT NOTICE. (RULE 14. 12.A motion may be made without notice if,**
  - (a) the nature or circumstances of the motion make notice unnecessary or not reasonably possible;
  - (b) there is an immediate danger of a child's removal from Ontario, and the delay involved in serving a notice of motion would probably have serious consequences;
  - (c) there is an immediate danger to the health or safety of a child or of the party making the motion, and the delay involved in serving a notice of motion would probably have serious consequences; or
  - (d) service of a notice of motion would probably have serious consequences. O. Reg. 114/99, r. 14 (12). **EXAMPLE: Restraining Order**
- **RESPONSES TO RESPONSE TO NOTICE OF MOTION. (Rule 14.11.3 A response by a person to a motion made using a notice of motion (Form 14) shall be served and filed not later than four days before the motion date. O. Reg. 298/18, s. 10 (2).)**

- **RESPONSE TO MOTION FORM.** (*Rule 14.11.4* A response by a person to a motion made using a motion form (Form 14B) shall be served and filed not later than four days after the motion form is served on the person. O. Reg. 298/18, s. 10 (2).
- **REPLY TO RESPONSE PERMITTED, NOTICE OF MOTION.** (*Rule 14.11.5* A party who uses a notice of motion (Form 14) and who is served with a response to it may serve and file a reply not later than 2 p.m. three days before the motion date. O. Reg. 298/18, s. 10 (2).
- **RESPONDING CONFERENCE/SETTLEMENT BRIEFS.** (*Rule 17.13.1*)

Documents filed electronically should only be sent to the Administration Office for processing and shall be sent to **ONLY ONE** following email address. **Please do not send documents to multiple email box or CC the Trial Coordinators email.** All filings must be filed with the Administration Office **ONLY** for processing.  
 Due to the high number of calls the Administration Office receives daily, we request inquires and procedural questions to be submitted by email.

**Family Matters**

[Newmarketscjfamily@ontario.ca](mailto:Newmarketscjfamily@ontario.ca)

**Email Subject Line**

All documents filed must be clearly labelled. The subject line of the email must contain the file number and parties' names and the name of the document as follows.

Example: FC-20-00000503-0000 – DOE vs. DOE – Affidavit of Jane Doe sworn June 23, 2020

FC-20-000000520-0000 Brown vs. Brown- Case Conference Brief- September 30, 2020.

Documents that are not properly named may be rejected by the filing office and may not be forwarded to the presiding judge until properly named.

If a document has been filed by email, kindly do not send the same documents through the Justice Services Online Portal.

If a party files a document by email the party **must** file the original documents in person. Please ensure the material is tabbed and in order when filing.

**2. CaseLines**

**NEW: All materials for conferences and motions must be served, filed and then uploaded to CaseLines. Materials must comply with the page limits set out above.**

CaseLines is a cloud-based document storage e-hearing platform that is used by the Court and the parties to access filed material for remote and in-person court proceedings.

Once litigants have been invited to a CaseLines file, all material that has been accepted for filing by the Court must also be uploaded to CaseLines immediately after receipt of confirmation that the filing has been accepted.

If the material has not been uploaded to CaseLines in accordance with the timelines for filing, it may not be reviewed by the judge in advance. If a self-represented litigant is not able to use CaseLines because of lack of access to technology, they can obtain help at the filing office. Assistance with CaseLines is available through Justice Systems Ontario by contacting 1-800-980-4962 or by email at [info.CaseLines@ontario.ca](mailto:info.CaseLines@ontario.ca)

Litigants are asked to use CaseLines to facilitate the Court's access to the entire court file, including relevant documents from the Continuing Record. In addition to uploading event specific documents after they have been filed, this means uploading the pleadings and Form 35.1 affidavits into the CaseLines pleadings bundle and the relevant orders and endorsements into the CaseLines orders/endorsements bundle. Litigants should also upload into the CaseLines bundle for the event any additional documents that have been previously filed and will be relied upon at the event (e.g. financial statements that have been updated by affidavit).

