

VIRTUAL FAMILY TOWN HALL SUMMARY
SEPTEMBER 29, 2020 AT 12:30 PM
EDMONTON AND CALGARY

(all indicated statistic and lead times are as of September 29, 2020)

Following opening comments by Chief Justice Moreau, the following Report prepared by Todd Nahirnik Executive Director, Court of Queen's Bench Administration was presented:

- Administration appreciates the patience of the bar as we are working to solve backlogs and filing delays.
- The current email filing system is much more work intensive for clerks. Each document requires printing or scanning, a return email to the filing party, and uploading onto the SharePoint system for review by the judiciary.
- In order to meet this challenge Administration is bringing on new resources that can be dedicated to the extra work required by e-filing processes. Within the next two weeks, 8 new staff will be starting in the Calgary office, and 8 to 9 new staff will be starting in the Edmonton office.
- A significant portion of the new staff will be dedicated to Family matters in specific, and searches in general. In Edmonton, 3 of the new hires will be assigned to the Family clerk team. In each of Edmonton and Calgary, 2 of the new resources will be dedicated to searches.
- Since it does take 3 to 6 weeks to train and orientate new staff, further improvements should be observed by the end of October/mid-November.
- In order to improve communication with the bar, the filing bounce back email is now being updated weekly to reflect filing timelines. Currently, Calgary is maintaining turnaround of a couple of days for Family Docket Court notices and endorsements. Edmonton is caught up to date with Family Docket Court endorsements and is currently processing September 24th notices. General filing has seen some improvements since the end of summer and is now at an approximate 3 to 4 week delay.
- The Edmonton clerks' office has recently updated its phone system to VOIP which allows for more extensive automated messaging. This has greatly reduced the number of phone inquiries and the office has been responding to inquiries left on voicemail. A similar system can be utilized in Calgary once this upgrade is complete.
- Thank you again for your patience as these improvements are implemented. Your cooperation is also greatly appreciated. Your continued adherence to the email filing protocols and naming conventions which are located on the Court's website here: <https://albertacourts.ca/qb/resources/announcements/new-email-filing-procedure> will greatly help Clerks address the filing shortfalls.
- Alberta Justice remains committed to the development of a true e-filing system through the Justice Digital program. Work is continuing on pilot projects which will help lay the groundwork for new systems and processes.

2. Family Docket Court (FDC)

We have received a lot of feedback about FDC from the bar and judges since it was first implemented in May during the pandemic. Largely, feedback related to the FDC concept

is positive and feedback related to the insufficient resourcing for FDC is negative. We are working very hard to locate additional resources for FDC, to streamline FDC processes and to monitor its overall impact. It is our hope that with proper resourcing, the FDC will continue after the pandemic as an effective means of providing earlier resolution to family matters.

The Family Docket concept allows the Court to better manage its family law processes. This is something that the Court has done for some time for its criminal processes. This has become very important during the pandemic, as the available Court resources have been limited, as has in person access to the Court.

In addition, FDC has allowed the Court to triage families into early intervention options, which as we now know, is generally better for children, as it reduces the amount of conflict to which they are exposed. It also allows the Court to triage matters into court processes and set filing deadlines to ensure that matters are ready to proceed on the date scheduled, thereby reducing adjournments for those processes.

In the first 4 months of FDC, 1,412 matters have come through Family Docket in Edmonton and 1,440 matters have come through Family Docket in Calgary. Excluding the matters that were adjourned or struck, 42% of the matters coming through FDC have been triaged to a dispute resolution process. These include Early Intervention Case Conferences, Resolution Counsel, RCAS Family Mediation, Child Support Resolution Officer (in Edmonton) and Dispute Resolution Officer (in Calgary), private mediation, and Judicial Dispute Resolution.

When we started Family Docket, we were dealing with matters that had been adjourned due to the pandemic, new incoming matters, and an anticipated increase in demand due to family breakdown, job loss and an increase in domestic violence due to the pandemic's impact on families.

These high volumes combined with limited Clerk resources to manage those volumes have caused difficulties.

The most significant concerns for the Court and communicated by the Family Bar and the public, are:

- **First, the slow turnaround on filing of Notices to Attend Family Docket Court and confirmation of appearance date**

The Court's goal for turnaround times on Notices to Attend Family Docket Court, is 24 to 48 hours. We know that this won't happen overnight. Queen's Bench Administration has provided overtime, reassignment of Clerk staff and as was referenced earlier, new hires – all for the purpose of helping us work toward that goal as well as a 1 week turnaround in document filing generally. Many of the issues currently being encountered relate to the delay in filing of the Notices to Attend, and it is our hope that if we can maintain a 24 to 48 hour turnaround time, the system will operate in a more efficient way.

