

**FAMILY LAW TOWN HALL MEETING**  
**January 16, 2018 at 12:30 pm**  
**Courtroom 317**

**AGENDA**

1. Welcome and Introduction (Yungwirth, J)
2. Desk Divorce Processing Times
3. Feedback from Queen's Bench Family Chambers Clerks
4. Mandatory Early Intervention Case Conference Pilot Project
5. Practice Note 10 – Access to Court Files in Family Proceedings
6. Practice Note 2 Status Update
7. Case Management Related to Practice Notes 7, 8, and 5
8. Practice Notes 7 and 8 Status Update (Pentelechuk, J)
9. Filing of Extra-Territorial Parenting Orders
10. Filing of Orders in Chambers Pilot Project
11. Court/Family Bar Working Group Committee
12. Court Initiatives to Reduce Lead Times (Chief Justice M. Moreau)
13. Feedback and Comments from the Family Bar

# Family Town Hall Meeting

Jan. 16/18

## ① ~~Desk~~ Divorce Processing Times

- 4-5 weeks w/ children
- 1-2 weeks w/out children
- down significantly from previous
- try to process 75 divorces per week
- target 7 days to get DJ's back to counsel after page signs - they are currently @ 7 days.
- \* - Make sure child support Guidelines sheets are submitted - even required where corollary relief severed
- see attached rejection sheets.

## ② Feedbacks from QB family Clerks

- make sure to remove NTD app'n's from the list if you get your disclosure!
- make sure to remove special app'n's if resolved
- \* - cross-applications cannot be added to a full list w/out a fact - clerks don't have authority
- Disclosure Statements are required if child support app'n.
- existing PNA still in effect, new one possibly in force in April

- applications w/ multiple issues taking up more spaces on list - they're working on this.
- \* - Get your orders filed ASAP after they are granted
  - ↳ send clerk's notes if some time has gone by.
- Section 7 expenses orders - many still very generic - remember changes w/ MEP!! Specify the covered activities, and/or specific cost for expenses

### (B) Early Intervention Case Conference Pilot

- started Sept. 2017 w/ 1st cases
- Rule 4.10 case conferences still available by Court order - not replaced by this
- files heading to specials, parenting issues priority for selection.
- CGO clerk prepares order referring to pilot project, parties provided w/ red folder w/ info about process

↳ Counsel to provide orders arising from conference itself, if counsel

- Justices don't review entire file first
- One hour s/bts, w/ 30 min breaks in between.

- in courtroom, recorded, but can't get transcript or recording w/out leave of judge
- not possible for parties or counsel to request one, needs to be referred thru regular chambers.
- 2 year pilot project.
- early stats:
  - Edmonton Sept 8 - Dec. 15 - 44/50 slots used
    - 23% all issues resolved
    - 20% partially resolved
    - 41% interim resolution reached
    - 16% no issues resolved
- adjournments - if you say you're available in chambers when referred - DON'T ADJOURN they'll only be granted by order of judge in exceptional circs.
  - ↳ will need to replace the original order w/ new order & new dates.
- applications are not being adjourned to the case conference
  - ↳ either adjourned to specialists, or adjourned sine die

#### ④ PN 10 - Access to Court Files

- new disclosure  
filing rules
- Following Nova Scotia model - balance btw public court & protecting confidential info
  - media not generally interested in most run of mill family files - mostly in murder-suicide, urgent cases of public interest

LA media exempt from timelines

- \* - applies to Court runners. Must give them the authorization to access
- doesn't apply to Certificates of Divorce

#### ⑤ PN 2 Update

Court of QB  
Announcements  
Section

- 2 rounds consultations, lots of good responses - made some changes & deliberately rejected others, 'parking' some ideas for later consideration
- full court approval hopefully end January

##### Differences

- reply affidavits permitted
- procedure clarity on cross-apps
- removed requirement of consent for special app. scheduling - if you can't get cooperation, can choose date & respondent can't get a fiat if doesn't work

- if cross-app is filed, often not agreement on whether it will extend time, if new date set, etc. - must go to court to seek leave in chambers

- exhibits can't be used to lengthen affidavits!

- concise letters all filed @ same time

- requirements for filing info from MEP, etc.

★★ - deadlines now based on date of scheduling, not date of app'n (much sooner than before)

↳ hopefully to help w/ time for questioning, settlement, etc.