If a party has improperly uploaded a document into CaseLines, it can be noted on the confirmation form and in the notes section of the CaseLines file.

Additional information and direction regarding the use of CaseLines, including training and other resources, is available at: <https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/supplementary-notice-september-2-2020/>.

## **8- Province-wide Notice to the Profession Regarding Family Law Cases and Central East Practice Direction:**

### **Summary of Notice to the Profession (Effective April 19, 2022)**

A number of changes have been made to facilitate more timely, efficient and affordable access to justice in family law cases. These initiatives focus on the need to streamline processes for family cases, consistent with the primary objective of the Family Law Rules to deal with cases justly including (i) ensuring that the procedure is fair to all parties, (ii) saving expense and time, (iii) dealing with the case in ways that are appropriate to its importance and complexity, and (iv) giving appropriate court resources to the case while taking account of the need to give resources to other cases. These considerations are particularly important in light of current COVID-related backlogs. The Notices provides direction regarding:

1. Restrictions on materials filed;
2. The Use of CaseLines;
3. Help with JSO filing & CaseLines
4. Financial disclosure;
5. Requirements for parties to confer in advance of a conference;
6. Confirmation forms;
7. Early judicial intervention and procedural direction;
8. Restrictions on adjournments;
9. Straight to a combined case/settlement conference pathway;
10. Early organization of long motions; and,
11. Use of Mediation and Community Based Services
12. Motions to Change
13. Law Society Pilot Project
14. Automatic Orders
15. Guidelines to determine mode of proceeding

### **1. Restrictions on Materials Filed**

**See also Case Conference Guide (Tab 4), Settlement Conference Guide (Tab 5) and Motion Guide (Tab 6)**

Focused materials help facilitate a focused hearing. Unfortunately, many filings include unfocused material with unnecessarily voluminous attachments. Litigants are directed to prepare material that is focused and includes only the supplementary documents that are needed to facilitate a resolution of the outstanding issues.

In addition, **without exception**, all documents filed for a family conference or motion must be prepared using a font size of no less than **12 point** and **double spacing**.

**Leave is required to file material beyond what is permitted above which will only be granted in exceptional circumstances.** For motion materials, leave should be sought at the case



conference or 15 days before filing deadlines (Tab 7). Unless approval has been obtained in advance or a regional Notice to the Profession permits otherwise, material that is filed in excess of these restrictions will not be reviewed by the presiding judge and may result in an adjournment.

To assist the Court in finalizing family orders more quickly, litigants should also provide a draft order that lists the specific relief that they are seeking with reference to the appropriate legislative authority in accordance with the new [Form 25 Order \(General\)](#). References to legislation that do not apply can be removed. Sample order clauses that can be used in the preparation of draft orders are available at: <http://ontariocourtforms.on.ca/en/family-law-rules-forms/standard-clauses/>

## **2. The Use of CaseLines (see Tab 7)**

### **3. Help with JSO Filing & CaseLines**

Members of the public can call or email the Ministry's Contact Centre for assistance with the Justice Services Online portal and CaseLines.

JSO Contact Centre information:

- Telephone: 1-800-980-4962
- Email: [FamilyClaimsOnline@ontario.ca](mailto:FamilyClaimsOnline@ontario.ca) (Family)
- Email: [info.CaseLines@ontario.ca](mailto:info.CaseLines@ontario.ca) (CaseLines)

For litigants without access to the necessary technology, assistance is also available through the court filing office.

### **4. Financial Disclosure**

Family litigants are expected to exchange full and frank financial disclosure as early as possible in the case to avoid unnecessary delay and expense. It is the Court's expectation that all reasonable efforts will be made to provide this disclosure to the other party **in advance of the case conference**.

If disclosure cannot be resolved despite these efforts, the party seeking that disclosure **must** include in their materials a list of the outstanding disclosure in accordance with Rule 13(11.01).

Costs may be awarded pursuant to *Rules* 17(18) or 24(7) where a party has failed to comply with their disclosure obligations in accordance with the applicable legislation or the Family Law Rules.

