

## EDMONTON FAMILY LAW TOWN HALL – OCTOBER 3, 2023

### 1. Opening Remarks

Welcome to the Family Town Hall meetings simultaneously occurring in Edmonton and in Calgary. Given that many of our processes do not apply in the Regional Centers, several regional Centers are having their own Town Hall meetings. The Co-Chairs of the Family Steering Committee are Kachur J and Yungwirth J.

### 2. Process for Questions

Questions sent through the email address provided with the Town Hall Announcement will be addressed at the end of the Town Hall. Any unanswered questions can be sent to [KBexternalfeedback@albertacourts.ca](mailto:KBexternalfeedback@albertacourts.ca).

### 3. Co-Chair Comments

#### a. Family Justice Strategy

- Assistant Deputy Minister of Justice, Tracy Wyrstiuk recently sent a letter to the CBA and the Law Society of Alberta regarding the Family Justice Strategy, explaining that over the past several months, Court and Justice Services have been working with the Court of Justice, Court of King's Bench and other interested parties to develop a family justice strategy that is intended to make the family justice system easier to navigate and more accessible for Albertans.
- The focus is on pre-court services for families and the purpose is to create a single integrated system of supports for litigants accessing the courts with family matters regardless of which court or legislation is being relied upon.
- The 2023 Budget contains \$5 million funding to enhance family resolution services such as pre-court assessment, mediation, family court counsellors and parenting intervention programs.
- Several working groups, including intake and assessment, brief legal advice, dispute resolution, community resources, policy and regulatory changes, and evaluation and communication.
- Not a substitute for a unified family court but intended to assist families in a way that may not require them to access the courts, consistent with the previous pre-court model for unified family court.
- The Family Justice Strategy is initially focusing on expanding family justice services to encompass both courts with a focus on self-represented litigants. The goal is to roll out certain mandatory requirements before entering the Courts except in cases of urgency (including protection orders) or where such requirements are waived, with any mandatory requirements in Edmonton and Calgary by the end of this year.
- Currently considering the following mandatory components:
  - All parents with applications for parenting, child support, guardianship or contact must take the Parenting after Separation course.
  - Financial disclosure is mandatory for relevant applications.
  - Some form of alternative dispute resolution must be undertaken before accessing the Court.

- Self-represented parties must meet with a family court counsellor early in the process to explain the court process and alternatives to the court.
- Although the Family Court Counsellor requirement is contemplated only for SRLs, the other requirements would be mandatory for everyone including those represented by counsel.
- No intention to prevent an applicant from proceeding where the respondent refuses to engage or refuses to provide disclosure.
- We would like to receive feedback from the Family Bar on the topic of mandatory requirements. Please send any feedback to [KBexternalfeedback@albertacourts.ca](mailto:KBexternalfeedback@albertacourts.ca)

**b. Family Docket Court (FDC/Docket)**

- Reminder to please speak with opposing Counsel before coming into FDC. Communication between Counsel is critical to proper use of Court resources. Address disclosure, an ADR process and the matters in issue that you wish to bring to FDC.
- FDC should not be the first time that you speak to opposing counsel.
- We encourage you to use the Notice to Disclose desk application process if disclosure is the only relief being sought (rather than attending FDC only for a disclosure Order).
- FDC policy in place since 2020. If a respondent receives a Notice to Attend Family Docket Court and has issues that they wish to raise, they are not required to file a second Notice to Attend. This is intentional to prevent duplicate Notices to Attend for the same matter. It is up to the Respondent to raise additional issues that they would like to address with the Court while in FDC so the appropriate process can be considered.
- Remember to define issues in an in-depth matter in the space below the relief boxes on the first page of the Notice to Attend. The Court needs clarity to be able to properly decide the issues for the next Justice dealing with Chambers, a Special, a Summary Trial or an EICC, or when matters are sent to Resolution Counsel.

