



**Summary of Teleconference Between
The Bench and Family Bar
August 13, 2020**

Justices in Attendance:

Chief Justice Moreau

Associate Chief Justice Rooke

Associate Chief Justice Nielsen, Chair of the Court of Queen's Bench Pandemic Response Committee

Justice Kenny, Co-Chair of the Family Law Steering Committee (Calgary)

Justice Yungwirth, Co-Chair of the Family Law Steering Committee (Edmonton)

Justice Bensler (Calgary)

Justice Hillier (Edmonton)

Justice Shelley (Edmonton)

Justice Michalyszyn (Edmonton)

Justice Hopkins (Red Deer)

Justice Bokenfohr (Edmonton)

Justice Hollins (Calgary)

Justice Ashcroft (Calgary)

Justice Dilts (Calgary)

Discussion:

- Filing
 - The Court was not ready for the sudden change to email filing caused by the pandemic and is still adjusting.
 - The Court is still paper-filing despite the new email-filing process. Clerk work has increased exponentially as everything forwarded by email for filing still has to be printed to paper file until the court has an e-filing system.
 - There were clerk vacancies. The Court advocated to Resolution and Court Administration Services (RCAS) which is responsible for the Clerks' Office to fill these positions and steps are being taken by RCAS to do so. 5 new clerks have been hired in each of Edmonton and Calgary.
 - Summer vacation schedules and work-from-home arrangements have also had an impact on clerk availability, although work is ongoing to bring clerks back to be physically present in courthouses.
 - The Court is hearing concerns from the bar about document filing delays and has brought these concerns to the attention of RCAS.



- Counsel can assist by adhering to e-filing standards and e-filing guidelines posted online. Following proper naming conventions protocols for emails speed up automation and assist with processing times.
- Family Docket/Family Chambers/Desk Applications Update
 - The cap on number of files heard in Family Docket Court has increased and the start time was moved to 9:30 to reduce lead times.
 - Justices review the files in advance.
 - Justices complete docket endorsements in real time or try to get them out within 24 hours.
 - 778 matters in Edmonton and 755 matters in Calgary have gone through Family Docket Court as of August 4, 2020.
 - In Edmonton, 14% were adjourned or struck; 32% were referred to an ADR process; 28% were scheduled for regular chambers; 23% were scheduled for special chambers; 5% were directed to a desk application; 8% were resolved by consent.
 - In Calgary, 20% were adjourned or struck; 30% were referred to an ADR process; 24% were scheduled for regular chambers; 19% were scheduled for special chambers; 2% were directed to a desk application; 14% were resolved by consent.
 - The Court has more capacity for desk (in writing) applications, especially in the summer. There is also more capacity for referrals to Family Resolution Counsel.
 - Counsel are encouraged to submit special chambers applications as desk applications.
 - Lead times between attending family docket and the next process have remained reasonable.
 - Counsel are reminded to confirm dates with opposing counsel prior to scheduling family docket. Counsel not being available is why we still have adjournments occurring in family docket.
 - When a notice to attend Family Docket Court is filed, a second is not required if a cross-application is anticipated. The Justice can triage all issues raised by either side. Filing a second notice takes up a spot on the list that could have gone to a different matter.
 - As of August 13, Calgary clerks were working on processing Notices to Attend Family Docket submitted August 5 and there were 187 requests in the queue.
 - As of August 10, Edmonton clerks were working on Notices to Attend Family Docket submitted July 30 and there were 200 in the queue.