As of September 29, Edmonton Clerks were working on Notices to Attend submitted September 24 (5 days to process). Calgary Clerks were processing

Notices to Attend submitted in the past 24 to 48 hours - so we know that our goal of 24-48 hours is realistic and achievable.

- **The second most common concern raised, is an inability to adjourn a matter on the Family Docket Court List without having to appear**

This policy was put in place because we wanted to prevent what previously happened with our regular Chambers dates – a 40% adjournment rate. When our resources are so limited, parties must be mindful that if they hold a spot and can't use it, that spot is not available to another party who needs it. The hope was that Counsel/parties wouldn't seek to add matters to FDC unless they were ready to proceed because of the inability to seek an adjournment without speaking to the matter in FDC. That said, we appreciate that there are sometimes unanticipated / very good reasons to adjourn a matter and that you should not have to attend and wait lengthy periods of time to speak to the adjournment. Therefore, we are currently working on a protocol to allow you to adjourn matters in FDC in 2 circumstances: (1) where the matter has been settled, and (2) where a party needs time to get Counsel. Other good reasons may be considered. At the same time, we are also considering a protocol for adjourning Special Chambers, EICC's and regular Family Chambers. As these processes are now scheduled by Court order (through an Endorsement), they should not be adjourned without leave of the Court.

- **A third area of concern is the Lead times to Family Docket Court**

In Edmonton, these have stabilized somewhat after we started FDC at 9:30 and increased the cap to 20. We continue to consider possible ways to reduce this lead time further – our goal being 2 weeks at the most.

A word about the calendar of available FDC dates on the Court's website – this is updated 2 times per day – the problem is not the calendar, but rather the filing delays for Notices to Attend Family Docket – something we hope to have caught up soon, with additional staff being added and trained by the end of October/early November.

There are some things that the Family Bar can do to reduce lead times as well. In Edmonton, 17% of FDC matters are either adjourned or struck. In Calgary, 22% are adjourned or struck. Reducing those numbers alone will reduce lead times. Counsel are asked to use best efforts to confirm the FDC date being requested with the opposing party, and that all parties are ready to proceed before submitting the Notice to Attend for filing.

A few more things to note about FDC:

- First, it is not necessary to file a second Notice to Attend if the Respondent wishes to reply or if there is to be a cross-application made. Counsel should bring to the FDC Justice's attention, the fact that there will be a cross-application and provide details of the issues that the cross-application is intended to address. Counsel should always be prepared to address whether or not there will be a cross-application, as this will be important information for the triage and scheduling process.

- Next, Disclosure orders are being made in FDC. Come prepared to address whether there is any outstanding disclosure so that it can be ordered. In more difficult situations, where Counsel disagree on what is outstanding, it will be more difficult to deal with the matter in FDC until disclosure is addressed.
- Next, please do not ask Justices in Chambers or otherwise for a Fiat to bypass FDC. Except for urgent matters (addressed below), desk applications, and where a matter has been referred to Resolution Counsel, an EICC or Chambers and is given leave to schedule a court process without going back to FDC, all matters must go through FDC before proceeding with another Court process.
- Next, we ask that you please try some type of resolution process – 4 way meeting, mediation, or other ADR process before coming in to FDC. While this is not mandatory at this time for FDC, it is for trial, and we are noticing that in most matters where 2 Counsel are involved, there has been no attempt at an ADR process before coming to FDC. Access to justice means more than access to the Courts. Especially during this difficult time, collaborative processes undertaken by Counsel before entering the court system will support access to justice for families. Further, processes outside of the Court itself, such as family mediation through Resolution Services and private mediation can be accessed without having to go through FDC. Please keep this in mind.
- Our lead times to EICC's and Special Chambers are increasing due to volumes and the triage process. We will continue to work with Chief Justice Moreau, ACJ Nielsen and ACJ Rooke as well as the Court's Pandemic Committee to explore alternatives to increase the available sittings for these processes.
- We are also improving both the Notice to Attend and the Endorsement template to make them more streamlined and user friendly.
- For your reference, a Frequently Asked Questions document related to Family Docket has been recently posted to the Court's website here:
<https://www.albertacourts.ca/docs/default-source/qb/faq-family-docket-court.pdf>.