**c. Family Chambers Resolution Counsel**

- Calgary's Family Chambers Resolution Counsel is on leave due to serious illness and unknown when she will return. Until a temporary replacement can be hired, the process is as follows:

In Calgary:

- Maryse Ouellete Family Chambers Resolution Counsel in Edmonton will be attending virtually in Calgary on Mondays, Tuesdays, Thursdays and Fridays
- There will be no Family Chambers Resolution Counsel in Chambers on Wednesdays as before. Attempts to limit all self-represented parties on that day shall continue.

In Edmonton:

- Maryse Ouellete will be attending Chambers in Edmonton on Wednesdays and Michelle Pidhirney will be attending in person in Edmonton on Tuesdays, Thursdays and Fridays.
- There will be no Family Chambers Resolution Counsel on Mondays as before. Attempts to limit self-represented parties that day shall continue.

- Currently no one in Lethbridge or Red Deer until temporary replacement hired.
- Family Chambers Resolution Counsel are to assist the Court with self-represented parties. They are a friend of the court, not duty counsel. They attempt to seek resolution of one or more issues and to clarify the issues for the Court.

**d. Special Chambers (Special)**

- Approximately half of special chambers applications are being adjourned. Only 10% of adjournments are due to a matter settling. In Calgary, one hour specials currently booking into April 2024, and half day specials into August/September 2024.
- Please do not ask for a special if you are not ready.

Consideration of a Certificate of Readiness:

- Under consideration is the implementation of a type of Certificate of Readiness for a special, with the process considered being: When you receive a special chambers date, a FDC date would also be set 3 months before the special date. The Certificate of Readiness for the special would have to be filed before that new FDC date. If the matter is not ready to proceed to a special by the new FDC date, then the assigned special date will be cancelled, and hopefully given to someone else.
- For this type of Certificate of Readiness to work, we must return to front-end filing dates as contemplated by Family Practice Note 2, with strict adherence to filing requirements.
- We would like to receive feedback from the Family Bar on the topic of the Certificate of Readiness. Please send any feedback to [KBexternalfeedback@albertacourts.ca](mailto:KBexternalfeedback@albertacourts.ca)

Filing Deadlines for Specials set in FDC

- When filing deadlines are set in FDC, the Court expects that any considerations that may affect those deadlines will be raised by counsel (i.e. if a Voice of the Child Report or Questioning is contemplated). We are seeing many applications for Fiats and Consent Orders to change deadlines set in FDC, many without explanation of why deadlines need to be changed.
- Remember to speak with opposing counsel before FDC and if a special date is required and scheduled that you have contemplated all things that may affect deadlines set in FDC. Directions given in FDC are orders of the Court and should be treated as such.

**e. Judicial Case Conferencing**

- Early Intervention Case Conference, Rule 4.10 Case Conference and PTCs
- In FDC, please discuss with the Justice what case conference you need.
- EICCs for families with children.
- Please provide the Justice with sufficient information to facilitate settlement. Please provide your client's position. Please do not provide copies of full disclosure. For example, the summary can outline information such as tax returns and appraisals. It is not necessary to also attach the tax return and appraisal.
- Please communicate with opposing counsel before providing a summary. Where possible, please collaborate to ensure the Court is given the basic information required for a meaningful EICC.

- If resolution of property is an issue, please provide a property statement even if not directed to do so in FDC.
- If retroactive child support is an issue, please attach your calculations that set out your client's position.
- An EICC should not be scheduled until disclosure has been provided or is certain to be provided.

**f. Emergency Viva Voce (EVV) Hearings for Protection Order Reviews**

- Remote triage process starting at 9:30 am on the day of your hearing.
- Court expects Counsel will have communicated with opposing party to explore resolution prior to triage process. This allows for Counsel to advise Court of where a matter stands and whether an oral hearing necessary or not.
- Hearings scheduled for 1 hour (2 hours if an interpreter required). In most cases, only the two parties will testify.
- Once it is determined how many matters are proceeding to a hearing, the times for the hearings are set for the day.
- Please be prepared to attend a hearing as early as 11:00 am if directed by the Justice.