↳ brief update affidavits allowed sooner to app

1 hour or less - 1st available for 2 position is June 6, 2018

- 18 spots from Feb - June in 3rd position

★★ - excellent chance you'll be heard even in 3rd spot!! Not often sent home, they do their best to schedule w/in 1-2 weeks if you do get bumped.

(sometimes get booked in 1/2 day emptied spots)

- 1/2 day = October 2018

(5)

## ⑦ Case Management re: PN 7, 8, 5

- Judge who makes order for PN will assess whether or not CM necessary (report to go to them for assessments)
- waiting on results from a report

## ⑧ PN 7 & 8 update

- PN 8 recommendations in hands of committee

avoids state  
reports  
assessments

- \* - recommending automatic CM where a PN 8 has been ordered.
- recommending amount of material brought to psychologists be limited to pleadings, orders, etc.
- PN 7 review ongoing, hoping to make it more concise
  - ↳ would not require automatic CM.
- select & consult w/ expert before getting the order in Court, to make sure it's appropriate
- \* - College of Social Workers to put out roster list of which parenting experts conduct which kinds of interventions

⑨ Extra-Territorial Parenting Orders Pilot

~~Almost no uptake~~  
~~being terminated~~

- Jan. 8, 2018 - procedure to ensure clerks will not file any extra-territorial parenting order w/out bringing application or seeing judge ex-parte

⑩ Filing orders in chambers pilot

↳ terminated, almost no uptake

⑪ Court-Bar Working Group

- tabled, very little response so far

⑫ Justice Moreau Update re: reducing lead times

- Moreau constantly calling Ottawa to seek more judges, but need to be creative in meantime

★★ - "enhanced booking" for short trials - overbooking trials for 5 days or less to hopefully get more scheduled sooner, & knowing how many settle.



- Supernumary judges are stepping up to cover some of these extra spots throughout province
- are going to try & double/triple book ~~longer~~ longer trials soon as well
- if you get booked, all efforts to be made to get you in ASAP.
- early intervention pilot doing well & will hopefully cut down wait times on specials.
- PN7 - refusal of CM letters on PN7, really "adjoined" for now - too many issues that don't need CM are in CM right now.
- use the Rule 4.10 case conferences to help put litigation plans in place to move toward trial sooner

### ⑬ Questions/Comments

- Court will not go in direction of mandated parenting coordination to keep files out of court - b/c it's like arbitration & often has decision-making component, Courts don't have jurisdiction to order this as parties need to consent
- concern over having to do separate authorizations for court runners for ea. file

send concerns to Court  
↑

- PN 2 new specials deadlines - what about transcripts for cross-exam?? Ungeworth says to try & arrange for questioning before confirming letter is due  
↳ need to "shift our thinking!"

## Summary of Form Requirements Family Law Information Centre (Edmonton)

- ***Court mandated form (Summary of Child Support Guideline Calculation Sheet) is required in all cases involving children.***

Pursuant to **s.11(1)(b)** of the *Divorce Act*, the Court must “satisfy itself that reasonable arrangements have been made for the support of any children of the marriage, having regard to the applicable guidelines, and, if such arrangements have not been made, to stay the granting of the divorce until such arrangements are made”. As such, it is a direction of the judiciary that the court mandated form be submitted in all cases involving children.

- ***Judgment incorporates another document by reference***

It is a practice of our Court to reject the application if the Divorce Judgment simply incorporates another document by reference (i.e. if the body of the divorce judgment simply states that the prior order or agreement shall continue).

- ***Severing of Corollary Relief Issues***

To sever corollary relief, **prior** leave of the Court either by desk consent order or contested application in Chambers is required. It must then be stated in the body of the Divorce Judgment that the corollary relief issues are severed (and are to be determined at a later date).

An order severing corollary relief will not likely be given unless you are able to show the Court that the Guideline amount of child support will continue to be paid under an existing order or agreement.

There are two distinct applications, each with different evidentiary requirements. First, you must apply for leave to sever. Second, you would apply for the divorce judgment. The court may have been satisfied that there was a procedural reason for leave to sever. However, when subsequently applying for the divorce judgment, the court must be provided with evidence to substantiate s. 11(1)(b) of the *Divorce Act* (that reasonable arrangements have been made for the support of the children, having regard to the *Guidelines*).