- In Edmonton regular family chambers there were 3-14 matters set each day in August. In Calgary regular family chambers there were 1-8 matters set each day in August.
- Regular chambers lists are capped at 15 matters. The Court is monitoring this to see if the cap needs to be reduced to ensure all matters are heard or if more regular chambers times need to be added.
- An EICC Justice can send a matter to regular chambers or special chambers. A regular chambers Justice can send a matter to special chambers. Family Resolution Counsel can request a regular chambers date or special chambers date without the matter having to return to Family Docket Court first.
- EICC forms require each party to make a proposal. Counsel are encouraged to attach a draft order as well so that the EICC Justice has a draft to work from.
- There is a 5-week turnaround time on desk divorces in Calgary from date of submission to date of clerk review. In Edmonton this is 17 days on matters with children and 10 days on matters without children. Turnaround time from date of submission to a Justice to date of return was not available for this meeting and may be available for the next meeting.
- For other desk processes, clerks in Edmonton are almost a month behind processing submissions.
- Clerks are receiving 50-60 calls per day from counsel/parties asking where documents are. Counsel are encouraged to be patient because responding to these calls takes up a lot of clerk time.
- The Applicant is responsible for putting a desk application package together and submitting it for processing using the naming convention protocols posted on the website. Remember to include a form of order in the package. An Endorsement from a desk application is not the official order and the order still needs to be prepared.
- There are 80 desk applications being processed in Edmonton currently and 50 in Calgary.
- A protocol is being finalized for a process to follow if a document is submitted and a response has not been received from the clerk.
- The Court was asked to prepare flow charts explaining the new processes. Two flowcharts have been prepared – one for non-desk applications and one for desk applications. Both will be posted online shortly.
- Case Management
 - An announcement for the Court's website is being finalized.
 - Changes to this process are driven by the changing role of Case Management Counsel to Family Resolution Counsel.



- Practice Note 7 and Practice Note 8 matters will likely remain in Case Management unless they can be removed through Resolution Counsel meetings, an Early Neutral Evaluation or a Litigation Plan.
- Other Case Management matters will be reviewed and will generally come out of the Case Management process unless the Justice assigned specifically asks for it to remain in Case Management.
- In the future, there will not be directions into Case Management from Family Docket Court. However, parties may request a Rule 4.10 Case Conference. If a Justice hearing a Rule 4.10 Case Conference recommends Case Management it will be considered.
- Future Practice Note 7s – reports will continue to go to the Justice who granted the Practice Note 7 Order and that Justice can recommend to the Chief Justice and/or Associate Chief Justices a referral to a Rule 4.10 Case Conference or Case Management.
- Future Practice note 8s – the Chief Justice and/or Associate Chief Justices will continue to determine where these matters go.
- Hague Convention Matters – Justice Nixon continues to be the liaison in Calgary/South and Justice Kendell continues to be the liaison for Red Deer/North. These Justices are the first set of eyes on these applications but may not ultimately decide them all.
- COVID-19 Update
 - Masks remain mandatory in all public areas of the courthouse.
 - In courtrooms, mask wearing is in the discretion of the presiding Justice or Master.
- Courtroom Etiquette
 - The Court will be sharing an etiquette guide for Webex hearings shortly.
 - Counsel are reminded that business attire is required for Webex court hearings.
 - In the next week or two the Court will be employing a uniform background for Justices/Masters' remote hearing.
 - Counsel should be utilizing high speed internet, have other browsers closed, utilize a headset for improved sound, and ensure they are muting microphones when not speaking.
 - Remember to introduce yourself for the record and look into the camera when speaking.
 - Ensure formality of the court process. Water is okay but there should be no other food or drink, including coffee. No pets, ensure a quiet space.
 - Clients are entitled to attend but they must sign the undertaking not to record or reproduce the hearing.



- Webex is no less formal in the result than a Court hearing. Counsel are reminded that hearings are not negotiations and that they should not be arguing with the Justice once a decision is made.
- Summer and Fall 2020 Trial Bookings
 - Summer bookings (to September 4th) for *viva voce* hearings, trials and JDRs are ongoing. Edmonton's schedule is quite full but there are still some openings in Calgary.
 - Fall trial bookings are available in the various regions utilizing the booking request form online. Fewer slots are available in Edmonton than in the other locations. Some triaging may need to occur due to limited availability.
 - There is risk of a family trial being bumped by a criminal Jordan-threatened matter, but the Court is doing its best to avoid this.
- Concerns of the Family Bar
 - Could the timeframe to get search requests back be sped up?
 - The Court advises that it is close to releasing a new online search platform that takes searches outside of the e-filing address. This is being piloted currently.
 - Delay in filing Special Chambers materials – could these be given priority?
 - The court will consider this.
 - Timeframe to get consent orders back – could there be a separate process for urgent consent orders such as those required for MEP or for real estate closings?
 - The court will consult with RCAS on this issue.

Next meeting: September 28, 2020 at 1:00 p.m.