

FAMILY LAW TOWN HALL MEETING
TUESDAY, September 29, 2020 (12:30 - 1:30 pm)
EDMONTON REGION

Notes by Colin E. Basaraba, Barr Picard Law

Writer's Note(s):

- The Hon. Justice Yungwirth noted the Meeting Minutes will be posted online, as will be a section entitled "Frequently Asked Questions"
- Family Applications and Family Desk Applications Flowcharts attached to the end of document. See <https://www.albertacourts.ca/qb/areas-of-law/family>

Tail-end notes on pre-recorded comments by Justice Moreau

- 18 months' goal of transitioning into e-filing (completely)
 - Subsequent remark that this may be accomplished 12-18

1. Welcome and Opening Remarks

- *Brief report prepared by Exec. Director of ABQB regarding situation with Clerks:*
 - E-filing is significantly more onerous than traditional filing for Clerks
 - In the past 2 weeks, 12 new staff hired in Calgary Clerk office and 8 in Edmonton Clerk office
 - 3 new hires in Edmonton – to Family Clerk Team
 - By end of October – mid-November, the hope is to be up to date with e-filing goals
 - Edmonton turnaround for Docket Endorsements: up to date with Family Docket Court Endorsements
 - Docket Court Requests: Sept 24, 2020, Docket Requests being processed as of today's date
 - Family filing delay: 3 - 4 weeks delay at present

2. Family Docket Court

- Feedback from the Bar
 - Largely, feedback related to:
 - Difficulty in locating additional resources
 - Streamlining of processes
 - Monitoring overall impact
 - Court's hope: that Family Docket Court continue past the pandemic
 - Concept allows better judicial monitoring of processes
 - Allowed triage of families into early intervention processes
 - Allows triage of matters into appropriate portals and setting of filing deadlines
- In first 4 months:
 - 42% of matters have been triaged to Dispute Resolution Procedures (EICCs, RC, Arcast, Dispute Resolution Offers, Private Mediation, JDR)
- Biggest concerns:
 - (1) Slow turnarounds on Notices to Attend and Appearance Confirmations
 - Courts' turnaround goal on Notices to Attend = 24 – 48 hours
 - Hope is that this can be maintained
 - Today – Sept. 24, 2020 Notices to Attend being processed (so about 5 days behind)
 - (2) Adjournments
 - 40% adjournment rate on Regular Chambers dates

- Court currently working on protocol to allow adjournments:
 - (1) where a matter has settled;
 - (2) where a party needs to get counsel
 - Other reasons considerable
- Also working on another process to adjourn chambers (and specials)
- (3) Lead times
 - Stabilized somewhat after increasing the cap to 20 matters and starting at 9:30 a.m. (Family Docket Court)
 - Goal is to be 2 weeks out, at most
 - Today, spots available on Oct. 23rd and 27th.
 - Docket Court availability on the Court website is updated 2 times per day
 - 17% of Edmonton Docket matters are struck or eliminated – Counsel asked to confirm the date of Docket with OP/OC and ensure both parties are ready to attend before filing
- Not necessary to file second Notice to Attend if the Respondent wants to Reply or make a Cross-Application (bring this up during Docket Court)
 - Counsel should be prepared to address whether one exists during Docket
- Disclosure Orders are being made in Docket court
 - Come prepared to know what disclosure is outstanding (if any)
- Do not ask Justices for FIAT to bypass Docket Court
 - Except for Desk Applications and matters where EICC scheduled where leave granted, ALL matters to go through Docket
- Encouraged to go through an ADR process before coming to Docket.
 - Other options: private mediation, Resolution Services (before Docket)
- Lead times for Specials and EICCS are increasing due to volume
- “Recently Asked Questions” recently posted to ABQB Website (see for more information)

3. Urgent Matters

- “WITH NOTICE”
 - Party notifies Clerk that matter is urgent, then this is relayed to J.Y.
 - Party must then provide letter to the Justice explaining why it is urgent, copying opposing side
 - 24 hours general turn-around time
 - Decision communicated back to parties
 - If approved, Clerk is directed to contact the parties, who then sets filing deadlines/Court date
- “WITHOUT NOTICE” (parenting orders, restraining orders, preservation orders, etc.)
 - No leave required – can proceed to Regular Chambers
 - Appearance by WebEx preferred, but where necessary, may be made in person
 - Flowcharts for family and desk applications recently posted to Court website

