

FAMILY LAW TOWN HALL – OCTOBER 12, 2022

1. Opening Remarks

Welcome back to open court! This is the first Town Hall in two or three years. Throughout the last two years during the pandemic the Court has tried to maintain a flow of communication between the bench and Family Bar. Chief Justice Moreau held regular virtual meetings with the Canadian Bar Association Family Executive and other stakeholders across the province. The Co-Chairs of the Family Steering Committee, Kachur J and Yungwirth J held meetings with 33 representatives province-wide from the Family Bar to discuss all Family court processes. Initiatives are in place to make changes going forward based on this invaluable feedback. Thank you to all who participated and provided feedback to representatives.

2. Justice Comments

Family Court Processes

a. Disclosure

- This is the first step on any file. The moment you are retained, the first step should be collecting the client's disclosure, requesting the opposing party's disclosure, and exchanging same. This should be a voluntary process.
- If you are not receiving the opposing party's' disclosure you should serve an unfiled notice to disclose, requesting same.
- Once received, you should be attempting ADR immediately, at minimum, a 4-way settlement meeting.

b. Family Docket Court (FDC/Docket)

- This is first entry into the court system, and it should be last resort after the aforementioned steps (an ADR process such as a 4 way settlement meeting or mediation – not proposal letters) and all other steps to advance the file have been taken.
- Be prepared to answer what the issues in dispute are, i.e. what questions need to be answered.
- Any issue can be raised at Docket whether it is provided on the Notice to Attend (NTA) or not. You do not need to file a cross NTA or multiple NTAs. Do not file a NTA for a consent order. Consent orders can be dealt with in Family Chambers or by desk process.
- Do not expect to adjourn attendance at Docket for negotiation. Limited adjournments are granted in Docket as lead times are growing.
- Remember just because you have an agreement on a venue/scheduling process does not guarantee that process will be directed. Roster judges want to ensure you have taken all appropriate and necessary steps prior to scheduling a matter given lead times.
- If pleadings have not been filed, you will need to file pleadings once you have been directed to a process. Note: Pleadings are also required for a consent order.
- Reminder: the NTA was updated effective September 19, 2022 and posted to the external Court's website. As of September 30, 2022 the new NTA must be used or your document will be rejected.

c. Alternative Dispute Resolution (ADR)

- Some type of ADR process must be attempted prior to attending Docket including on the issue being brought to Docket. At minimum, an ADR process is 4 way meeting or mediation – not proposal letters.
- ADR process is mandatory under *Divorce Act* s. 7.3. There are additional duties under s. 5 and s.9 of the *Family Law Act* to ensure you are taking all appropriate steps for your clients. ADR is a mandatory step including for files involving children. The adversarial process is not the ideal process for families. Conflict damages kids.
- Be mindful of domestic violence when determining the type of ADR process. Domestic violence does not completely or automatically rule out ADR processes.

d. Desk

- With the resumption of in-person hearings, simple and with argument applications are no longer being handled by desk. Instead, these matters can be heard in Chambers. In addition to desk divorces and adoptions, Notice to Disclose, consent orders and sub-service applications (not within the jurisdiction of Application Judges) continue to be handled by desk. Fiats should not go through a desk process but should be heard in Chambers.
- Please provide additional details when you have an unusual application or consent order being handled by desk to alleviate rejections or more questions.

e. Urgent Matters chambers (UMC)

- Each time you bring a matter to UMC you must fill out an urgent matters request and it must be accompanied by your other documents – application and affidavit.
- Any With Notice Urgent Family matter is triaged through a roster of judges to determine if in fact it is appropriate for UMC. Many are not – remember a matter is not urgent because your client failed to bring an application earlier.
- If you have gone to UMC or attempted to go to UMC your urgent chambers decision form must be attached to the materials for the next scheduling process.
- Fiats and consent orders are no longer heard in UMC. They are now heard at the beginning of Family (morning/regular) Chambers
- Remember if you are directed to a 2:00pm UMC slot these are not 1 hour specials.
- See the original Jan. 27, 2022 News & Announcements and the August 26, 2022 Announcement for UMC changes.

f. Morning/Regular Family Chambers

- Fiats and consent orders will be called first.
- Remember these applications are 20 minutes in total length. This means each counsel has approximately 7 minutes to make their argument followed by a brief reply and time for the presiding judge to provide a decision.
- Ensure you start with why you are there and what you are seeking, then proceed with the relevant facts to support what you are seeking. Do not assume or expect that all your materials have been read. If you are relying on previously filed materials remember you must submit those materials again on your filing deadlines.