Disclosure issues should be addressed in advance of the settlement conference. Any necessary motions for disclosure must be heard in advance of the settlement conference.

## **5. Requirements to Confer in Advance of a Conference**

To ensure that each conference is as productive as possible, in advance of each conference, each party shall confer or, if unable to do so, make best efforts to confer with every other party about (i) each party's outstanding requests for financial disclosure, (ii) any other procedural matters that need to be addressed; and (iii) a resolution of the outstanding issues, unless the parties are prohibited from such communication by court order or terms of recognizance, or there are concerns about family violence and the alleged abusive party is not represented by counsel. It is expected that the parties will be able to identify any areas of agreement arising from these discussions at the outset of each conference.

It is recommended that self-represented litigants seek legal advice in advance of court attendances to help understand the law and how it applies to their circumstances. For litigants with modest incomes, assistance may be available from Legal Aid Ontario (1-800-668-8258 or [www.legalaid.on.ca/services/family-legal-issues/](http://www.legalaid.on.ca/services/family-legal-issues/)) or the virtual Family Justice Centre (Pro Bono Students Canada). Legal assistance may also be available at reduced rates through lawyers that are associated with JusticeNet ([www.justicenet.ca/how-to-find-a-professional/](http://www.justicenet.ca/how-to-find-a-professional/)). Family law services are also available on an unbundled basis from lawyers across Ontario through the Family Law Limited Scope Service project ([www.familylawlssp.ca](http://www.familylawlssp.ca)).

In Unified Family Court locations, assistance may also be available on the day of court from Duty Counsel. Litigants who may qualify financially are encouraged to contact Legal Aid Ontario (1-800-668-8258 or [www.legalaid.on.ca/services/family-legal-issues/](http://www.legalaid.on.ca/services/family-legal-issues/)) in advance to request these services.

## **6. Confirmation Forms**

It is the Court's expectation that parties will communicate with each other in advance of completion of the confirmation form, unless the parties are prohibited from such communication by court order or terms of recognizance, or there are concerns about family violence and the alleged abusive party is not represented by counsel, with respect to:

- The event itself, in terms of the time needed, and the material that should be reviewed by the judge;
- Any outstanding procedural issues including disclosure requests; and,
- The issues that are to be addressed at the upcoming event, including a potential resolution of those issues on a temporary or final basis.

When completing the confirmation form for a motion or conference, parties shall list the **specific** issues that need to be addressed at the event.

## **7. Early Judicial Intervention and Procedural Direction**

In many family cases, access to an early attendance before a judge can help the parties to (i) attempt to put temporary arrangements in place to avoid the need for a motion or other urgent attendance; and, (ii) obtain procedural directions including determining what the next step should be and whether any part of the case needs to be expedited. In many centres in Ontario, these issues can be canvassed at a case conference within a month and a half of the start of the case.

Where caseload pressures and backlogs do not allow the Court to provide early access to a case conference, several regions will be providing an opportunity for litigants to seek the Court's assistance to address these limited issues at an early, brief attendance (e.g. 15-20 minutes).

Notices to the Profession in these regions will provide further direction regarding:

- The availability of these attendances;
- The limited materials that can be filed for these attendances;
- Limits that apply to the number of issues that can be raised at these attendances, if any; and,
- How these attendances should be scheduled.

The Court, counsel and the parties must take a more proactive approach to controlling the trajectory of family cases. Counsel and the parties are encouraged to seek procedural direction at any subsequent attendances pursuant to *Rules* 1(7.2) and 17(8), which authorities should be used to address specific roadblocks (e.g. financial disclosure) and also to ensure the most proportionate process for the case. In some circumstances, where resolution efforts are proving unsuccessful, this can include requests to move the matter to conclusion by way of a trial or other hearing.

### **8. Restrictions on Adjournments**

In several regions, events in family cases are routinely being adjourned on short notice. This limits the Court's ability to use the available time and, as a result, its ability to offer timely events.