4. Resolution Counsel

- Role changed – function as mediators to resolve matters to avoid contested court appearances
- Half-day slots – generally meet with a family only once, but may schedule a second meeting if of the opinion all matters can be resolved by a subsequent meeting
- Significant resolution rate, with positive feedback from parties and Counsel
- Prerequisites/main considerations:
 - To be referred during Docket:
 - 1 party must earn less than \$70,000; and
 - 1 must be self-represented

5. Current Status and Scheduling issues:

- Must file either via (1) email or (2) drop-box
- Self-represented parties permitted to file at the Counter
 - Lawyers can file at counter if “truly urgent”
- a. **filing lead times/filing by email and in person**
 - 25 days behind in Edmonton
 - Lawyers can file at the counter if “truly urgent”
 - More efficient for Clerks to file electronically
 - Goal: non urgent turnaround = 1 week; urgent turn around = 24 – 48 hours
 - Clerks file on date submitted (not actual date filed) – may have to serve unfiled copies and notify Specials Coordinator to avoid matter being struck
- b. **case management and Rule 4.10 Case Conferences**
 - Matters under PN7 & 8 remain under Case Management and continue to be assigned as required
 - For All other family matters, these will be removed from 6 months from Aug 31, 2020, or 12 months following period of litigation activity.
 - Going forward, no case management assigned by Docket Court
 - Request for Case Conference can be directed by Docket or Chambers, but these requests must be made to designated Justice in that city/region (Neilson J. in Edmonton)
- c. **chambers caps**
 - 15 matters (Edmonton)
 - Lead time – less than 1 week
- d. **adjourning special chambers**
- e. **EICC's**
 - Increased each week compared to before pandemic (from 9 to 13 presently)
 - Lead time – 11 weeks from Docket
 - Case Conference Coordinator – tax returns and other documents are not to be attached to EICC summary (but a settlement proposal is helpful)
- f. **JDR's**
 - Not available this Fall – unable to comment on when they will be available in the future
- g. **Scheduling Trials and Oral Hearings**
 - Currently doing so
 - Leave must be provided in Docket, Chambers or otherwise for Oral Hearing or Trial
 - Trial - Form 37 Pre-trial conference issues must be address as well even if given leave
 - Priority given to adjourned and urgent matters
 - Docket can give leave to schedule trial date, etc.
 - ADR Rules of Court Requirements still in effect
 - For oral hearing:
 - Form must still be completed
 - Summary trial:
 - Encouraged
 - Summary trial order should be prepared by Counsel (posted to website soon)
 - Apt for property related matters
- h. **FAQ's and Applications Flow Charts**
 - *See end of this document.*

6. Parenting After Separation, CSRO/DRO and S. 21 Disclosure

- Before pandemic, mandatory before certain applications – changed since docket court
- Litigants encouraged to complete PAS before Docket
- Disclosure requirement (pre-child support application) being made

7. Alternative Dispute Resolution – please consider before Family Docket Court

8. Desk Applications

a. Divorces Without Oral Hearing

- Common rejections:
 - 1) Summary of Child Support Guidelines Calculations missing
 - 2) Payor/Recipient mixed up in documents
 - 3) If “short marriage” (under 6 months) – reason in Affidavit of Applicant should be provided for why the marriage is so short
 - 4) Missing Disclosure/MEP/Recalculation clauses
 - 5) When combined action, note in preamble whether property action is outstanding
 - **These will be posted to the Court Website soon

b. Consent Orders and Without Notice (non-urgent) Applications

- Edmonton is 4 weeks behind processing
 - Target is 1 week.
- If Application is urgent, mark it as such in the email sent to the Clerk
- Consent Order should say “Consent Order to be Signed” in the subject line (in addition to the naming conventions on the ABQB website)
 - *Note: see the email titling instructions on the Court website.*

c. With Notice Desk Applications (Notice to Disclose, Simple Desk Applications, and Desk Applications with Written Argument)

