Court

# Attire, Courtroom Conduct, and Children

* Unless your lawyer has told you that you will be a live witness, you generally do not need to accompany your lawyer to court. Your lawyer is there on your behalf and court may be adjourned. However, it’s generally recommended that you do accompany your lawyer, as it shows that you’re serious about the matter, there is often last-minute negotiation before or during court, and the Court may require information or want to know if you would be agreeable to a particular arrangement. Family members may accompany you to provide support, but unless they’re scheduled to be a witness they won’t be speaking.
* You may want to arrive at the Courthouse at least half an hour in advance, in case your lawyer wants to speak to you, or if you have issues parking, finding the room, or going through security.
* Hats are generally prohibited in court, and chewing gum should be thrown out.
* While you don’t necessarily need to wear a suit, you should aim for business casual attire, and avoiding jeans, t-shirts, unusual fashion, wrinkled clothing, cleavage, unkempt hair, or casual shirts. Piercings should be removed if possible, and tattoos covered. Be respectful, don’t laugh or draw attention to yourself. Subconsciously, people tend to respond more favourable to clean, neat, tidy, put-together people. Similarly, misbehaving in the courtroom is a quick way to displease the judge.
* If you’ve retained a lawyer, it is very unlikely that you will need to speak in court, unless your lawyer has told that you will be a witness on that date. You are not allowed to speak to the judge directly while represented by a lawyer unless the judge invites you to do so, and you will not be able to speak to your lawyer while they are speaking to the judge.
* The chairs in the front row are reserved for lawyers. Please remain seated when our matter is called. You may only accompany your lawyer to the front with the permission of the judge.
* If any family members or friends accompany you, please tell them not to speak to the judge or your former partner unless they have been asked to do so by the judge.
* Please avoid bringing any of your children to court unless you have been asked to do so.

# Interim hearings

* Court is often a very slow, time-consuming, and frustrating process, which is why I generally strongly encourage negotiated resolutions.
* Most court applications are not trials. Hearings are instead usually based on written materials (Affidavits and sometimes written arguments), as a trial can take years to arrive at, consumes a lot of time and has many steps which results in an enormous cost, and is a very frustrating way to resolve disputes given the availability of more appropriate options. If your matter proceeds to trial, your lawyer will discuss trial with your further.
* These hearings are usually for “interim” court orders, meaning temporary, until the matter can be agreed-upon or resolved at a trial. Some simpler disputes might receive final decisions, for example recalculating child support after a divorce has already been granted.
* Trials are more likely to be scheduled in Provincial Court, or in relation to significant parenting disputes. While trials are easier to arrive to in the Provincial Court, the ability to gather information/documentation is very restricted, and the Provincial Court cannot grant divorces, nor can it grant most property division orders.
* Apart from trials or hearings with oral evidence, on rare occasions we might ask you for additional information, whether you’d accept an arrangement, or our judge may ask you to acknowledge their advice, but otherwise, if you’ve retained a lawyer you will generally not be permitted or asked to speak.

## Docket

* Applications are ordinarily first heard in Docket. This is typically a procedural appearance to determine the next steps, such as booking a hearing, trial, alternative dispute resolution (see below), or requiring financial disclosure.
* Docket occurs over videoconference. If you wish to attend Docket, please let your lawyer know, as you will need to sign a form in advance to permit yourself to do so. You will need to remain muted with your video off, unless your lawyer or the court requests otherwise. Do not type messages in the chat, as they may be seen by others. If you watch from your lawyer’s office, do not speak to them while your matter is before the judge, unless they or the judge ask you to speak.

## Regular Chambers and Urgent Matters Chambers

* In the Court of King’s Bench, Regular Chambers and Urgent Matters Chambers are primarily used to ask the Court for urgent orders, to establish a status quo (for example, ordering the initial parenting schedule or support payable), to determine procedure, or for simpler variation applications (for example changing the location of an exchange of the children).
* Each side will only have a few minutes to speak, and the judge may not have read any of our written materials. The judge might be unlikely to grant an order unless it is urgent or obvious.
* These hearings are very fast-paced, with many other matters waiting to be heard. Adjournments are common, especially if the other side is still trying to find a lawyer or needs more time to assemble their documents or affidavit/statement.

## Special Chambers and Family Resolution Hearings

* In the Court of King’s Bench, hearings which cannot be heard and decided within 20 minutes are scheduled for Special Chambers. Special Chambers hearings are booked for 1 hour, half a day, or a full day. There is a similar process in Provincial Court known as Family Resolution Hearings.
* If there is disagreement about only a limited number of facts, we might ask for permission in advance to have live witnesses testify on only those facts.
* To narrow the amount of disagreement on relevant facts, we can conduct a “Questioning”, to have each side answer questions, clarify their answers or provide further documentation. Questioning is usually completed in a law office boardroom, with a transcriber known as a Court Reporter present, who types each question an answer into a transcript.
* At Special Chambers and Family Resolution Hearings, your judge will typically have read the filed documents, and might have read the transcripts (although portions of the transcript can still be read into court, especially if either side admits that they lied). At Special Chambers, our judge will have also read our Brief (Concise Letter), which sets out our position and legal arguments.
* Special Chambers is usually scheduled around half a year away, but it can occur sooner or later depending on availability. In the meantime, where will be many deadlines to file further Affidavits and our Brief (Concise Letter).