For this reason, a few regions have specific policies that require permission for adjournments, even on consent. Even where such regional policies do not exist, it is the Court's expectation that matters will not need to be adjourned because counsel and/or litigants have not spoken ahead of time and/or taken the necessary steps for the matter to be able to proceed as scheduled. Where a matter is adjourned because a party is not prepared, the Court may make a costs order against that party pursuant to subrules 17(18) or 24(7).

### **9. Straight to a combined Case/Settlement Conference pathway**

Recognizing that many separating families will attempt another form of dispute resolution prior to seeking relief from the Court, requests can now be made to obtain the Court's permission to move directly to a combined case conference/settlement conference as the first step in the case.

*Rule* 17(7.1) allows parties to make this request after they have tried to resolve the issues that are in dispute through mediation or Legal Aid Ontario settlement conference provided they are able to confirm that:

- There are no outstanding temporary issues; and,
- Neither party is seeking disclosure from the other party.

These requests can be made by filing a 14B Motion Form along with the Form 17G: Certificate of Dispute Resolution from each party that addresses the above requirements.

If permission is granted, the parties will be expected to comply with all requirements relating to a settlement conference, including the filing of a Form 17C: Settlement Conference Brief and any additional documentation (for example, a Net Family Property Statement/Comparative Net Family Statement/litigation expert reports/Offers to Settle).

In addition to requests that are made pursuant to *Rule 17(7.1)*, pursuant to this Notice, where both parties consent to this process, they can request the Court's permission to proceed directly to a combined case conference/settlement conference where they have participated in another dispute resolution process (for example collaborative family law) and also (i) there are no outstanding temporary issues and (ii) neither party is seeking disclosure from the other party. These requests should be made by filing Form 14B and a Form 17G from each party with any necessary revisions.

### **10. Early Organization of Long Motions**

Last minute adjournments of long motions must be avoided so that court time is not wasted. Parties are **strongly** encouraged to file materials for long motions in advance of the regular timelines under the Family Law Rules so that these motions can proceed as scheduled. Where possible, these timelines should be addressed at the case conference. Regional Notices to the Profession may also include timelines for the filing of materials and confirmation of a long motion.

Regions that do not yet have protocols in place to ensure that these events can proceed at the scheduled time have been encouraged to introduce them in their Notices to the Profession.

### **11. Mediation and Other Court-Connected and Community Resources**

Court supports and processes that facilitate early resolution of parenting and financial disputes creates earlier and better outcomes for families and allows for a more efficient use of court resources for the family cases that require more extensive judicial intervention. These include:

- **Local family law, separation and divorce resources:** Litigants are encouraged to access parenting education programs, counselling services, supervised contact/parenting time, parenting coordination and other related services. Information about these services is available through the [Family Law Information Centre](#).
- **Mandatory Information Programs (MIP):** Parties are required to attend a MIP at an early stage of the proceeding with limited exceptions. Virtual MIPs are available in centres across Ontario. Information about how to register for the MIP is available through the [Family Law Information Centre](#).
- **Mediation:** Affordable, court-connected mediation services are available in connection with all SCJ centres. Contact information for local mediation service providers is available [here](#). Referrals to private family mediation services are also available through professional organizations like OAFM and FDRIO.
- **Family Court Support Workers:** Family Court Support Workers provide direct support to victims of domestic violence who are involved in the family court process.

### **12. Motions To Change**

Changes were made to *Rule 15* to streamline the process for Motions to Change effective December 1, 2021. These changes direct the Court to determine the next steps in the motion, with a view to ensuring that the motion proceeds in the most efficient manner appropriate in the circumstances. The new subrule also directs the Court to determine the most appropriate process for reaching a quick and just conclusion of the case, if possible in the circumstances.

Parties are encouraged to provide a draft Motion to Change Endorsement form (new) with their materials for the first judicial conference to obtain early direction regarding the appropriate process for the case.

### **Law Society Pilot Project**

To help facilitate the delivery of affordable family law services, effective **January 17, 2022**, lawyer candidates may appear on certain events in a family law case without needing advance permission from the Court as required by Family Law Rule 4(1)(c). Articling students, Law Practice Program students, students who are completing a work term through an approved Integrated Practice Curriculum (currently, Lakehead University and Ryerson University) and lawyer candidates who have not yet been called to the bar but have a Law Society-approved supervision agreement in place with a licensed lawyer may appear under this pilot. The list of attendances where the lawyer candidates may appear is available.