**g. Template Orders**

- Please use the template orders.
- Protection orders and related orders:
  - 13 template orders will be posted to the Court's website. If you are asked to draft one of these orders, please use the templates.
  - You must have your protection order submitted to the Court by 3:30 pm on the same day. This will allow for the protection order to be entered into the police system.
- Appointment of Counsel for children: please use the template order posted on the Court's website.
- PN7 and PN8 Orders: Please use the proper templates included with the practice notes.
- For all template orders, if you have changed something, please advise the Court and explain why you are changing the template.

**h. Experts for Pn7 and PN8**

- Rule 6.40 provides the authority for the Court to appoint an expert under PN7 and PN8. The Court must be satisfied that the expert you have chosen is qualified.
- Please submit a CV to the Court when the appointment of that expert is requested.

**i. Holiday Schedule**

- Last KB sitting day is December 20, 2023.
- Between Dec 21, 2023 and January 8, 2024, Emergency Protection Order (EPO) reviews and urgent matters only – holiday parenting time is not urgent at this stage.
- Deal with holiday parenting time now. If you submit an urgent request in December for holiday parenting time, it will be rejected because it could have been addressed sooner.

- When scheduling a case conference date with a Justice, use [JusticeSeized.QB.EDM@albertacourts.ca](mailto:JusticeSeized.QB.EDM@albertacourts.ca)

#### 4. Other Speakers

##### a. King's Bench Operations (KBO)

- KBO is a branch of the Court and Justice Services. It is separate from judiciary.
- Lead times specific to the clerk's office:
  - Urgent Submissions: Edmonton same day, Calgary same day
  - General Filing: Edmonton 72 hours, Calgary 24 hours
  - Family Docket: Edmonton 24 hours, Calgary same day
  - Family Chambers: Edmonton 24 hours, Calgary same day
  - Specials: Edmonton 24 hours, Calgary 24 hours
  - Divorce Packages: Edmonton 28 days, Calgary 4 days
  - Divorce Judgments: Edmonton 8 days, Calgary 4 days
  - Returned Signed Orders to Counsel: Edmonton 8 days, Calgary 15 days
- Desk Applications Team - Issues/Concerns:
  - Any orders for filing should be sent through the Filing Digital Service or through email filing, not directly to the Judicial Assistant.
  - If your matter is not urgent, please wait for 7 days to contact the clerk's office.
  - If your matter is urgent, please include a letter that advises of the urgency to avoid rejecting your submission.
  - If an order is being submitted 3 months after the order is granted, please include the FIAT on the order.
  - Please avoid submitting desk applications/orders through both the QB Filing and the digital service. This causes confusion amongst our office and the judiciary.
- Divorce Team – Issues/Concerns:
  - Include supporting documents for review.
  - Please do not remove or alter paragraphs in the prescribed forms. For example, if there are no children of the marriage, then this should be indicated in paragraph 6(1) and in paragraphs 6(2)-6(4) can be left blank or indicate "N/A".
  - Do not include questions to the clerk in the Filing Digital Service. The clerk cannot respond. Any questions should be emailed to QB Filing.
  - Any questions or issues using the Filing Digital Services should be directed to the Filing Digital Services Team at [jsg.filingfamilysupport@gov.ab.ca](mailto:jsg.filingfamilysupport@gov.ab.ca). You can also consult the 'Help' tab at the top right-hand corner of the page which has user guides for lawyers and legal assistances, a list of accepted document types and a clerk user guide.
  - Please include opposing parties' email address when submitting documents. This is required to ensure both parties receive a copy of the Divorce Judgment.
- October 19, 2022 Announcement on Urgent Submissions:

- All urgent matters that are eligible on the Filing Digital Service should be filed there.
- If your limitation period or Court ordered or statutory deadline is within 3 days or within the current lead time, whichever is longer, please indicate Urgent Limitation Period in the subject line before the designated naming convention and send the documents for filing. Please include the date of the deadline in the body of the email.
- If your limitation period or Court ordered deadline is not within 3 days or the current lead time, it can still be filed as urgent. Please include the word Urgent in the subject line before the designated naming convention.
- All email filing submissions being identified as Urgent will require a letter on law firm letterhead outlining the nature of the emergency to accompany the filing submission. If your request is marked urgent and a letter does not accompany it, your submission will be processed in the normal course. This letter is not required for documents identified as Urgent Limitation Period.
- Following this process helps us process your urgent submissions the same day.
- When submitting documents with a filing timeline, please provide the endorsement/order/other documentation that directs the timeline.
- Any concerns about a filing submission can be directed by email to QB Filing. The email should include the subject line “Attention Supervisor” and the original submission.
- These submissions are triaged and returned within 24-48 hours. If you have not received a response within the desired timeframe, please contact the Executive Leadership team at [KBA.Leadershipteam@just.gov.ab.ca](mailto:KBA.Leadershipteam@just.gov.ab.ca).
- Please do not include the Leadership Team on every submission to QB Filing.
- Counsel can file urgent orders at the counter, but all other submissions must be filed on the Filing Digital Service if accepted or through email filing.
- KBO is actively working on streamlining processes and training across all centers, such as developing a new team to facilitate clerk training, knowledge, skills and resources.
- KBO is gathering rejection reasons from our services to determine eligible reasons for rejection and those not eligible to enable the provision of better services.
- Received additional funding to increase staff complement. Additional staff will be blended into various duties such as court and filing documents through email, counter and digital services.
- Any suggestions on how we can improve our services can be directed to [KBA.Leadershipteam@just.gov.ab.ca](mailto:KBA.Leadershipteam@just.gov.ab.ca).

**b. Family Court Coordinator**

- Settlements – Advise the Court Coordinator as soon as possible by providing a letter and/or order so dates can be released.
- Booking Request Form – All matters requesting to schedule a Trial/Oral hearing are required to complete the Form and if booking a trial, met all requirements (ADR, PTC).

- Requesting dates – The Court Coordinator will only give a general time frame as to when booking – exception when parties have provided an order/endorsement granting leave to schedule.
- Urgent Requests – If directed in Family Docket Court or Family Chambers to book, parties are required to write to the CJ and or ACJs for approval.
- If you have leave to bypass FDC, when requesting dates for EICC or Rule 4.10 CC, a direction or order must be in the email to show that you have leave not to file another Notice to Attend.
- If a Justice is seized with an EICC/Family PTC/Rule 4.10, Counsel must fill out the form found to request an appearance in front of that Justice.

<https://www.albertacourts.ca/kb/court-operations-schedules/scheduling/justice-seized-booking-request-form>

## **5. Justice Digital Update**

- Family and Divorce Filing Digital Services (FDS) makes it easier and more efficient to file. It streamlines and facilitates the process.
- Average turn around for general filing is 1-3 business days. This is down from 2-3 weeks with emailing filing.
- Divorce applications processed within 3-4 week using FDS.
- 57 different documents can be filed in FDS.
- There is a new functionality for the judiciary for the review of desk divorce applications.
- The team is working to expand the scope of documents accepted in family law, for a total of 76 divorce documents that can be filed.
- Currently there is no functionality for fees be charged to a fax filing account, nor is their functionality for online filing fees for legal aid clients.
- Please direct any questions to [jsg.filingfamilysupport@gov.ab.ca](mailto:jsg.filingfamilysupport@gov.ab.ca)

## **6. Resolution Services**

- Mediation, Family Court counselors, Child Support resolution Program, Family mediation Program, Children Services Mediation Program
- Programs do not need FDC first.
- No requirements for CSR program. Any income, with or without counsel. There is an online booking service.
- Mediation services require annual income level under \$60,000.