Urgent Matters

a) With Notice Urgent Matters

One of the consequences of long lead times to get to FDC, is that matters that are urgent can't wait to go through FDC. At present, the protocol for urgent matters is as follows:

- Counsel/a party indicates to the Clerk that a matter is urgent and the Clerk refers Counsel/the party to the Judicial Assistant for a designated Justice. Presently, Yungwirth J is the designated Justice in Edmonton and the designated Justice in Calgary is Kenny J.
- The party requesting to bypass FDC must then provide a letter or an email to the Justice explaining why the situation is urgent. As these are all "with notice" matters, the request to bypass FDC MUST be copied to the opposing party.
- Urgent requests are addressed quickly, usually within 24 hours (excluding weekends) and the decision is communicated back to the parties.

- If the matter is approved to bypass FDC, the senior Family Clerk is notified and the parties are directed to contact the senior Family Clerk by email to arrange the regular Chambers date and for urgent filing of documents. The parties should be provided with the email address for the Clerk for this purpose (we were advised that his may not be happening in some cases so this is being addressed).

b) Without Notice Urgent Matters

This would include matters such as restraining orders, Queen's Bench protection orders, urgent parenting orders where a child is in danger or has been withheld and notice is not appropriate, preservation orders, and time sensitive Fiats.

Applicants for these matters do not require leave and can proceed directly to regular Family Chambers or an Emergency Duty Justice. Appearance by Webex for these is preferred (check in early and advise the Clerk that you are there), though where necessary, these can be made in person due to their urgent nature.

Flow Charts for Family Applications and Family Desk Applications have recently been posted to the Court's website for reference. They include urgent with notice and urgent without notice applications. See: <https://www.albertacourts.ca/gb/areas-of-law/family>.

Resolution Counsel

The role of our Case Management Counsel has been changed during the pandemic and they are now referred to as Resolution Counsel. They function as mediators to assist parties in resolving their matters so that a contested process is not necessary. They schedule in half day slots, so they have a considerable amount of time to work with a family to try to resolve matters. They will generally meet with a family only once, though if it appears that all issues can be resolved with a second meeting, they will schedule one. Though we don't yet have statistics on resolution rates, we are seeing a significant resolution rate with Resolution Counsel.

Resolution Counsel also report that they are getting positive feedback from parties and Counsel on this new process.

In order to be referred to Resolution Counsel, one party must earn less than \$70,000 AND one party must be self-represented.

Desk Applications

a) Desk Divorce Applications

Current processing time is about 5 weeks in Edmonton and 5 weeks in Calgary.

The Divorce Clerks in Edmonton have provided us with a list of the kinds of things causing rejection of your desk divorce applications and they are set out below:

Summary of Child Support Guideline Calculations:

- Not being included in the Divorce Package.
- Payor and Recipient are being mixed up.
- Departing Portion is not being included. In some cases, stating not departing when they are departing.

Short Marriages:

- Explanation or reason should be stated in the Affidavit of Applicant for the short marriage or a Supplemental Affidavit should be provided explaining the short marriage.

Affidavit of Service:

- Exhibits are being marked incorrectly or not marked at all.
- Exhibits are not attached.
- Exhibit date does not match the Jurat date.

Affidavit of Applicant:

- Previous orders not attached.
- Exhibits are being marked incorrectly or not marked at all.
- Exhibits are not attached.
- Exhibit date does not match the Jurat date.

Request for Divorce:

- Counsel should be indicating who they are representing if they are filing the Request for Divorce on behalf of their client.
- Date of Service, who served and who was served are wrong.

Divorce Judgments:

- Missing mandatory clauses – MEP Clause, Disclosure Clause or Re-calculations Clause.
- Should indicate in Divorce Judgment Matrimonial Property has been dealt with or still ongoing in the preamble.
- Child Support – no commencement date.

b) Consent Orders and Without Notice (not urgent) Applications

Edmonton is just under 4 weeks behind in processing these and Calgary is just under 2 weeks behind.

Our target for these non-urgent matters is 1 week. If your matter is urgent, mark it as urgent and don't forget to use the correct naming convention when you submit it.

Naming conventions are important and assist the Clerk to deal with these more quickly.