- If you need to attend morning chambers on more than 2 occasions, consider a resolution or litigation plan.
 - Be prepared to speak to costs, including exactly what you are asking for – ie. attendance at Docket.
- g. Special Chambers, Practice Note 2 and Lead Times
- Page limits, exhibit limits, font and margin size must be followed.
 - If you have video or audio recordings that are relevant to the matter at hand, you must seek leave to attach a USB to an affidavit. This leave will not be lightly granted and is not to include additional pages of documents or to encourage recordings of children.
 - Lead times are long.
 1. Less than 50% of scheduled specials actually proceed.
 2. Of those that do not proceed only a small number are cancelled due to settlement.
 - Ensure requests for specials are limited to those matters that are essential; that ADR has been attempted and that you are otherwise ready to proceed. Consider what needs to be done before requesting a special – i.e. cross application, questioning, experts, additional evidence – this applies following Docket, early intervention case conference (EICC), Resolution Counsel (RC) hearing, regular/morning chambers. If seeking a final determination think about a summary trial (as opposed to a special). Prepare for costs. Know what you are asking for.
- h. Summary Trials
- Rules are under review.
 - For final result, where appropriate.
 - Not intended to be used to piecemeal issues.
 - Detailed summary trial order should be discussed with opposing counsel before seeking assistance in Docket or through a Rule 4.10 case conference. Order should address: what questions need to be answered, (in addition to the issues), when affidavits should be filed and served, page limits, timing for cross, redirect, and argument – all to be conducted within 5 sitting hours.
 - Future template order to be posted on the Court’s external website.
- i. Emergency Viva Voce (EVVs)
- New triage process. Attend on WebEx at 9:30 with presiding justice. If matter is proceeding, a time will be set for the 1-hour hearing. If matter is settled it can be dealt with at the triage stage.
- j. Holiday Time
- Last regular sitting day is December 16, 2022.
 - Week of December 19 is Emergency Protection Order (EPO) reviews and urgent matters only – holiday parenting time is not urgent at this stage.
 - Court is closed Dec. 29 and 30 except EPO reviews and urgent matters.
 - Holiday parenting time should be dealt with now as lead times to Docket and morning chambers are into November.
- k. Process Guide and Resolution Plan Template Coming Soon
- Process Guide for SRLs and lawyers to understand family Court processes and Court expectations.
 - Resolution Plan is akin to a litigation plan setting out all steps necessary to conclude a matter. To be used as a guide the court will want to see

and all participants will need to rely upon particularly if returning to Docket/Chambers often.

3. **Court Coordinator Comments**

Special Chambers Coordinator

- Schedules all ½ day and 1 hour Family Specials and all Family PTCs, 4.10 Family Case Conferences, EICCs and Resolution Counsel Meetings out of FDC.
- Lead times:
 - Half Days: mid October 2023
 - 1 Hour Specials: mid July 2023
 - EICCs: beginning of December 2022
 - PTCs: beginning of January 2023
 - 4.10 CCs: beginning of February 2023
 - Resolution Counsel Meetings: beginning of November 2022
- Issues/Concerns:
 - Orders varying filing deadlines need to be sent **prior** to the first filing deadline. If you do not have a filed Order a signed Order is required at minimum.
 - Unless specifically directed by a Justice or Resolution Counsel, urgent special dates can only be booked through FDC.
 - Need to submit Order/Form/Endorsement as well as a completed booking request form (in one email) when requesting to book a date.
 - If an application or Concise Letter is submitted on the date of the filing deadline and is rejected pending corrections, you must advise the Special Coordinator to avoid your matter being struck.
 - Justices are not assigned to Specials until Friday the week prior – inquiries regarding assigned justice can be sent on Friday or Monday.

Case Conference Coordinator

- Schedules all Family hearings greater than half a day, Family Court Appeals and Provincial Court Appeals. Also deals with rescheduling and cancellation of Family PTCs, 4.10 Family Case Conferences and EICCs booked through FDC.
- Lead times: 1 day or more booking into December of 2023
- Issues/Concerns:
 - For matters already scheduled, requests to change from in person to remote cannot be handled by a Court Coordinator – refer to announcement – these requests must be made to hearingmodes.qb@albertacourts.ca.
 - For matters that have yet to be scheduled, requests to change the default mode of hearing can be made directly to the Clerk/Court Coordinator at the time of scheduling.
 - Requests are assessed based on the 4 criteria listed on the announcement. Most requests have been from counsel to appear remotely for chambers (default in person) and most are being approved.
 - The hearing mode default pilot project is being reviewed in January 2023. Based on feedback received to date and experience, the default

hearing mode for chambers may be adjusted to hybrid. Please watch announcements for further information.

