

Minutes of Calgary King's Bench Town Hall Meeting October 3, 2023

The Town Hall meeting took place in the ceremonial courtroom 1801 and was chaired by Justice Sherry Kachur.

The meeting was called to order at 12:30pm.

Family Justice Strategy

1. Justice Kachur first spoke about the Family Justice Strategy which is a new initiative that is going to be focused on pre-court services and not court processes.
2. The focus will be in particular on self represented litigants.
3. There are six groups involved in this being all the interested parties. They include: (1) the clerks at both levels, (2) Legal Aid, (3) pre-court assessment, (4) mediation, (5) parenting intervention and (6) court counselling
4. The idea of the strategy is not to be a substitute for unified family court but to use some of the pre-court models or strategies. Family Justice Strategy is intended to be a single door before entering into the court system. After utilizing the process, if court is still necessary, the matter will then be funneled into either Court of King's Bench or Court of Justice.
5. Expanding family justice services, especially in relation to self-reps.

New Mandatory Requirements

6. The court is going to implement mandatory requirements in Calgary and Edmonton but not the other regions by the end of 2023.
7. The parties must do the Parenting After Separation (PAS) course before entering the court system for parenting and child support matters, where the child is 18 years or younger.
8. Financial disclosure will be mandatory.
9. There will be mandatory ADR before entering the court system.
10. Self-represented parties must meet with a family court counsellor to review options other than court. These family court counsellors are available in the Court of Justice and will be available in the Court of King's Bench by the end of this calendar year.
11. Requirements to do PAS, financial disclosure and ADR are mandatory for everyone, including represented parties.

12. If the Respondent refuses to engage in the process (i.e. will not produce disclosure) this will not quash an applicant's application.

King's Bench External Feedback Email

13. Was talked about but not given. Apparently, it might be on the website. Or parties could contact Tara Tiefenbach through the CBA Family Section and maybe give comments or questions to Tara.

Family Docket Court

14. Court thinks that Family Docket Court is successful although they continue to make tweaks.
15. The Court requests and emphasises that counsel should talk to each other or talk to opposing parties before docket so that whatever can be agreed upon or issues agreed upon or issues determined before docket in order to same time during docket.
16. While they will still do some disclosure issues at docket they request that you use the desk divorce process for disclosure unless the disclosure is urgent and needs to be done in docket.
17. Remember, you don't have to go to Family Docket Court to book Resolution Services like a CSRP or court mediation (for incomes under 60K).

Docket Notice

18. Only one docket notice is required and parties can add any and all other issues at the docket hearing.
19. It is emphasized to make sure all the issues are specifically identified at the docket hearing so they can be listed on the docket endorsement for the following reasons:
 - (a) So the judge hearing the application knows what to expect (ex. imputation of income instead of simply listing 'child support');
 - (b) So the docket justice knows what type of a hearing is necessary. For example if income determination is an issue, it is really important to identify that a special may be necessary not a morning chambers application. For clarity, let the docket justice know the exact issues to be determined so that they pick the right process.

Follow the Rules for Running a File

20. If you need a litigation plan, do a litigation plan.

21. Do not serially come to docket court or try to do every single issue in docket court because you are just not getting a response from the other side.
22. Help us help you is the message from the court.

Family Chambers Resolution Counsel for Calgary is Currently Ill

23. The Court is trying to make things work with the Edmonton person appearing virtually on some days and another Calgary person appearing some days in-person. There is presently no ability to send anybody to Red Deer or Lethbridge.
24. Family chambers resolution counsel are “friends of the court” and are not duty counsel. In that way, they can meet with both sides and see if they can assist a resolution before court or advise the court of the issues that the parties cannot resolve at a Chambers Application.

Special Chambers Hearings

25. 50% of special chambers applications don't go ahead because they are struck or adjourned. The court knows scheduling specials is way down the road. There is some thought about creating a certificate of readiness for specials with a docket date 3 months before the special where each party has to file their certificate 2-3 weeks before the docket date so everybody confirms the special is ready to go ahead. If the special is not ready to go ahead then that date might be given to another family who has the 3 months to prepare to get before the court. Practice Note 2 deadlines will need to be complied with.
26. The court is looking for feedback on this issue.
27. There has been some demand from the bar to make cancellation dates available and this is one way the court is looking at doing it.
28. If you need to extend the filing deadlines for questioning or practice note summary reports, please let the docket judge know so the appropriate dates are set or that the triggering date is adjusted accordingly.
29. There is an issue of counsel entering into fiats or consent orders to change dates, sometimes even when the matter has already been struck due to missing a filing date.
30. The coordinator showed up later in the meeting and indicated that unless there is a filed court order received by their office prior to a specific deadline for a special, they will automatically strike the hearing and it is seriously problematic to have a court order that says the deadlines can be changed after the matter has already been struck and perhaps another matter has been put in its place.
31. The court's view is that it is rare that court filing deadlines should ever have to be changed and it's more appropriate to deal with that in docket.