A consent order should say on the subject line – Order to be signed-Justice-File Number-Location. A without Notice application should have the subject line Without Notice Desk Application-file number-location. See:

<https://www.albertacourts.ca/qb/resources/announcements/new-email-filing-procedure>.

c) Other Desk Application Processes Implemented on May 8 – Notice to Disclose, Simple Desk Applications, and Desk Applications with Written Argument

The desk application processes provide many benefits to Counsel and the parties, and to our system:

- Matters do not have to go through Family Docket Court before being submitted.
- Desk applications help reduce lead times for regular Family Chambers and Special Family Chambers bookings.
- For desk applications with written arguments (where all parties have Counsel), the process is started by Counsel entering into a Consent order, in which Counsel can set their own filing deadlines. This provides more flexibility to Counsel for filing deadlines. If Counsel cannot agree on filing deadlines, the deadlines in Family Practice Note 2 apply.
- As lead times to Special Family Chambers dates increase, you do not have to wait for a Special Family Chambers spot to proceed with your application.
- The assignment of desk applications provides flexibility to our scheduling system to assign to Justices who may have available time when matters collapse/assignments no longer require the originally assigned time. This allows for the ad hoc assignment to Justices province wide, thereby making the most efficient use of our judicial resources.

The previously referenced filing delays also impact desk applications, but as we get more resources to address the filing delays, we encourage Counsel to consider the available desk application processes as alternatives to going through FDC and getting a regular Chambers or Special Chambers date. Where both parties are represented by Counsel, most Special Chambers applications can be done by desk application with written argument.

How to Submit a Desk Application

As referenced earlier, on July 27, 2020, Resolution and Court Administration Services posted an announcement to the Court's website related to email filing procedures and naming conventions here:

<https://www.albertacourts.ca/qb/resources/announcements/new-email-filing-procedure>.

Please use these because it helps to reduce the delays in filing because the Clerks can easily identify the type of document being submitted. Remember that all email filing goes to the same general email addresses for all areas of law.

QBfiling.Edmonton@just.gov.ab.ca for Edmonton and QBfiling.Calgary@just.gov.ab.ca for Calgary.

For a desk application on notice, when the initial application documents are submitted for filing, they should be submitted under the naming convention "DIVORCE FILING-FILE NUMBER-LOCATION" if under the Divorce Act, or "FAMILY FILING-FILE NUMBER-LOCATION" if under the Family Law Act. Do not submit them in the first instance identified as DESK APPLICATION.

Only after all documents required for the desk application (and cross-application in some cases) have been filed, should the Applicant be putting the package together and submitting it to QBfiling.Edmonton@just.gov.ab.ca for Edmonton or QBfiling.Calgary@just.gov.ab.ca for Calgary, identified with the naming convention "WITH NOTICE DESK APPLICATION-FILE NUMBER-LOCATION". If everyone uses this process, it will be easier for the Clerks to identify desk applications that are ready to

be submitted for consideration by a Justice. Right now, when all submissions for a future desk application have a subject line that reads “desk application”, the Clerk has to read through the attachments to see if it truly is a desk application ready to be submitted, or just an Application and Affidavit being submitted for filing in the first instance. This is causing delays.

Many Counsel are of the view that if they simply file their application, someone in the Clerk’s office will monitor service, the time required for response and reply and then know to submit it to a Justice. We do not have the resources to do that and this is why we put the obligation on the Applicant to do that and then submit the entire desk application package when it is ready for consideration by a Justice. Please read the Notices to Profession and Public posted May 8, 2020 here:

<https://albertacourts.ca/qb/resources/announcements/npp-family-law-simple-desk-application-process> so that you are familiar with all of the available desk application processes.

As indicated earlier, a Flow Chart for Family Desk Applications has recently been posted to the Court’s website here: <https://www.albertacourts.ca/qb/areas-of-law/family>.