## **7. Questions & Answers in Advance of the Town Hall**

- What are the plans to expand the availability of Indigenous courtrooms? Steps are being taken to fixture a space within the ELC to allow smudging to take place. The issues being addressed are ventilation and fire alarms. The Court also has an Indigenous working group that is led by a Metis judge and includes Indigenous judges to foster an inclusive and welcoming environment for Indigenous Persons. The subgroup aims to remove barriers to access to justice through restorative justice processes (in all areas of the law)

and integrate practices of cultural significance within our Court processes. The Court has: incorporated the Eagle Feather in all our courthouses into Oath taking by Indigenous witnesses; developed a Smudging Action Plan that will see all our court locations offering smudging facilities. The Court also: recognizes September 30 National Day for Truth and Reconciliation with programming for judges and judicial staff; holds each year an Indigenous Legal Career Day including the Tsuut'ina Highschool Career Day; holds outreach activities with Indigenous communities.

- What policies/training are in place for security to deal appropriately and in a culturally sensitive manner with Indigenous persons entering the courthouse? Sheriffs go through an extensive recruit training program with a heavy emphasis on the Alberta Public Service core values of Excellence, Integrity, Accountability and Respect. They also receive specific training in cultural diversity and participate in the Government of Alberta Indigenous Learning Initiative. The ILI takes one day and includes many aspects of indigenous culture. It is co-facilitated by a specialized Government of Alberta Indigenous Learning instructor and a local Elder. They also have specific procedures regarding handling culturally sensitive items at perimeter security screening stations, one of which includes a method of screening medicine pouches where the Sheriff asks the owner to open it themselves and show the contents. This question suggests we may need to provide some refresher training to some of our staff. Thank you for bringing this concern to our attention.
- Is there a uniform response to litigants contacting the Justice by email or phone directly? The Court is aware that litigants sometimes contact the Justice directly and try to bypass normal court processes. There is no unified court policy regarding a response. However, the standard response is to send any such requests to the other side. Unfortunately, this does not prevent the Court from receiving such emails.
- Why are the clerks rejecting chambers briefs when the Family Bar was told they could provide these? At the Family Town Hall meeting, Counsel were advised that if they intended to file a Brief for a regular Family Chambers application, they should raise this before the Family Docket Justice. It was stressed that a Brief should consist of only 1 or 2 pages. Since the Family Town Hall, the Court has determined that Briefs will no longer be permitted for regular Family Chambers. An Announcement on this change will follow.
- What is the status of the Family Process and Information Guide and the Family Resolution Plan? The Family Process and Information Guide has been prepared and is moving through the Court's internal process. We hope to have it out soon.
- Will outdated Announcements be removed from the Court's website? The Court is working on removing outdated announcements from the Court website.
- Will the Court reconsider letting Counsel file Orders in person at the courthouse after Chambers? Counsel is not permitted to file orders at the courthouse following Chambers. This is only for urgent matters.
- What is the current response time for processing Urgent Requests and how long does it take to get into court once approved? We use best efforts to process these requests in 24 to 48 hours. Processing may be delayed if we ask to hear from opposing Counsel before responding. It is also possible that these matters will be sent directly to morning Chambers, bypassing Family Docket Court, but on the next available date. To assist the Court, if you

are requesting a date, please advise in your correspondence of your availability. Approved urgent requests go to a 2 pm time slot. Otherwise, it is Chambers at 10 am.