32. One-hour specials are being scheduled for April 2024. Full day specials are being scheduled for August/September 2024.

Case Conferences

33. Rule 4.10 case conferences, EICCs and PTCs are all allocated in different amounts of scheduled time.
34. The court thinks there are going well and are considering making the slots for each of them “undefined” as only being “case conference” so that there is early availability for some of the other types of case conferences, rather than the current wait times being different for each type of case conference.
35. EICCs are generally saved for when there are children involved.

Dealing with Case Conferences

36. The court struggles with either too much information or too little information on each instance in terms of preparing for each case conference.
37. Apparently, it’s common sense that if it’s going to be a property issue, please provide the property spreadsheet or if there is going to be a retroactive support issue, please provide a retroactive support spreadsheet.
38. (Editor’s Note: is that the form provided for a case conference does not seem to permit or provide for extra materials, it seems clear that for the case conference to be productive that extra materials be on the form that need to be provided, including spreadsheets, and perhaps even a short brief of some kind and that it would be appropriate to make that clear at the docket application so that those requirements can be made clear in a docket endorsement.)
39. The court does not need the whole pile of disclosure but does need information about the disclosure, perhaps a summary. Do not include the full tax return if not necessary.
40. Don’t need full briefs it was said but they do need both side’s proposals for resolution.
41. Make sure both sides have had a chance to review each other’s materials and communicate to the court in advance what agreements they might have or what facts they have in common, etc. so the court can know what is still left in dispute at the time, rather than everything being in dispute.

KBPO and EPOs

42. The court is doing triage at 9:30 a.m. in which they assign hearings at 11:00am, 1:00pm and 3:00pm.
43. Note that based on the number of matters that are going to proceed on a particular day that you should be ready to proceed at 11:00 a.m. Sometimes they have enough matters for all of the slots and people are advising that they are not

ready to go at 11:00 a.m. This results in a matter having to be adjourned as they cannot accommodate more matters in the afternoon.

44. Note: they do try to schedule out of town matters for the afternoon, but it is best to be prepared for 11:00 a.m..

Template Orders

45. There are now 13 approved template orders for EPOs and King's Bench Protection Orders, etc.
46. There are about to be loaded on to the external website.
47. Please use the templates.
48. What's important about them is that the service provisions have been vetted by the police and the RCMP.
49. It's important to check the boxes on the forms and not remove any of the prescribed paragraphs as the police know where to look for their issues.

As It Relates to Getting EPOs Back Fast (The Same Day)

50. Particularly with respect to EPOs that expire it is important for the orders to be back with the clerks by 3:30pm the same day as they need to be filed and sent out to the police that day.
51. (It appears that the clerks will send the EPO to the police?)
52. If the expiry date is the return date of the actual EPO the police will not have an EPO in place to enforce if the order doesn't get back to the clerks in time.

Legal Aid Counsel for Children Order

53. This will soon be uploaded on the website. This has been vetted by Legal Aid.

PN7 & PN8 Orders

54. The PN7 and PN8 orders are on the website.
55. If altering a PN7 or PN8 template order, please make any justice signing the order aware of what you have done and why before they sign it.
56. PN7 and PN8 order is the court appointed expert under rule 6.40 so the court has to be satisfied that this person is an expert. Please provide the CV for the expert even if they are well known to you or to the family bar or to long sitting judges as a newer justice may not know even a long serving expert.

Court Sitting Dates

57. The last sitting date for 2023 is December 20th.
58. For dates between December 21 and January 8th there may be some access for urgent matters and EPOs on only certain days (December 21-22; December 28-

29; January 5-8) with one assigned judge who is sitting in Edmonton who will do it virtually.

59. Urgent matters do not include holiday parenting time which parties should be dealing in chambers already.
60. Current chambers are booking into November so holiday parenting time needs to be in docket court right now.

