



## Summary of Teleconference Between The Bench and Family Bar June 11, 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 Eamon (Calgary)

Justice Slawinsky (Red Deer)

Justice Bokenfohr (Edmonton)

Justice Kubik (Lethbridge)

Justice Ashcroft (Calgary)

Justice Loparco (Edmonton)

### Discussion:

- Update on Family Docket, Family Chambers and Desk Applications
  - In Edmonton and Calgary, all matters are required to go through family docket for triage and scheduling except for application for *Divorce Act* Provisional Orders and Hague Convention applications
  - If a cross-application is anticipated, the Respondent to a Notice to Attend Family Docket does not need to file a second Notice to Attend Family Docket setting out the Respondent's issues for the cross-application. The existence of a cross-application can be mentioned in family docket and the matter will be triaged appropriately from there. The clerks will not file a second Notice for the same matter.
  - The Judge's endorsement in family docket is your order as to process. Counsel do not need to draft another procedural order, but if a substantive order was made in family docket by consent that substantive order will need to be prepared and submitted for signature and filing.
  - Adjournments are discouraged. The court does not have a process to permit adjournments of a family docket appearance online by consent. The list is capped so the court wants to ensure that the matters taking up spots on the list are moving ahead. Counsel should check availability with the other party/counsel before scheduling where possible.



- The court encourages counsel to explore potential processes with one another in advance of the family docket process.
  - In Edmonton and Calgary, 3 judges are scheduled per week to review desk applications. Outside of Edmonton and Calgary, Duty Justices will review desk applications. It is anticipated that this will allow a quick turnaround time on desk applications. Counsel are encouraged to strongly consider a desk process if appropriate.
  - Materials on a desk application do not automatically get submitted to a Justice for review. The Applicant on a desk application is responsible to compile the materials filed by both parties and send it as a package to the appropriate QB filing e-mail address with a request for the package to be forwarded to a Justice. The subject line should include the type of process, a description of what the clerk is being asked to do, the action number, and names of the parties so the clerk can easily identify what needs to occur.
  - For the simple desk application process, the court has noted that more needs to be done to alert the Respondent of filing deadlines. The application form will be changed to include a URL for Respondents to follow to find out response deadlines. Counsel should inform self-represented parties where they can find information regarding timelines to respond.
  - Endorsements from the court on simple desk applications will briefly record the Justice's reasons, will be filed on the Court's file, and will be provided to the parties. The endorsements will not be published.
  - Emergency without notice applications will be permitted in regular chambers. The link to join by video is online, or counsel can attend in person if necessary (although in-person attendance is discouraged). If joining by video, counsel should attend 15 minutes prior to chambers starting to alert the court that they have an emergency without notice application, and it will be dealt with at the start of the list. If chambers is not running when an emergency arises, the duty justice may be contacted.
- Case Management update
    - Case Management Counsel has been shifted to a Resolution Counsel role.
    - The court desires to move away from the previous model of case management and is focusing on getting matters moving on to trial more quickly utilizing litigation plans.
    - Associate Chief Justices Rooke and Nielsen will continue to respond to any requests received for case management but these requests will only be approved in very limited circumstances.
    - In Edmonton and Calgary, matters currently in case management continue to need to proceed through the family docket process.



- Family Trial scheduling
  - Requests to schedule or reschedule a trial go through the family docket process in Edmonton and Calgary.
  - The court will be triple booking trials throughout the province. Non-urgent family trials are unlikely to be rescheduled by the fall, but there is limited capacity for urgent trials.
  - Counsel are advised to watch the court's announcements online because any available small chunks of court time that become available for trials throughout the summer will be announced so that as much court time can be utilized as possible.
  - If the court is overbooked for trials in the fall due to triple bookings and not having enough available Justices, courtrooms or clerks available to hear all matters, family counsel should be prepared that the court will need to prioritize in custody accused and *Jordan*-threatened criminal trials.. Counsel should look at ADR options over the summer including the JDRs that are open in case their fall trial ends up being bumped.
  - JDRs will be running over the entire summer but likely not in the fall when the focus of judicial resources will be moving to completing trials.
  - Counsel may consider shortening trials or moving to a summary trial to take advantage of smaller portions of court time that may be available in the summer.
  
- “Covidization” of the Courthouse
  - The court's current planning for when in-person attendances resume includes verbal screening by a sheriff when entering the courthouse, social distancing with signs and tape setting out spacing and sheriffs assisting to ensure people social distance, and plexiglass being installed in some court rooms across the province throughout the summer and into the fall.
  
- Alberta Family Court Update
  - The Justice Minister has advised the court that there is no plan to move forward with the Alberta Family Court unless this can be done at 0 net cost, which is not feasible.
  
- Discussion of Questions/Comments from the bar
  - Pre-Trial Conferences (PTCs) are only required where the trial is longer than 3 days or involves a self-represented party. PTCs are scheduled in docket, and will occur remotely. Matters that don't require a PTC may still be referred for a PTC from family docket if appropriate.



- Question about whether the Court can order arbitration under Rule 4.16. Justice Yungwirth explained that the court's announcement regarding Rule 4.16 including arbitration as an ADR option that individuals may wish to consider, but there is uncertainty as to whether the court can order parties into arbitration and whether this is a delegation of the court's authority. The arbitration process has to be voluntary.
- It was suggested that the Webex chat function could be utilized for counsel to sign in at family docket. Justice Yungwirth will look into this option.
- Matters outside of Edmonton and Calgary that were adjourned *sine die* by a Master Order should consider utilizing a desk process and if this is not appropriate or an agreement cannot be reached, the matter will need to be rescheduled for regular chambers.
- The Court is eager for feedback from counsel on the family docket process.

**Next meeting: July 9, 2020 at 2:00 p.m.**