# Decision

* Once a judge makes a decision, that decision generally takes effect immediately, even if a written order isn’t drafted yet. The major exception is that if a person nor their lawyer appears, they or their lawyer still need to be served with the order before they can be found to have breached it.
* Judges are human and sometimes make mistakes. Sometimes they’re deciding an issue in a unique area of the law which isn’t clear. Appealing a decision may be possible, but has varying degrees of difficulty depending on the type of decision. Interim parenting and support orders are often left in place until trial. Most appeals are unsuccessful. Appeal Notices must usually be filed within 30 days or one month of the decision, depending on the type of decision. That means that we should decide whether or not to appeal well before this date. Please let your lawyer know if you are interested in appealing, so that we can discuss an appeal further. You lawyer may not otherwise raise an appeal with you if they consider a successful appeal unlikely, not cost-effective in relation to the dispute, or where they believe there are more suitable avenues.
* The judge may also order that one side pay “costs” to the more successful side. Although in theory this is meant to reimburse for legal costs, cost amounts are usually calculated in reference to a table in the *Rules of Court*, and are in most cases more akin to penalties than a full reimbursement. Costs can be much higher at trial, where there are expert reports involved, or where someone has served a Formal Offer to Settle and their success has exceeded the offer. In many family law matters no costs are awarded, as orders are often so complex that both sides enjoy some success, or neither succeeds because of a result between or alternative to their positions. Your lawyer may not requests costs where they are unlikely to be granted.

# Alternative Dispute Resolution

* The aim of the following out-of-court processes is generally to arrive at a resolution that each spouse can live with, faster, at a lower cost, at lower stress to you, and for parents: more likely to encourage effective co-parenting. If you are interested in any of these alternative methods, please speak to me.
* **Four-way meetings** are meetings where each spouse/parent and their lawyers meet in the same room to discuss the dispute and ways to resolve it, rather than miscommunicating or attacking each other through many slow and costly letters or court appearances.
* **Collaborative Law** is designed as a series of four-way meetings outside of court. This formal process is for those who desire generally the lowest-stress and most-cooperative method to resolve disputes, without the constant threat of legal action.
* **Mediation** is when an independent person provides facilitates settlement by facilitating brainstorming and cooperation. Mediation can be with or without lawyers, and there is a very broad selection of mediators from lawyers, to psychologists, to those without any particular background. Some qualifying parents/spouses may qualify for the free family mediation program.
* **Arbitration** is where an independent party who is not a judge can make a decision which each side agrees to follow. There is also **Med-Arb**, where the mediator becomes an arbitrator and makes a decision if the mediation is not successful.
* **Parenting Coordination** is essentially a series mediation meetings using a psychologist, usually either to come up with a parenting plan or to address ongoing conflict. This is a useful method to resolve parenting disputes, as many judges often follow the psychologist’s recommendation anyways. There is also **Parenting Coordination with Arbitration**, where the psychologist becomes an arbitrator if Parenting Coordination is not successful.
* **Judicial Dispute Resolution (JDR)** and **Early Intervention Case Conferences (EICCs)** are essentially mediation using a judge. JDR is generally available through all courts. In the Court of King’s Bench, it can be difficult to schedule a JDR due to a lack of availability, and EICCs apply primarily to parenting and support issues. **Binding JDR** is also available, in which the judge makes a very rough decision without much procedure or rules to protect fairness, including that their decisions can’t be appealed, even if they’re incorrect. Despite the risk, Binding JDR might be appropriate when other options are not financially feasible. A **Summary Trial** (trial usually based on written Affidavits) may be more appropriate where cost is a concern and there is not a significant dispute about the facts.

# Location

* This is the map of Edmonton Courthouse, including entrances and common parking locations. The open-air lots to the East usually have available spaces and are a lower cost. The Canada Place parkade to the south is one of the lower cost underground parkades with pedway access to the Courthouse. The parkade underneath City Hall (accessible on the East side of City Hall) is underground and the shortest pedway walk to the Courthouse, although it can be expensive.



* You may want to pay for at least three hours of parking for even Regular Chambers and Docket, although on the rare occasion more time may be needed.
* At the Edmonton courthouse, the North side of the building is the Provincial Court, and the South side houses the Court of King’s Bench and Court of Appeal.
* Once you get to the correct side of the building, there will be electronic screens and individual search consoles to help you find our room number. The first digit of the room number corresponds to the floor number.