- No requirement to attend Docket Court first
- Written Argument Applications – allows counsel to agree on their own filing deadlines
- Court urges Counsel to consider Desk Application processes
- How to submit desk application:
 - Resolution Services website has a guideline
 - All E-filing
 - For Desk Application on Notice – should be submitted under “Divorce Filing (or Family Filing) - File No. – Location”
 - Submit all documents at once (if Applicant)
 - Read May 8, 2020 Notices to the Profession on the Court Website, as well, as the recent Flowcharts that have been posted

9. Questions/Feedback from the Family Bar

- Court Reserved 1st and 3rd each month for JDRs (virtual for the time being)
- Regarding Appeals, new Appeal Conference Pilot
 - For fast track family appeal filed on/after October 1, 2020
- (1) [missed]
- (2) EPO review and parenting orders, granted in the same order?
 - EPOs must be prepared by Clerk – different Court File Numbers and merging should not be occurring

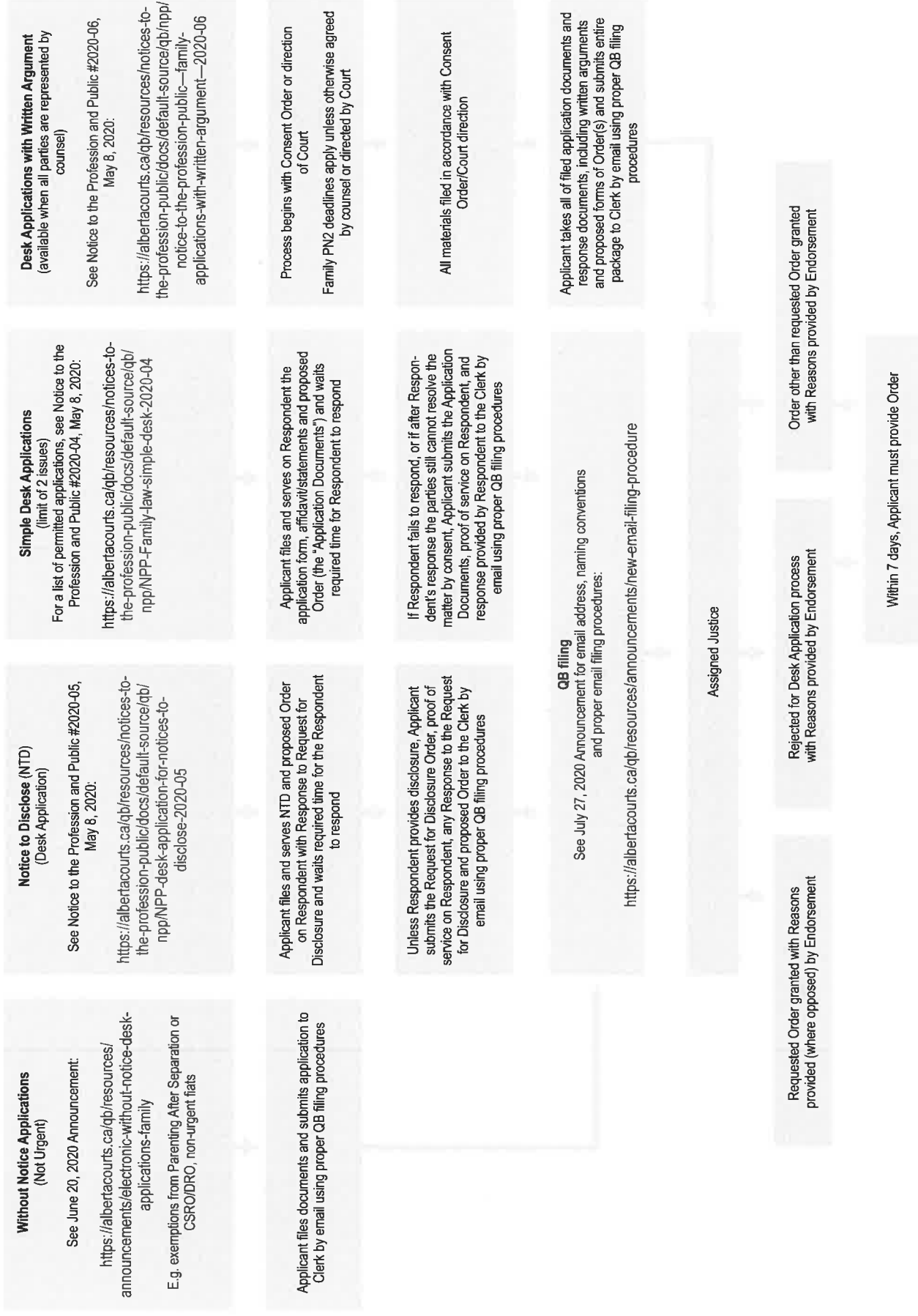
- If there is a parenting Order granted at the time of an EPO review, these must be done separately by Counsel (different file numbers for matters)
- (3) Can Counsel set Regular Chambers or Specials without Docket Court if consented to by both?
 - Not at this time. Will review.
- (4) Difficulty about getting Clerk on the phone?
 - Clerks are working to exhaustion, getting more clerks and recent update to phone system will help
 - Counsel to listed to auto-process recording for wait times and court
- (5) Delays in document searches?
 - Additional Clerks hired to assist
- (6) Possible to drop of physical copies of documents and know they will get to where they supposed to go?
 - Yes
 - If urgent, Counsel can file at counter
- (7) Obtaining disclosure if not action started (no file number)?
 - Letter, email, unfiled Notice to Disclose always an option
 - Also, option of setting a Docket Date and using this file number from the Docket Appearance for the Notice to Disclose
- (8) Delays in filing for Notices to Disclose ?
 - Recommended that Counsel factor in delays or leave deadline blank for reviewing Justice to complete
- (9) [Unable to hear]
- [10] Expand Notice to Disclose to include production of more disclosure other than that which are listed?
 - Inappropriate, should not be happening
- (11) OC filing Notice to Attend Docket Court long into future then Counsel not able to bring matter forward? In other words, problems arising when Docket is set so far into the future that the Clerk will not set a second Court date to address a subsequently arising matter while a pending Docket appearance is on the file?
 - Both lawyers should get consent of one another for docket dates; avoidable
- (12) Why aren't Judges ordering parenting coordination?
 - Best addressed by arbitrator and not by court – Court cannot delegate authority in this way
- (13) Any expectations as to how Docket matters should take?
 - Goal is to be done before 12:30 p.m.
 - Biggest cause of delay: technological, and Counsel/parties trying to argue substantive issues
- (14) Can we add something to a Disclosure Order, so that the Applicant can go straight to Chambers and not back to docket?
 - Court thinks this is a good suggestion, is looking into it
- (15) 'Emergency' Family Docket list?
 - Not at this time.