Pursuant to the direction of the judiciary:

- ◆ the preamble must contain names and birth dates of children;
- ◆ the preamble must contain the guideline incomes of the parties, unless the guideline incomes of the parties have been referred to in the order granting leave to sever corollary relief issues;
- ◆ the details of the ongoing order or agreement for support should be included in the preamble;
- ◆ for default or consent matters, paragraphs 13, 14 and 15 of the Affidavit of Applicant must be completed (see *Alberta Rules of Court*, Schedule A, Division 2, Family Law Forms, Form FL-23);
- ◆ for joint divorce matters, paragraphs 10, 11 and 12 of the Affidavit of Applicants (Joint) must be completed (see *Alberta Rules of Court*, Schedule A, Division 2: Family Law Forms, Form FL-24);
- ◆ the court form (Summary of Child Support Guideline Calculation sheet) is required;
- ◆ the mandatory annual Financial Disclosure Provision is required (see *Alberta Rules of Court* Schedule A, Division 2, Family Law Forms of Form FL-27).

- ***Reservation of Child Support***

In cases where there is an application for a reservation of child support, reasons should be provided as to why the reservation is being requested. Reason should appear in the Preamble (for consent orders) or should be included in the Affidavit of Applicant (for divorce applications).

The judge may not grant a divorce judgment which contains a reservation of child support unless sufficient reasons for the reservation are given. The fact that the parties have agreed to a reservation is not enough. Examples of sufficient reasons

July 21, 2015

may be that the payor parent is ill and unemployed, or that the equivalent of Guideline child support has been given by way of an unequal division of matrimonial property.

Pursuant to the direction of the judiciary:

- ◆ the preamble must contain Guideline incomes (even if unknown or zero ) and names and birth dates of children;
- ◆ for default or consent matters, paragraphs 13, 14 and 15 of the Affidavit of Applicant must be completed (see *Alberta Rules of Court*, Schedule A, Division 2, Family Law Forms, Form FL-23);
- ◆ for joint divorce matters, paragraphs 10, 11 and 12 of the Affidavit of Applicants (Joint) must be completed (see *Alberta Rules of Court*, Schedule A, Division 2: Family Law Forms, Form FL-24);
- ◆ the court form (*Summary of Child Support Guideline Calculations* sheet) is required;
- ◆ the mandatory annual Financial Disclosure Provision is required (see *Alberta Rules of Court* Schedule A, Division 2, Family Law Forms of Form FL-27).

□ ***Departing from the Guidelines***

**Note:** If the award amount is different from the *Guidelines* due to special circumstances, such as shared custody, child over 18, undue hardship or income over \$150,000.00 then this is still following the *Guidelines*, and is not "agreeing to depart." In situations where child support is a different figure than the table amount due to special circumstances, the specific reason for that situation should be identified in the preamble.

The judge will not likely grant a divorce judgment which provides for child support at less than the Guideline amount unless sufficient reasons for the departure are given. The fact that the parties have agreed to a departure is not enough. Examples of sufficient reasons may be that the payor parent is ill and unemployed, or that the equivalent of guideline child support has been given by way of an unequal division of matrimonial property.

The parties must actually be agreeing to a different amount of child support; the total award amount must be different from the combined table amount and any s. 7 expenses calculated under the *Guidelines*.

The court forms (*Summary of Child Support Guideline Calculation Sheet*) are still required and must contain the actual Guideline amounts, not the agreed upon amount. The departure should be indicated only in the bottom section of the court form ("Departing From Guidelines").

If the parties are agreeing to a different amount of child support than the amount determined under the *Guidelines*, pursuant to the direction of the judiciary:

- ◆ the preamble of the order must indicate that the parties are agreeing to depart from the *Federal Child Support Guidelines*; and provide the reasons for the deviation, whether in the preamble or in the Affidavit of Applicant.
- ◆ the preamble must contain Guideline incomes and names and birth dates of children;
- ◆ for default or consent matters, paragraphs 13, 14 and 15 of the Affidavit of Applicant must be completed (see *Alberta Rules of Court*, Schedule A, Division 2, Family Law Forms, Form FL-23);
- ◆ for joint divorce matters, paragraphs 10, 11 and 12 of the Affidavit of Applicants (Joint) must be completed (see *Alberta Rules of Court*, Schedule A, Division 2: Family Law Forms, Form FL-24);
- ◆ the court form (*Summary of Child Support Guideline Calculation* sheet) is required – complete as indicated above.
- ◆ the mandatory MEP clause, **recalculation clause** and annual Financial Disclosure Provision are required (see *Alberta Rules of Court* Schedule A, Division 2, Family Law Forms of Form FL-27).