Chris Walker of King's Bench Operations (Clerks, etc.)

61. Chris talked very quickly about a number of different things including lead times for various types of filing but spoke so fast it was difficult to minute anything he was saying (see minutes prepared for court website)
62. Court Justice Services – separate from the judiciary.
63. So for filing lead times in Edmonton, generally they are about 72 hours and in Calgary about 24 hours is what I was able to glean. Divorce application about 28 days in Edmonton and 4 days in Calgary in terms of confirming their filing.
64. There are always outliers to any of these lead times.
65. They strongly prefer you use the fully digital service for all filing issues and do not file simultaneously in multiple ways (i.e. digital service and email) in order to see which one works first as that screws up the system and creates duplication and other delays. Any orders for filing should be through email filing or filing digital service. Do not send your filing to the judicial assistant.
66. If your filing is urgent, attach a letter explaining why. You are also able to file urgent orders at the counter.
67. They have not seen any more complaints about back dating.
68. On filing and checking up on your filing if you matter is not urgent, please wait 7 days before checking in.
69. If an order has been granted more than 3 months before, please provide a fiat when filing it.
70. Don't alter paragraphs in prescribed forms (e.g. don't remove children of the marriage provisions just include "N/A").
71. Don't ask questions under the fully digital service as they don't have an ability to answer those.
72. Send questions to the email filing or to jsg.filingfamilysupport@gov.ab.ca .
73. For urgent submissions we are referred to the October 19, 2022 Announcement.
74. Any questions about filing you can put in the email in the subject line "attention supervisor" and in the email include the prior submission. Those will be triaged usually within 24 hours.

75. If you don't receive a response within 24 hours you can email the King's Bench leadership team at kba.leadershipteam@just.gov.ab.ca .
76. Please don't cc the leadership team on request to other parts of the court or clerks.
77. They are not manning the phones so don't call – email.
78. They are currently going through all of the rejections to summarize the reasons why matters are being rejected.
79. Include endorsement/order for deadlines when filing materials.

More Clerks

80. Yes, they are in the process of hiring more clerks.
81. Resources shift on a daily basis as to where they are available.
82. They set up filing teams in Calgary and Edmonton which has been working well.

Family Trial Coordinator

83. Ashley Perry spoke on behalf of the trial coordinator who is actually currently working in Edmonton.
84. The first court date on the return to business in 2024 is January 8th.
85. Lead times for trials are for a short trial of 5 days or less it's March 24, 2025. (This is later confirmed to also be the lead time for summary trials of 2 days or more while summary trials of one day would be January 2025.)
86. For a six day or more trial, apparently that can be done September 3rd, 2024 (ie: earlier than a five day or short trial).
87. The first full day trial is January 9, 2025.
88. Nobody asked any questions about this and one should double check whether I heard this correctly and not take these minutes as verbatim as it was fast and furious in trying to take the notes. (Lead times are changing quickly so always update your requests. Urgent requests go to Justice Jeffrey who is the acting chief justice.
89. Please share that a matter has settled as early as possible so the matter can come off the list.
90. Need an order or endorsement to schedule a trial.

Sherry Reeder Spoke as the Special Chambers Coordinator

91. One-hour specials are being heard now in mid-April 2024 and half-day specials in September 2024.

92. See notes above about orders varying filing deadlines. They need a filed copy of the order before the next deadline or they will strike the hearing.
93. If a hearing is struck, you need a court order a fiat for filing to get a new date and to amend the filing deadlines (you may get your original date back, subject to availability).
94. Counsel need to update the coordinators about changing counsel as the various parts of the court don't communicate or talk to each other internally and not everyone has access to everything in the system.

Angela Wright who is a Docket Coordinator Spoke

95. Lead times for EICCs are currently 30 days, February 2024 for Rule 4.10 Conferences, and mid-March 2024 for PTCs.
96. (Please note this is subject to the change in all of them to case conferences and adjusting that as mentioned above.)
97. Again, please let them know if anything has been settled.
98. If in an EICC a justice gives you additional time to meet with them, you need to submit a booking form advising that the Justice has been seized to the jsg.filingfamilysupport@gov.ab.ca

More on Digital Filing from the Filing Digital Service

99. Expect one to three days to get filed.
100. Desk divorces are currently three to four weeks but they were six to seven weeks.
101. There are outliers.
102. Apparently, there are now about 76 divorce forms that can be filed digitally.
103. They are unable to connect payment on the digital filing system to fax filing accounts as the system does not allow for this.
104. Issues about filing digital can be referred to jsg.filingfamilysupport@gov.ab.ca.

