



## NORTHERN REGION FAMILY AND CHILD PROTECTION PRACTICE NOTE

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Effective: September, 2020

### **Trial Confirmations after Pre-trial Conferences:**

Family and CYFEA trial confirmations after a pre-trial conference will be formalized by order prepared by the Judicial Assistant, signed in chambers, and served by email; trial confirmations will not be spoken to in family docket and will not appear on the docket.

### **Trial Adjournments:**

Family *trial* adjournments, whether CYFEA or otherwise, must be spoken to on the record, even if by consent.

### **Consent Adjournments of Docket Matters:**

Consent adjournments of *non-CYFEA docket day matters* by letter from counsel are acceptable, and if so adjourned will not appear on the docket. A letter from one counsel or an FCC confirming all parties consent, and the reason for the adjournment, copied to appropriate parties, is sufficient. Where no party has counsel or FCC assistance, a letter from each self-represented party is necessary. A note will go in the endorsements, and the letter will go on the file. CYFEA consent adjournments must be on the record in open court, so that the court can effectively monitor progress in the context of the time constraints of the legislation and caselaw.

### **Consent Orders by Desk Procedure:**

Family consent orders endorsed by counsel, or signed by self-represented parties with an affidavit of execution, may be signed in chambers. Counsel are encouraged to address consent orders in this fashion, by submission to the clerk, with the caveat that such applications must be accompanied by the appropriate affidavit evidence as necessary (to demonstrate compliance with child support guidelines, for example).

### **Trial Availability:**

Counsel are expected to be prepared at the pre-trial conference to indicate their availability for trial. When counsel's trial availability is significantly later than the availability of trial time, counsel must be prepared to explain and justify the resultant delay, and to consider arranging for alternative counsel, particularly in relation to CYFEA matters.

### **Initial Custody Hearings:**

Applications by the Director for Initial Custody Orders are “summary in nature”; counsel should be familiar with the case law interpreting that phrase in section 21.1(4) of the Child, Youth and Family Enhancement Act. Note, for example, that Calgary Family Court Division routinely schedules these hearings for one hour: *AF (Re)*, 2019 ABPC 105, at paragraph 14.

Counsel are to ensure that the evidence presented on Initial Custody applications is tightly focused and directly relevant to the issues central to the hearing, to the extent necessary to comply with the legislated requirement that the proceeding be “summary in nature,” in the context of counsel’s obligation to advance their clients’ interests.

Counsel must be prepared to summarize for the court the evidence expected from each witness, and explain how that evidence is sufficiently relevant and material to merit it being tendered; counsel can expect the court to limit witnesses or testimony that cannot be demonstrated to satisfy the requirements of relevance and materiality in the context of the summary nature of the proceeding.

Counsel are encouraged to present evidence in chief by affidavit, making the affiant available for cross-examination, and to provide opposing counsel with a witness list and the affidavit evidence in advance of the hearing.

### **Document Filing Restrictions:**

Documentary evidence filed with applications of all varieties is to be limited to what is strictly necessary for interim proceedings, as opposed to trial or hearing proceedings; voluminous filings may be rejected. In particular, applicants and counsel must consider very carefully the extent to which multiple pages of text messages will assist the Court on an interim basis, given the time constraints of Family docket proceedings; concise, cogent, and persuasive written materials are as important as oral submissions with the same qualities. Counsel are to have reference to the Queen's Bench practice note regarding the limits on filing materials, found here: [https://albertacourts.ca/docs/default-source/qb/family-law-practice-note-2---family-law-regular-and-special-chambers-\(effective-april-1-2018\).pdf?sfvrsn=2015af80\\_12](https://albertacourts.ca/docs/default-source/qb/family-law-practice-note-2---family-law-regular-and-special-chambers-(effective-april-1-2018).pdf?sfvrsn=2015af80_12) , noting, however, that filings which are unnecessarily voluminous may be rejected whether or not they exceed the limits stated by the practice note.

September, 2020

Revised November 2020

D. R. Shynkar, ACJ Northern