Current Status and Scheduling Issues

a) Filing

- Lawyers are asked to file in one of 2 ways – by email and by a drop box.
- Court Runners are also required to use the drop box.
- Self-represented parties are permitted to file at the counter because often their documents need to be commissioned and they don’t presently have access to an account for invoicing.
- Lawyers are asked to only file at the counter if it is truly urgent – otherwise, filing should be by email or by drop box. Filing at the counter causes delays in email filing. It also requires the Clerk to scan hard copies into electronic copies so that the documents can be uploaded to the Court’s SharePoint site. It is therefore more efficient for documents to come in electronically because it eliminates that step.
- Best efforts are being made to improve these delays. The Court’s objective during the pandemic is to have a turnaround time of no more than 1 week for filing documents that are not urgent and 24 to 48 hours for urgent filing.
- With the development of true e-filing, things will improve in the future. We are now between 2 systems – our paper filing and paper files, and e-filing with digital files, and this has created a significant amount of extra work for the Clerks and others who support the Court. The use of a SharePoint site has also added additional work for the Clerks, who must download documents to that site to make them accessible to Justices.
- Clerks have been filing documents with the date that it was submitted, not the date filed. This will continue to be the case for now. This deals with issues regarding filing deadlines for Special Chambers – however, for now, you may need to serve unfiled documents and also notify the Court Coordinator so that your matter is not struck.

b) Case Management and Rule 4.10 Case Conferences

On August 31, 2020, an Announcement regarding changes to Family and Civil Case Management was posted to the Court's website here: <https://albertacourts.ca/gb/resources/announcements/changes-to-family-civil-case-management>. It states that family matters that are required to be under case management under Family Practice Notes 7 & 8 will remain in case management with the designated Justice. Going forward, case management will continue to be assigned as required for PN 7 & 8 matters.

For all other family matters, unless the case management Justice determines otherwise, they will be removed from case management at the earlier of 6 months after August 31, 2020, or 12 months following a period of litigation inactivity.

Going forward, no case management will be assigned from either Family Docket Court in Edmonton or Calgary or Family Chambers.

Requests for a Case Conference under Rule 4.10 can still be directed by a Family Docket Justice or a Family Chambers Justice, but those requests must be made to the designated Justice in each Judicial Centre indicated in the Announcement. For Edmonton, the request must be made to ACJ Nielsen and for Calgary, the request must be made to ACJ Rooke.

c) Chambers Caps

For Edmonton, regular Family Chambers is currently capped at 15 matters. Lead time to a Regular Family Chambers date in Edmonton is less than 1 week (October 1, 2020).

In Calgary, regular Family Chambers is currently capped at 10 matters – going forward, the cap should be increased to 15. Lead time to a regular Family Chambers date in Calgary is less than 1 week (October 2, 2020).

d) Early Intervention Case Conferences (EICC's)

We have increased the number of EICC's each week compared to what we were doing before the pandemic (from 9 per week to 13 per week). We need more time slots and will be urgently considering options in this regard as we move forward.

As of September 29, 2020, lead time to an EICC in Edmonton is 11 weeks and lead time to an EICC in Calgary is 10 weeks.

The Case Conference Coordinator reminds Counsel that unless specifically directed to do so by a Justice, you are not supposed to attach tax returns and other documents to your EICC Summaries. Attaching draft forms of order as part of a settlement proposal is permitted and encouraged.

e) Judicial Dispute Resolutions (JDRs)

JDRs are not available for this fall Court session. This is largely because the Court needed more judicial resources to try to catch up on the backlog of jury, criminal trials and other matters that arose during the pandemic. We are not able to comment at this time how soon JDRs will become available in the future.

f) Scheduling Trials and Oral Hearings

The Court is once again scheduling trials and oral hearings. (Dates for the January to June 2021 will be released shortly). However, leave must be provided by a Justice in FDC, Family Chambers, or otherwise, to be able to proceed with scheduling a trial or oral hearing. If you get leave from a Justice to schedule a trial, Form 37, ADR and pre-trial conference (PTC) issues must also be addressed.

On July 7, 2020 an Announcement was posted to the Court's website regarding trial triage booking for July and August 2020 here:

<https://albertacourts.ca/qb/resources/announcements/triage-booking-july-august-2020>.

On August 10, 2020, that was extended for the Fall sittings here:

<https://albertacourts.ca/qb/resources/announcements/extension-of-trial-triage-booking-into-fall-sittings>. Priority in bookings is given to matters scheduled to be heard between March 16, 2020 and June 26, 2020 and adjourned by Master Order due to the pandemic. Due to high volumes, additional priority will be given in Edmonton to urgent trials.

A Family Docket Justice can direct ADR, provide a PTC date where required, and give leave to schedule a trial date after those things are completed – all in the same appearance. To request a trial or oral hearing date, Counsel must then complete the Trial Triage Form and submit it online. See: <https://www.albertacourts.ca/qb/court-operations-schedules/triage-form>.

