

# ONTARIO FAMILY LAW REPORTER

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VOLUME 31, NUMBER 4

Cited as 31 O.F.L.R.

OCTOBER 2017

[Please file behind tab marked Volume 31 Newsletter]

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## • Practice Tips for Courthouses in Eastern Ontario •

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This is the second of a series of practice tips that the *Ontario Family Law Reporter* will publish on practice guidelines in regions and courthouses across Ontario. The first set of practice tips covered the Greater Toronto Area and is available in the *Ontario Family Law Reporter*, volume 31, number 3. The current set of practice tips focuses on the written and unwritten rules that practitioners must follow in court proceedings in the Eastern Region beyond what is set out in the Consolidated Provincial Practice Direction (<<http://www.ontariocourts.ca/scj/practice/practice-directions/provincial/>>). In subsequent editions, the editors will publish practice tips for courts in other regions throughout Ontario.

**East Region** consists of Belleville, Brockville, Cornwall, Kingston Family Court, L'Orignal, Ottawa, Napanee, Pembroke, Perth, and Picton.

Brockville, Cornwall, Kingston, L'Orignal, Napanee, Ottawa, and Perth are Family Courts; most appeals from the Family Court lie to the Divisional Court. Kingston and Napanee share administrative services, as do Belleville and Picton.

For the East Region, you may also wish to make a note of the family portal on the County of Carleton Law Association website (<<http://www.ccla-abcc.ca/?page=Family>>). It appears to be updated on a regular basis, and contains local practice tips and notes from the Bench and Bar committee meetings which also contain general timelines for things such as case conference and motion dates.

## **Preliminaries**

*Note:* East Region's Practice Direction

(<http://www.ontariocourts.ca/scj/practice/practice-directions/east/family/>) does not apply to cases under the *Child and Family Services Act*.

East Region has its own practice direction regarding 14B motions.

There are no special forms that must be used: those available on the Ontario Court Forms (<http://www.ontariocourts.ca/scj/practice/rules-forms/>) are fine. However, please make note of the Trial Scheduling Endorsement Form.

### Obtaining Dates

Dates for conferences and motions at the Family Law Counter can be obtained in conjunction with the Trial Coordinator's Office (contact information below). It is advisable to confirm the other party's or parties' availability for the date and an estimate of the time they will need. Parties will be held to this limit, or the motion may not be heard if the actual time required exceeds this initial estimate. It is best to obtain a new date if the original estimate was for too short a duration.

### Case Conferences

In Perth, you will not be given a case conference date until the other party has filed their answer; if the other party defaults, you must set it down for an uncontested trial date.

In Ottawa, you can get a case conference date when you issue your application. As of February 2016, in cases where a first appearance was previously required, you now have the opportunity for a short, 15-minute case conference if the matter does not involve property or divorce. You may avail yourself of this opportunity for matters of custody, access, and support. Briefs in such cases are limited to four pages, and must be served and filed in accordance with the Family Law Rules.

Starting in October 2017, Ottawa will roll out the Integrated Family and Criminal Court Project

([http://c.y.mcdn.com/sites/www.ccla-abcc.ca/resource/resmgr/pp-family/IFCC\\_Protocol.pdf](http://c.y.mcdn.com/sites/www.ccla-abcc.ca/resource/resmgr/pp-family/IFCC_Protocol.pdf)). The project aims to assist parties with family and criminal and/or child protection matters before the court. A key element of this project is the special rules regarding the first case conference. If all parties consent and otherwise meet the admission criteria for participation, they would have a special family case conference date with the Crown, defence counsel, family counsel, *Child and Family Services Act* counsel, and the Office of the Children's Lawyer. Matters that qualify for participation would be set to a special case conference date on the second and fourth Friday of each month starting October 13, 2017.

### Confirmations (Form 14C)

A Form 14C Confirmation must be filed by 2 p.m. two business days before the date of the motion or conference. The parties may each separately or jointly file the Form 14C at the Family Law Counter of the courthouse or by faxing it to the Family Court Office. (For addresses and fax numbers, see below or the East Region's Trial Coordinator Directory webpage <http://www.ontariocourts.ca/scj/practice/schedules/e/directory/>.) If no Form 14C has been filed, the conference or motion will not be heard; costs may also be ordered against a party who fails to submit their Form 14C. Notice may be given to the party that the conference or motion has been struck, as is the case in Cornwall.

If the matter settles or the issues narrow or change, the parties should notify the court by fax as soon as possible.

### Contents of 14C

The Form 14C must only list the specific issues that will be addressed. It should also list which parts of the Continuing Record the judge should review and clearly indicate them by reference to volume, tab, and page number. If this is not done, a judge may fail to review the appropriate materials or refuse to hear the motion.

tions list, the matter will be sent to a litigation agenda to be scheduled.

### Filing

There is no uniform procedure for filing. Some municipalities and regions simply require *materials* to be filed in accordance with the Family Law Rules: Belleville, Brockville, and L'Orignal.

Others simply require that one file in accordance with the Rules: Pembroke, Perth, and Picton.