- How many JDRs are scheduled in early 2024? this can not be answered yet – JDR’s are the last thing to be scheduled after all other assignments are covered
- What is the status of the update to the Summary Trial rules: Currently moving through the legislative approval process. The idea is to have streamlined trials, with certain conditions including a PTC 3 months before the hearing. Since the Family Town Hall, the amendments to implement the streamlined trial process have been passed by cabinet: AR 126/2023.
- Why don’t we hold the Family Town Hall by Webex? We are encouraging in person attendance but after receiving the emails on this issue, we opened remote attendance on request for those with mobility issues, health issues and those who reside outside of Edmonton and Calgary.
- Why are costs not awarded in Family Docket Court? It would prevent people from scheduling things in docket court unnecessarily (particularly for self-reps). We generally don’t have enough information – this will become less of an issue with new Family Justice Strategy initiative.
- What can we do to get more JDRs? Who do we need to petition? Due to limited resources that we presently have, JDRs are not as available. A suggestion was made to write to both Ministers of Justice to request more Judges and supports for the Court.
- We really need to have EICCs for matters other than those JUST involving children. Sometimes we have an issue that could be solved quickly if we had a hour with a judge to weigh in, but that’s currently not available and waiting for a 4.10 case conference/PTC/trial/non-existent JDRs isn’t a great alternative. We are considering using non-designated slots to schedule these so that these can be assigned as need dictates without longer delays for some types of Judicial conferences.
- If lead times for a 1-day trial are 1.5 years out, what are people supposed to do to increase their access to their kids in the interim? This is particularly frustrating situation when one party is obviously withholding and taking advantage of these scheduling delays. Litigants are encouraged to consider alternatives such as arbitration and mediation. Better use of our resources will hopefully help reduce lead times. These matters get sent to Chambers, however it is important that the issues are narrowed.
- Can Justices access materials on their own? It’s extremely frustrating when counsel shows up to an appearance and Justices don’t have the materials and can’t access them. There have been situations where justices just adjourn matters (further delays) when they don’t have the materials... even when counsel offers hard copies to be reviewed at the time. We will review this issue with KBO and the Court to see if we can find a solution.
- As counsel, we understand that the judiciary is stretched really thin right now (as are we), but we’re finding that there is almost a lack of civility from the bench toward the bar (and our clients) at times. Some of the recent comments directed at counsel and parties seems unnecessarily cruel/harsh.  
This should not happen – we are noticing the same trend back from lawyers – treatment of Justices and opposing Counsel. We are seeing matters that should not be brought to Court – Counsel are arguing more than before – Court decorum has decreased – we

believe our volumes are on the rise and that we are still experiencing fall-out from pandemic. There is a high turnover of staff in King's Bench Operations and this leads to frustration for the Bar and the Judiciary. Everyone is encouraged to maintain proper civility in the Courtroom.

## 8. Questions & Answers at the Town Hall

- What does the Bench intend to do about the deference offered to self-reps (deadlines, submissions, etc.), as it has come to the point that it puts the administration of justice into disrepute, since clients with counsel repeatedly ask "How can they get away with that", as clients with counsel continue to and are obliged to follow the rules. Judges and Counsel should be aware of the Canadian Judicial Council Statement of Principles on SRLs ... as well as the Law Society of Alberta Law Practice Essentials regarding the Judicial Perspective and Your Duties to the Administration of Justice. See: <https://cjc-ccm.ca/sites/default/files/documents/2020/Final-Statement-of-Principles-SRL.pdf>  
<https://learningcentre.lawsociety.ab.ca/mod/page/view.php?id=248>
- Are there any plans to hire more clerks? Yes, we have received more funding to hire more clerks.
- Can the on-line system be changed so that filing fees can be charged to a firm's email filing account? No. The email filing account is an old system that will eventually be eliminated.
- Can the on-line system be changed to enable fee waivers for Legal Aid? Not yet
- Will the minutes be available on-line? Yes
- What is the proper process to request that a matter go into case management? Write to the Chief Justice or one of the ACJs (depending on the judicial center) to ask for case management. In St. Paul, it would be ACJ Nielsen.
- Will there be any more binding JDR dates set? According to Brent Rosin, JDRs are the last procedures scheduled. It is highly unlikely that more will be implemented and the Court suggests parties look into other forms of ADR.
- Why do you have to have a scheduled application to file an affidavit? It's not clear in what circumstances an affidavit would need to be filed if there are no scheduled applications. An affidavit is generally filed in support of an application. There might be some urgent matter that arises and you could then request leave to file it.
- There appears to be inconsistencies among judicial centers regarding documents under PN 2 and sometimes non-conforming documents are filed. The expectation is that counsel will comply with PN2.
- If a document is sent in on time but then rejected for some reason leading to late filing, then what is the process? If the clerks give no reason for the rejection, counsel can seek a fiat explaining that the initial filing was on time but rejected.
- The 9:30 triage Webex for the day's *viva voce* EPO hearings requires counsel to be in court at 11 am. This timing does not work for out-of-town lawyers. Let the judge on the triage hearing know that you are out of town and how long it will take for you to be there.