Lawyer candidates who are authorized to appear for these steps in a family case must (i) be prepared with full instructions for all matters that are expected to be addressed at the attendance, and (ii) be appropriately supervised by a lawyer in their firm. Moreover, a supervising lawyer with knowledge of the matter must be available on-call to assist with the matter at the request of the presiding judge. More details about the requirements relating to this pilot are available at <https://lso.ca/becoming-licensed/lawyer-licensing-process/rights-of-appearance>

### **14. Automatic Orders**

As noted above, litigants must exchange their financial disclosure as early as possible to make each court attendance meaningful.

Effective **February 1, 2022**, an order will be issued administratively when certain claims are made in an Application, Motion to Change or Answer in accordance with rule 8.0.1 of the Family Law Rules. These orders require each party to comply with their financial disclosure responsibilities relating to support from the applicable legislation and the Family Law Rules so the case conference is productive.

**Rule 13(3.1)** of the Family Law Rules addresses the documents that must be included with a financial statement where child or spousal support has been sought.

More information about the documents that shall be exchanged to support your financial statement is available at: <https://stepstojustice.ca/steps/family-law/3-get-your-supporting-documents/> and <https://disclosureclinic.com/wp-content/uploads/2021/10/Top-5-Income-Documents.pdf>.

An updated Certificate of Financial Disclosure should be provided to the other party with this documentation.

A party who has not made all reasonable efforts to comply with these obligations in advance of the case conference may be responsible for the other party's costs.

### **15. Presumptive Guidelines (In-Person or Virtual)**

The following attendances are presumptively in-person: Case conferences; Settlement conferences; Long motions; Trials; FRO matters.

The following attendances are presumptively virtual (Zoom or teleconference): First appearances; Early or urgent case conferences; Urgent or regular motions (but not contempt motions); Trial scheduling conferences; Trial management conferences; Assignment court; First attendances on child protection matters; Child protection to be spoken to matters; Dispute resolution conferences.

Simple procedural and consent matters filed by 14B shall continue to be presumptively heard in writing.

The above presumptions may be varied by the Court in advance of the event as per a prior endorsement, a 14B or otherwise in accordance with the Central East Practice Direction (April 2022).

#### **Highlights of the Central East Practice Direction (Effective April 19, 2022)**

Litigants and the bar should be familiar with the Central East practice direction <https://www.ontariocourts.ca/scj/practice/practice-directions/central-east/ce-notice-family/>

Important considerations for matters being heard in Newmarket include:

- (a) All events that are currently scheduled, or new matters being scheduled prior to September 12, 2022, will proceed virtually unless otherwise stated to be in-person in an endorsement from a judge.
- (b) All new events scheduled for dates on or after September 12, 2022, shall follow the presumptions above unless a judge has granted leave for an alternate mode of hearing.
- (c) Requests for an alternate mode of hearing for events after September 12, 2022, can be submitted as per the practice direction.
- (d) Parties must conference the issues that are the subject of any proposed motion within the prior 12-month period, and directions for motions are as set out above.
- (e) First Appearance Court shall proceed by Zoom.
- (f) DRO dates (as the first step on a Motion to Change, and for case conferences (on consent) are scheduled through <https://calendly.com/ce-newmarket-dro>. The DRO may have earlier dates available than judges. DRO matters shall be heard by Zoom.
- (g) Hearings that are conducted by video and teleconference are formal events that replace an in-person attendance. Proper decorum and gowning is required.

(h) CaseLines is now used for all conferences, motions and trials.

(i) Other relevant information is contained in the Central East practice direction includes reminders respecting page limits and time limits for attendances, filing documents, the Office of the Children's Lawyer, the Family Responsibility Office, resources for self-represented litigants and Mediation / Information Resource Coordinator and contact information for the Court.

Updated August 2022