This process does not eliminate the need to comply with *Rules of Court* requirements, such as filing Form 37, and participation in a dispute resolution process (unless dispensed with by a Justice).

For an oral hearing in a family matter, the Oral Hearing order must be completed.

Counsel are asked to consider the summary trial process where appropriate. Leave will still be needed, but there are some matters – property in particular – that are well suited for determination through a summary trial process. A summary trial order should be completed by Counsel.

Both the oral hearing order and the summary trial order will be posted to the Family Forms location on the Court's website in the near future. Subscribe to the website to receive announcements here: <https://www.albertacourts.ca/qb/about/subscriptions>; or monitor the Forms page here: <https://www.albertacourts.ca/qb/areas-of-law/family/family-law-forms>.

Parenting After Separation (PAS), CSRO/DRO, and s. 21 Disclosure

Prior to the pandemic, these processes were mandatory before certain types of applications could be made. With the introduction of Family Docket Court, things have changed.

Litigants are strongly encouraged to complete PAS before FDC. This may also may be directed at FDC. Family Practice Note 1 still applies, so to avoid a problem, you are asked to direct your clients to the online PAS as early as possible.

DRO/CSRO are also being referred from Family Docket Court. An application must have been filed to access these programs OR both parties must consent to participate in the process (voluntarily) if no application has been filed.

Section 21 Disclosure was required before a child support application could be made. The applications are now directed from FDC, so disclosure should be addressed in FDC if it has not already been provided. Otherwise, unless a FDC Justice has made an order related to disclosure, the requirement to file s. 21 Disclosure before proceeding with your child support application is still in place.

A MESSAGE FROM THE ALBERTA COURT OF APPEAL

1. We will be reserving the first and third Tuesdays of the month for JDRs starting Oct 1. Parties can check the website for a list of judges doing binding JDRs. These are going to be virtual for the time being. Judges are open to discussing underlying issues beyond the issues raised in the appeal.

2. We have a new appeal conference pilot project (based on the EICC). For any fast track family appeal filed on or after Oct 1, a mandatory appeal conference will be held and appeal deadlines will be suspended pending the conference. These will be held the second and fourth Tuesdays of the month.

Many of the questions and concerns from the Family Bar have been addressed above. What follows, are questions provided before the meeting and additional questions that were provided by chat during the meeting.

- **Undertakings not to record – do they need to be signed before every Court appearance in the same action or just once and it will apply for future applications as well?**

The preference is to have these signed by your client each time they are appearing on Webex from a different location than Counsel. The Court may ask as well/review the undertaking on the record.

- **EPO review order and parenting orders – can they be granted in the same order?**

EPOs must be prepared by the Court Generated Order (CGO) Clerk because there are processes in place for service, including providing the EPO to the police for service – all to be done in a timely way. If there is a parenting order granted at the time of an EPO review (in exceptional circumstances or by consent) – these must be done separately by Counsel or if 2 SRLs, by a separate CGO Clerk prepared order. There is a different action number for the parenting order so it should not be granted on the EPO file.

- **Phone numbers on EPO sheets served on Respondents – sheet says hearings are only done by phone and they have to call the Clerk but then no one answers.**

We have made inquiries about this and will get it corrected.

- **Can Counsel set a regular Family Chambers or Special Family Chambers date without going to FDC if Counsel agree?**

Not at this time. This will be looked at again as part of reviewing our FDC and other Family and Court processes.

- **What is being done about the difficulty getting a Clerk on the phone?**

A recent update to the Clerk's phone system will help with this, as will the hiring of additional Clerks. Please listen carefully to the auto attendant messaging for current filing processing times and Court availability. (In Edmonton, the number is: 780-643-1137. The Calgary number is: 403-297-5653.)

- **What is being done about the delays in getting document searches?**

This also should be addressed with the hiring of additional Clerks. The goal is to have a 2 week turn around on search requests.

- **Is it still possible to drop off hard copies of documents at the courthouse and know that they will get to where they are supposed to go?**

Yes, there are drop boxes where documents can be placed – if the matter is urgent, Counsel can ask the Clerk to file at the counter.

- **Some of you have asked about what to do if you want to request disclosure where no action has been started and before you enter FDC.**

It is always possible to request disclosure by letter or email, or by sending an unfiled Notice to Disclose to the opposing party and requesting that disclosure. You also have the option of requesting an FDC date and then using the action number you are provided, for your filed Notice to Disclose (desk application) and then serve both the Notice to Attend FDC and the Notice to Disclose on the opposing party. Either way, when you attend FDC, you are in a position to advise the Justice of when you first requested disclosure and then request a disclosure order.