- (16) Bounced requests for Docket can be fast tracked or must go back to queue?
 - Hopefully no longer an issue as Notices to Attend have shorter turn-around times
- (17) Possible to allow online Docket scheduling so lawyers can do their own scheduling online?
 - Not currently with available technology, no.
- ***Other questions from Webex Chat Function:***
 - (18) Why are FIATS being granted without first notifying Counsel?
 - This is not supposed to be done, though in some cases may be appropriate. However, the notice requirement still applies.
 - (19) Clerk shortages in regional courts?
 - Unable to address this question.
 - (20) How do we find out where a desk application is at in the process?
 - Court can find out, though the issue in the delay are mostly related to coming in and going out of documents.
 - As Clerk resources improve, this should improve.
 - (21) As we cannot get trial dates, why are we going to out of date conferences and re: PN8s when no dates can be set?
 - Justices still assigned to PN8s / with leave to schedule trial date / address other issues still occurring. Can still get trial dates (see above)
 - (22) Without notice for exclusive possession – can it go straight to chambers?
 - Can - Chambers Justice can make that determination
 - (23) [Did not hear]
 - (24) Desk Applications – can the process be amended for Judges to submit questions to parties?
 - Currently, Judges can do this, and it may happen from time to time. At the discretion of the Justice.

[End of document]

Family Desk Applications Flow Chart

This flow chart is provided as a guide only. If there is any inconsistency between this flow chart and the applicable Announcement or Notice to Profession and Public, the latter applies



Family Applications Flow Chart

(Excludes Desk Applications)

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