# RETURN SHEET

November 2017

YOUR ENCLOSED DOCUMENTATION IS BEING RETURNED FOR THE FOLLOWING: - PLEASE CORRECT AND **RESUBMIT WITH THIS FORM**

<p style="text-align: center;"><b>GENERAL</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> White Out is not permitted on any court document</li> <li><input type="checkbox"/> Pursuant to <i>Rule 13.13(2)</i>, information on the document should be set out in full as it pertains to each action number.</li> <li><input type="checkbox"/> Style of Cause doesn't match commencing document or action number is incorrect/missing.</li> <li><input type="checkbox"/> there is no name, address and contact information of the party or lawyer of record who prepared the document.</li> <li><input type="checkbox"/> Original document is missing. Pursuant to <i>Rule 13.13(6)</i> when a document is filed, the court clerk must retain the original of the document/original signature.</li> <li><input type="checkbox"/> Does not comply with Practice Note 10 – Requires Authority to Access Family Law File</li> <li><input type="checkbox"/> Double sided documents not permitted</li> <li><input type="checkbox"/> One Substantial Matter per Chambers Application</li> </ul>	<p style="text-align: center;"><b>ORDERS/JUDGMENT</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> As per Notice to Profession #6, all Orders involving child support, signed or not, must have the appropriate <b>(Summary of Child Support Guidelines)</b> calculations completed and submitted to Chambers before the Order will be filed. This includes orders granted under Provincial Legislation.</li> <li><input type="checkbox"/> As per Notice to Profession 2015-02, all Orders involving child support must include one of two standard clauses stating Child Support Recalculation may or may not recalculate.</li> <li><input type="checkbox"/> Pursuant to <i>Rule 9.5(2)</i> A judgment or order is not to be entered more than 3 months after it is pronounced except with the Court's permission, which may only be obtained on application with notice served on each of the other parties.</li> <li><input type="checkbox"/> Pursuant to <i>Rule 3.60(2)</i>, the defendant cannot file a Default Judgment on a Counterclaim without leave of the court with notice to the Plaintiff.</li> <li><input type="checkbox"/> Missing MEP Clause, Exchange of Financial Information Clause and/or Recalculation Clause</li> </ul>
<p style="text-align: center;"><b>PRACTICE NOTE #2</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Commissioner's Information is missing on jurat and/or Exhibits</li> <li><input type="checkbox"/> Changes are not authenticated by Commissioner</li> <li><input type="checkbox"/> Affidavit exceeds allowable pages (5)</li> <li><input type="checkbox"/> Exhibits exceeds allowable pages (40)</li> <li><input type="checkbox"/> Table of Contents (index sheet) is missing</li> <li><input type="checkbox"/> Exhibits are not commissioned</li> <li><input type="checkbox"/> Exhibit pages are not numbered</li> <li><input type="checkbox"/> Exhibits are not tabbed</li> <li><input type="checkbox"/> Previously Filed Materials as Exhibits</li> </ul>	<p style="text-align: center;"><b>OLD FORMS</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> This document has been returned as it is in the old format. The new Rules of Court along with the new prescribed forms came into effect November 1, 2010. A grace period of two months was provided by the Chief Justice and the Associate Chief Justice which ran out December 31, 2010. All documents filed after January 1, 2011 must be in the new format as prescribed in the Rules of Court.</li> </ul>
<p style="text-align: center;"><b>APPLICATIONS</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Your Application must be by way of Family Law Act Claim</li> <li><input type="checkbox"/> Child Support Application requires Sworn Disclosure Statement pursuant to the Notice to Profession of April 15, 2016.</li> <li><input type="checkbox"/> Our records indicate that your client has not completed the "PARENTING AFTER SEPARATION COURSE". We are unable to file your application until the certificate or an exemption is filed.</li> <li><input type="checkbox"/> Application must be filed with an Affidavit in support of the Application</li> <li><input type="checkbox"/> Your Application is missing the "Certificate of Lawyer"</li> <li><input type="checkbox"/> Pursuant to <i>Rule 12.41(7)</i> the returnable date in the Notice to Disclose Application does not allow for 30 days to comply. notice</li> </ul>	<p style="text-align: center;"><b>TRIALS</b></p> <p>Pursuant to <i>Rule 8.4(2)</i>, Form 37 is missing the following information:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The <b>number</b> of witnesses</li> <li><input type="checkbox"/> Length of trial</li> <li><input type="checkbox"/> Copy of <b>all</b> pleadings (commencement doc./defences/ cc claim/amendments)</li> <li><input type="checkbox"/> Names of any Justice(s) who may have a potential conflict</li> <li><input type="checkbox"/> Signature of party is missing</li> </ul> <p style="text-align: center; margin-top: 20px;"><b>OTHER</b></p> <p>Clerk: _____ 780.643.1137</p> <p>Date: _____</p>