- **A concern has been raised about the delays in filing and processing the Notice to Disclose Desk applications, especially where Counsel puts a disclosure deadline in their draft Disclosure Order and that deadline becomes inappropriate due to delay.**

It is recommended that you either factor the delays when setting the deadline or leave the deadline blank for the Justice to complete. As our filing delays decrease, we hope that this will be less of an issue.

- **On another disclosure issue, Counsel says that they are worried about not being able to respond if a SRL serves them with a Notice to Disclose and in those circumstances where disclosure is not required.**

A blank Response to Request for Disclosure is supposed to be served with the Notice to Disclose and proof of that provided when the Applicant submits the package for processing as a desk application, so this should not occur.

- **A concern has been raised about Counsel changing the Notice to Disclose to expand what is being requested.**

This is not appropriate and should not be happening.

- **A concern has been raised about opposing Counsel filing a Notice to Attend FDC on a date that is far into the future and Counsel then being unable to bring the matter forward to an earlier date because the Clerk will not accept more than one Notice to Attend for the same matter.**

Counsel should be getting consent of opposing Counsel (or SRL) or using best efforts to do so, before requesting a FDC date.

- **Why aren't judges ordering parenting coordination?**

Where the order provides for the Parenting Coordinator to make decisions where the parties disagree, this is best addressed through an Arbitration Agreement and not an order, even if by consent. This is because judges cannot delegate their decision-making authority in this way.

- **Are there expectations as to how long each Family Docket matter should take, or targets for how long FDC should take generally?**

Goal is to be done by 12:30 – biggest cause of delays are technological difficulties on occasion, and Counsel or parties wishing to argue on substantive and process issues.

- **Can we add something to our Disclosure Orders so that if disclosure is not provided as ordered, the applicant can go straight into Chambers on 5 days notice without having to go back to FDC?**

This is a good suggestion and we are looking at it.

- **Can there be an emergency Family Docket list?**

Not at this time as we simply don't have the Courtroom, Clerk, Codec and WebEx resources.

- **Bounced requests for FDC – do they have to go back into the queue or can they be fast tracked? One lawyer asked if the Clerk could provide one or two alternate dates and Counsel can confirm within 48 hours?**

This will not be an issue in the fullness of time because new dates for Notices to Attend will be processed within 24-48 hours in Edmonton as they are in Calgary.

- **Is it possible to allow online scheduling for FDC where lawyers can schedule their own FDC dates or adjourn matters without having to appear – in real time?**

We don't currently have the technology for "live" scheduling for Counsel to choose their own dates directly and adjourn matters independently. Instead, we've enabled Counsel to choose a date electronically – but that date is still always confirmed by staff who are best positioned to understand our Court resources (i.e. Clerks, Courtrooms, judges, technology etc. for hearing all types

of matters – not just Family matters) and make the best decision with respect to scheduling.

- **Can Family Docket Lists and Family Chambers Lists be posted online?**

Not at this time due to privacy concerns. The Court is examining its options as they move forward with digitization.

- **Can DRO dates be scheduled online?**

Not at this time. This inquiry is best raised with the Ministry who manages that program.

- **Can a law firm file an order with a copy of a judge's signature, or does it have to be a "wet signature"?**

A document with a digital signature can be filed, but Counsel should generally be receiving a filed copy of the order granted with the judge's digital signature so this this should not be an issue.

- **Are we required to give the Clerk in FDC our email addresses, or do they use the email addresses on the Notice to Attend document to send out the Endorsements?**

The email addresses from the Notice to Attend Family Docket Court are transferred to the Endorsement, so it is only when an email address has not already been provided, that it should be provided in Family Docket Court.

- **Are all decisions posted to CanLii?**

No. Most Endorsements are not posted to CanLii, but this decision is up to the Justice providing the decision.

- **What if the Chambers Justice does not grant a without notice urgent parenting order but sends the matter back to FDC?**

It is up to the Chambers Justice to assess whether the matter is appropriate for a without notice order. If you are sent to FDC, then the Chambers Justice felt that notice was required. If your matter is urgent but must be made with notice, then you should follow the with notice urgent matters protocol outlined above.

- **When is a decision "shareable"?**

When a decision is released to parties/Counsel, it can be shared with others unless the decision has limitations or a prohibition on doing so.