- If directed to a trial or Oral Hearing, parties need to complete the triage form and wait to hear from the appropriate Court Coordinator.
- Date inquiries: can give approximate availability such as Fall 2023 but will not give out specifics.

4. Clerk Comments

Naming Conventions

- Ensure proper naming conventions are used. QBFILING.CALGARY is a generic email. All filings go to that email, the ruling is set, the computer will pick up the key words and forward the filing request to the appropriate department.
- Wrong naming convention or submitting documents to multiple emails to be filed will cause delay and possible double filing and double charge.

E-Filing Requirements

- Bookmark Affidavits.
- When filing Application for CUSTODY/ACCESS/PARENTING etc. – Certificate of Parenting After Separation is required (if the Child/Children is/are under 16).
- When filing Application for CHILD SUPPORT– Certificate of Parenting After Separation is required (if the Child/Children is/are under 16) and Disclosure Statement is also required.
- Attach the FDC Endorsement, the Order or the Urgent Decision Form that speaks to filing deadlines when e-filing. This will assist e-filing clerks to process filings in a timely manner.
- As per the News and Announcement of May 27, 2021, when filing Concise Letters and Briefs, the body and attachments are to be separated into two PDFs. The first PDF is the body, It is from Page 1 to the Signature page. The second PDF is the Table of Contents and the Attachments. All documents listed on the Table of Contents must be included, please ensure the second PDF is bookmarked. The second PDF does not require a cover page. They are not stamped as filed.
- The Announcement of May 27, 2021 speaks to cut off time for filing deadlines at or before 12:00 noon on the date materials are due, unless otherwise stated in an order or endorsement. This gives filing clerks time to seek corrections to avoid Fiats.
- If a has been rejected, attach all documents that were originally sent for filing on the resubmission email, including the filing request form.
- When sending a follow up email, attach all documents sent for filing along with the e-filing request form for ease of reference.
- When submitting a follow up email, put “follow up” before the correct naming convention. For example, Follow up – Family Special filing - returnable date – Type of Hearing – File # – Document type – location. This avoids delay, double filing and double charging.

SharePoint

- If you have additional materials i.e. an Affidavit that was filed previously for the Justice to review, submit it on your filing deadline to the SharePoint email. E-

filing requests should be sent to QBFILING. CALGARY proper Naming Conventions and additional material previously filed will go to SharePoint. Note: Sharepoint email cannot accept e-filing requests.

Divorce

Lead Times:

General email filing:	Sept. 14
Divorce Packages:	Sept. 26
New Claims:	Sept. 26

- Clerks are working on consistent practices. If concerns about inconsistent rejections arise, forward a copy of both rejections by email to Manager, Lisa Lindquist at Lisa.Lindquist@just.gov.ab.ca

FAQs

- Note: FAQs and contact information for Clerks will not be implemented at this time due to resourcing.
- 1. CLPs/Steps taken by the Clerks
 - Clerks check to ensure the party submitting the CLP has filed either a Statement of Claim or a Counterclaim and that there is a property component in the Claim/Counterclaim.
- 2. Statement of Plaintiff at the end of a Statement of Claim
 - Plaintiffs need not sign the statement if there are no children.
- 3. Offset Method of Child Support
 - Setoff is a deviation.
- 4. Rule 12.50
 - Defendants can file a Request for Divorce and Affidavit of Applicant to finalize a divorce, without the need to file a Counterclaim if the Divorce Judgment is consented to by both parties.
- 5. Counterclaims do not have to be personally served.

Desk Applications

- Clerks are responsible for:
 - GRANTED ORDERS TO BE SIGNED*
 - EX-PARTE DESK APPLICATIONS (SERVICE mainly are application judge in some circumstances can go to Justice)*
 - CONSENT ORDERS*
- ALL ORDERS FOR SIGNING SHOULD PROCEED THROUGH DESK WORK naming conventions (not Judicial Assistants) to ensure all orders are filed.
- Backlogs are being diligently worked on.
- Urgents are being processed the same day they are signed by a Justice.
- Rejections are not personal – they are considered final resort.

Justice Digital Update – Divorce

- Usability testing has been performed as well as beta testing involving a lawyer. Specifically, testing includes how Counsel will submit divorce packages and how Clerks file documents with a focus on filing divorce packages only. Testing

is ongoing. Counsel who receive an email to participate in testing are encouraged to do so to help ensure a viable product. Other divorce documents will be included in a future phase.