Some courthouses require materials to be filed in specific timeframes:

- *Belleville* and *Picton*: the moving party must file *all* their materials within 15 days of being given a date; otherwise the date is put back into general circulation. It is possible, however, to file supplementary materials if needed.
- *Ottawa*: materials must be filed within ten days or the date is vacated without further notice to either party.
- *L'Orignal*: the moving party must file all materials as part of their application.

As noted above, if a motion is longer than one hour, a factum is required.

### 14B Motions

14B motions must be filed at the Family Law Counter (and not by fax). A Form 14B Motion Form should be accompanied by four copies of a proposed Order (Form 25), and a self-addressed, stamped envelope for each party. For local counsel, the address may be the lawyer's court office box and no stamp is needed. Note that the Family Law Rules governs the service requirements of Form 14B.

### Procedural Motions (Ottawa)

Procedural motions, which must be no longer than 15 minutes in length, include motions for a determination of urgency or hardship, seeking permission to bring a substantive motion before case conference. They should only be brought *ex parte* in compliance with Family Law Rule 14(12).

The available dates for procedural motions are posted at the Family Law Counter and in the Family Law Information Centre. One must attend at the Family Counter by 9:30 a.m. on the motion date with the served motion materials and proof of service.

### Urgent Motions on Notice

In situations of urgency or hardship — including issues such as abduction, threats of harm, or dire financial harm — a party may seek an urgent motion on notice with a case conference. However, the party seeking such a motion must still file all the required materials.

### Urgent Motions without Notice

Any urgent motion sought without notice must set out why notice is unnecessary or not reasonably possible. No factum or Summary of Argument is required in such cases.

### **Adjournments on Consent**

Notice of consent adjournments should be sent to the court as soon as possible, but certainly no later than 4 p.m. of the last business day before the scheduled event. A notice of return of motion must be delivered to obtain a subsequent date.

If the motion is to be adjourned on consent on terms or on the basis of a consent order, the original signed consent and approved draft order must be filed before the matter will be taken off the list.

An adjournment of a conference scheduled in response to a Notice of Approaching Dismissal may not be made on consent. The permission of a judge is required.

### **Conference Attendance by Video or Teleconference**

With the exception of case conferences, a request for teleconference may be made by a Form 14B.

*Case conferences*: If both parties and their counsel consent, parties may arrange for the case conference to occur by teleconference through the Family

Law Counter in conjunction with the Trial Office; often, final approval is still reserved for the judge. If both parties do not consent, then a request for teleconference may be made by a Form 14B.

*Videoconferences:* Some centres may be able to accommodate videoconferencing and be available with prior judicial approval. For information, contact the local Trial Coordinator.

### **Trial Scheduling**

If a case is not resolved at a settlement conference, the Trial Scheduling Endorsement Forms (available on the Rules and Forms page of the Superior Court of Justice website) must be completed and endorsed by the court prior to the case being listed for trial. The form must be entered into the yellow endorsement book of the Continuing Record for use at a Trial Management Conference.

If a court has directed that a Trial Scheduling Conference should be held, the parties must confirm their attendance at this conference in accordance with r. 17(14) of the Family Law Rules, and file their respective portions of the Trial Scheduling Endorsement Form in advance of the conference in accordance with the timelines in r. 17(13.1).

The Consolidated Provincial Practice Direction (<http://www.ontariocourts.ca/scj/practice/practice-directions/provincial/>) (at para. 31.9) sets out the requirements regarding what materials must be filed in advance of the Trial Management Conference. The materials in question are, in addition to the Trial Scheduling Endorsement Form:

- an offer to settle all outstanding issues, and
- an outline of their opening statement for trial.

East Region's Regional Court Schedule for 2017 is available online (<<http://www.ontariocourts.ca/scj/practice/schedules/e/directory/>>).

### **Trial Records**

The applicant must serve and file a trial record at least 30 days prior to the scheduled trial date in accordance with rr. 23(1) and (2) of the Family Law Rules. If the applicant fails to do so, the respondent may serve and file a Trial Record at least 20 days before the scheduled trial date. If either party fails to file the Trial Record, the case shall be removed from the trial list unless the court orders otherwise.

## **CONTACT INFORMATION**

### **Courthouse Addresses**

**Belleville Quinte Courthouse**  
15 Bridge Street West  
Belleville, ON K8P 0C7

**Brockville**  
41 Court House Square  
Brockville, ON K6V 7N3

**Cornwall**  
29 Second Street West  
Cornwall, ON K6J 1G3

**Kingston**  
5 Court Street  
Kingston, ON K7L 2N4

**Kingston Family Court**  
469 Montreal Street  
Kingston, ON K7K 3H9

**L'Orignal**  
59 Court Street  
L'Orignal, ON K0B 1K0

**Napanee**  
97 Thomas Street East  
Napanee, ON K7R 1L1

**Ottawa**  
161 Elgin Street  
Ottawa, ON K2P 2K1

**Pembroke**  
297 Pembroke Street East  
Pembroke, ON K8A 3K2

**Perth**  
43 Drummond Street East  
Perth, ON K7H 1G1

**Picton**  
44 Union Street  
Picton, ON K0K 2T0

This article was originally published in the Ontario Family Law Reporter, Vol. 31, No. 4

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