# DIVORCE RETURN SHEET

## WITH CHILDREN

YOUR ENCLOSED DOCUMENTATION IS BEING RETURNED FOR THE FOLLOWING  
PLEASE CORRECT AND **RESUBMIT WITH THIS FORM**

### GENERAL

- ☐ White Out is not permitted on any court document
- ☐ Incorrect Divorce Forms
- ☐ Pursuant to *Rule 13.13(2)*, information on the document should be set out in full as it pertains to each action number.
- ☐ Style of Cause doesn't match commencing document **or** action number is incorrect/missing.
- ☐ there is no name, address and contact information of the party or lawyer of record who prepared the document.
- ☐ Original document is missing. Pursuant to *Rule 13.13(6)* when a document is filed, the court clerk must retain the original of the document/original signature.
- ☐ Affidavit of Service not filed or Statement of Claim not properly served
- ☐ Note in Default – not 20 clear days
- ☐ Demand of Notice/Statement of Defence filed

### DIVORCE JUDGMENT

- ☐ Names/Date/Place of Marriage does not match the Marriage Certificate
- ☐ Note in Default, Statement of Defence and/or Counterclaim has been filed – Defendant is required to consent to Divorce Judgment or leave of the court is required to proceed.
- ☐ Affidavit of Execution is required for unrepresented parties.
- ☐ Date and Location of marriage must appear in dissolution

### AFFIDAVIT OF APPLICANT

- ☐ Certificate of Marriage is not attached (Married in Canada) or incorrect document
- ☐ Outside of Canada – not sworn in Solemn Form
- ☐ Names/Date/Place of Marriage on Marriage Certificate does not match the Statement of Claim
- ☐ Not Separated for one year
- ☐ If Adultery/Cruelty, missing Affidavit
- ☐ Date of Separation does not match the Statement of Claim
- ☐ Commissioner's Information is missing on jurat and/or Exhibits
- ☐ Changes are not authenticated by Commissioner
- ☐ Jurat/Exhibits not dated or incorrectly dated
- ☐ Children not addressed in affidavit
- ☐ Exhibits are not commissioned
- ☐ Supplemental Affidavit is required

### CHILDREN REQUIREMENTS

- ☐ Children's Names/Birthdate does not match Statement of Claim, Affidavit or Divorce Judgment
- ☐ Income of parties do not match Affidavit of Applicant, Divorce Judgment, Summary of Child Support Guidelines
- ☐ Parenting After Separation Certificate not filed
- ☐ Severing or Reservation– requires reason /income/names in preamble in Judgment
- ☐ Missing MEP Clause, Exchange of Financial Information Clause and/or Recalculation Clause
- ☐ Missing Summary of Child Support Guidelines or incorrect
- ☐ Alberta does not take jurisdiction with respect to children residing outside of Canada
- ☐ When Noted in Default – relief in Divorce Judgment does not reflect the relief requested in Statement of Claim.

Clerk: \_\_\_\_\_ 780.643.1137

Date: \_\_\_\_\_

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<p align="center"><b>AFFIDAVIT OF APPLICANT</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Certificate of Marriage is not attached (Married in Canada) or incorrect document</li> <li><input type="checkbox"/> Outside of Canada – not sworn in Solemn Form</li> <li><input type="checkbox"/> Names/Date/Place of Marriage on Marriage Certificate does not match the Statement of Claim</li> <li><input type="checkbox"/> Not Separated for one year</li> <li><input type="checkbox"/> If Adultery/Cruelty, missing Affidavit</li> <li><input type="checkbox"/> Date of Separation does not match the Statement of Claim</li> <li><input type="checkbox"/> Commissioner's Information is missing on jurat and/or Exhibits</li> <li><input type="checkbox"/> Changes are not authenticated by Commissioner</li> <li><input type="checkbox"/> Jurat/Exhibits not dated or incorrectly dated</li> <li><input type="checkbox"/> Children not addressed in affidavit</li> <li><input type="checkbox"/> Exhibits are not commissioned</li> <li><input type="checkbox"/> Supplemental Affidavit is required</li> </ul>	<p>OTHER _____</p>  <div style="text-align: right;"> Clerk: _____ 780.643.1137  Date: _____ </div>