CBA Report

105. Tara Tiefenbach introduced her executive and invited questions to go to her about any issues that the CBA might be able to deal with.

Alberta Family Lawyers Association - AFLA

106. Doug Moe and Melissa Oakley introduced AFLA to the group and identified that AFLA has a precedents committee, government process committee, a court process committee, legal aid committee, and an events and engagement committee and as well that membership in AFLA is free. AFLA is about advocating for better family law services, etc. in Alberta and information about AFLA can be obtained by writing to the email aflalawyers@gmail.com or go to the

website at <https://aflalawyers.ca/> . AFLA currently has about 400 members across the province. Members of the steering committee currently include Doug Moe, K.C., Wayne Barkauskas, K.C., Krista Cossar, Melissa Oakley, Sue Channan, Linda Gould, Ken Proudman, Moosa Jiwaji, Tracy Brown, Ashley Cox, Emma Benarzi, Justine Fallu, Mathieu Maillet.

107. Membership is free, please join and assist us in advocating for families in Alberta.

Briefs in Morning Chambers

108. Some lawyers are attempting to file briefs in morning chambers but are being rejected.
109. If you are going to file extra material for morning chambers, you should be dealing with it in docket court so the endorsement reflects that a brief may be filed.
110. Justice Kachur thinks that maybe not a full brief but maybe two pages summarizing some law might be appropriate but not more as there is limited if any time at all for a justice to read in preparation for morning chambers and anything that is provided that isn't filed pursuant to the docket endorsement might not be read.

Coming Up or Next

111. Court is still working on a process guide and resolution plan which is working its way through the system.

Outdated Announcements on the Website

112. The court asks that we be patient with that as they are trying their best to keep things up to date.

Urgent Request

113. There is a triage roster of five different judges each week. There are about 10 requests a week.
114. For with notice requests you typically get a response within 24-48 hours.
115. Sometimes the Justice reading the urgent request will ask for a response.
116. A hearing on an urgent request is definitely within a week if it's approved.
117. The majority of urgent requests are not approved.
118. Sometimes urgent requests will bypass docket and put straight to morning chambers and sometimes they will be returned to docket.
119. If you want it going straight to chambers or even an urgent hearing, please make sure that you provide available times and dates for yourself or the court may just set a date and you are then scrambling to adjust.

120. All urgent requests, if they are approved and booked will be at a 2:00pm slot.

JDRs

121. Given the lack of judicial resources, JDRs are the first thing to go so the court can focus on trials and specials.

122. Justice Jeffrey advised that when former Chief Justice Neil Whitman wrote to petition the Federal Minister of Justice about additional judges, Ottawa identified that JDRs were being done and thought the court didn't need extra judges because they had judges doing extra judicial duties as opposed to the logic that JDRs actually free up court time.

123. It is clear that the court needs more judges, more clerks and more funding.

Updated Summary Trial Rules

124. Still a work in progress and still working its way through the system.

125. A one day summary trial can be had in January 2025. A two day summary trial in March 2025.

Costs of Docket Court

126. If you are going to ask for costs at docket court, do it at the chambers application and if you are successful or had a contested docket application there should be costs for docket in addition to the costs for the application.

Urgent Parenting Issues Being Delayed

127. Court is alert to the fact that there is limited resources at the court to deal with parenting issues that don't meet the requirements for an urgent application and they are doing the best they can.

Justice's Access to Materials

128. It is important to note that the Justices cannot access the court file, other than asking a clerk to bring it to them so if you are referring to previously filed materials in a court application it is important to provide the court with a copy of those materials or better yet, the excerpt you want to rely on from those materials. Ie: the paragraphs of the affidavit you want to rely on but not the whole affidavit.

129. The clerks do not read the materials to see what previously filed material you might be relying on and will not provide it to the court.

Printed Materials

130. Be alert that some judges may, a few days before the application reach out and ask for hard copies of the materials.

131. Once judges get hard copies, once the application is over, they get sent back to the clerk and the clerk has piles and piles of paper to deal with. Sometimes duplicate copies of things.
132. The digital staff is working hard to get the digital system up and running and until it is fully running, there is going to be issues with extra paper.

The meeting ended at 2:00pm

Doug Moe, K.C.