- **Why are Fiats being granted without notice to the opposing party?**

This should not be happening. Previous protocols on notice still apply.

- **How do we find out where a desk application is in terms of processing?**

Filing delays are also causing delays in processing desk applications. This should improve as more Clerks are being hired. In the interim you may contact the Clerk's office to make an inquiry as to the status of outstanding desk work. The Clerk will then locate the file in Sharepoint and determine whether the file

has been assigned to a Justice for processing. If the file has been assigned to a Justice for processing, the Clerk will provide you with the name of the Justice assigned to the desk work file, as well as the Judicial Assistant's email address for the purpose of sending an email inquiry to the Judicial Assistant. (As per usual, you should copy all other parties on the correspondence.) A response will then be issued.

- **Do all of the requirements of PN 8 still apply with respect to case management being assigned and trial dates being set?**

Yes.

- **Does a without notice application for exclusive possession go straight to Chambers?**

Yes, and the Chambers Justice will make a determination whether or it is an appropriate situation for a without notice application.

- **Can non-urgent without notice applications be made in Chambers?**

No. During the pandemic, these must be submitted by desk application.

- **If a Justice gets a desk application and wants to ask Counsel questions, will the Justice reach out to Counsel to get questions answered?**

Yes, by letter, Webex meeting, or a conference call, depending on the circumstances.

- **Can self-represented parties file at the counter at a courthouse in a different location from where the action is located?**

No.

- **Do we need to re-apply for case management if existing case managing Justice is now supernumerary?**

It is recommended that you contact the previous case managing Justice and ask if they are prepared to recommend to ACJ Nielsen that a new case managing Justice be assigned. If they are not prepared to do so, then it is recommended that you attend FDC and request leave to schedule a Rule 4.10 Case Conference and that Justice will then assess whether more formal case management continues to be required.

- **Can Family Docket Justices allow consent matters and Counsel matters to proceed first to avoid long waits for those Counsel?**

That approach is generally followed, though there are individual differences between Justices. Also, a consent order on process will not necessarily be considered in the same way as a consent order on substantive issues, as it is the job of the Justice to be satisfied that what was agreed upon by Counsel is the appropriate next step for the file.

- **What happens if the email server capacity of a lawyer's office will not permit receipt of filed documents from the Clerk's office due to size of the**

document? Can only the first page of the document be sent, confirming filing?

This would take more time for the Clerks and is not reasonable at this time given their limited resources. Technology issues are the responsibility of individual lawyer's offices.

- **Can costs be ordered in FDC when the process is contested or when a request for an urgent hearing is denied?**

FDC is not the appropriate place to request cost orders, as there is insufficient time for proper arguments to be made and the Justice to consider a decision. FDC is for triage assessment. Costs can be addressed at a future application and will be considered, if appropriate.

- **Can Cunningham/Swezey requirements be added to standard orders to disclose for parties with corporations?**

There is no need to do this, as these cases apply and serve to clarify the disclosure requirements that are already contained in the Notice to Disclose/Child Support Guidelines.

- **Can there be a dedicated inquiry email or telephone for follow-up filing inquiries?**

Presently, you may contact James.Stroeder@csadm.just.gov.ab.ca and Jolene.Pon@csadm.just.gov.ab.ca in Edmonton; and Lisa.Lindquist@csadm.just.gov.ab.ca and Chrissy.Parkinson@csadm.just.gov.ab.ca in Calgary.

- **Do you have to attend mediation to schedule a Summary Trial date?? –**

Although Part 7 Division 3 of the *Rules of Court* does not include a rule equivalent to Rule 8.5 for summary trials, Rule 4.16 does make it the responsibility of the parties to participate in one or more dispute resolution processes. Therefore, while a dispute resolution process may not strictly be required before applying for a summary trial, it is certainly encouraged and a Justice may direct it.

- **What if the date on your Endorsement does not match with the date on the Notification sent out by the Court Coordinator?**

Counsel are asked to double check to make sure that the date on the Endorsement matches the date on the document subsequently sent by the Court Coordinator so that any error on dates can be corrected as soon as possible.

- **Where Counsel have agreed upon or been referred to a resolution process in FDC and that process is not successful, is there a way for them to get a court date without having to go back to FDC?**

Yes, if the referral is to Resolution Counsel or to an EICC. This will likely apply to a JDR as well when they resume.