

# **SUPERIOR COURT OF JUSTICE**

## **CENTRAL WEST REGION**

### **NOTICE TO THE PROFESSION AND PARTIES**

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Effective April 19, 2022

This Central West Notice to the Professions and Parties, made pursuant to Rule 1.07(4), applies to all proceedings in the Superior Court of Justice, Central West Region, commencing April 19, 2022.

This Notice supersedes all previous region-specific Practice Directions and Notices to the Profession for the Central West Region.

Counsel and parties are also advised to refer to the relevant parts of

- the Provincial Consolidated Notice to the Profession; and
- the Consolidated Practice Direction for Divisional Court Proceedings

available on the Superior Court of Justice website at: [www.ontariocourts.ca/scj](http://www.ontariocourts.ca/scj).

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## PART 1 - PRESUMPTIVE MODE OF HEARING

For complete information on the Presumptive Mode of Hearing Guidelines for the Superior Court of Justice Guidelines, please see:

<https://www.ontariocourts.ca/scj/guidelines-mode-of-proceedings/guidelines-criminal/>

### APPLICATION TO ALL HEARINGS AFTER APRIL 19, 2022

All events scheduled to be heard in the Central West Region, on or after April 19, 2022, will proceed in the presumptive mode of hearing unless a judge, prior to the hearing, has directed otherwise.

### IMPORTANT CHANGES:

1. Counsel and Parties should note that, in Central West Region, all matters heard on a “ROTA hearing day” will be in-person given the broad types of matters scheduled on that day. ROTA hearing days are dates when a Central West Judge from another center presides in Orangeville, Guelph, Walkerton or Owen Sound. Trial Coordinators in these centers will identify what dates are “ROTA hearing days” when matters are scheduled.

2. Counsel and Parties should note that, in Central West Region, all long motions (Civil and Family) will be heard in-person given that “long motion dates” are a combined family and civil long motions.

The following summary lists the “presumptive modes of hearing” for matters in CW.

		in-person	virtual	in writing
<b>Criminal</b>	<b>Jury trial</b>	x		
	<b>Non-jury trial</b>	x		
	<b>Pre-trial motions</b>	x		
	<b>Guilty Pleas</b>	x		
	<b>Sentencing Hearing</b>	x		
	<b>Assignment Court /TBST/First Appearance</b>		x	
	<b>Summary Conviction Appeal</b>		x	
	<b>Judicial Pre-trials</b>		x	
	<b>Bail Hearings</b>		x	
	<b>Bail/Detention Reviews</b>		x	

<b>CIVIL AND FAMILY: ROTA Weekly Circuit in Guelph, Orangeville, Walkerton, and Owen Sound</b>	<b>All types of events scheduled during a “ROTA day” will be heard in person notwithstanding the presumptive mode of hearing in the Guidelines</b>	<b>in-person</b>		
<b>Civil</b>	<b>Jury trial</b>	x		
	<b>Non-jury trial</b>	x		
	<b>Civil pre-trials</b>		x	
	<b>Case conferences/case management</b>		x	
	<b>Assignment Court /TBST Court</b>		x	
	<b>Consent and unopposed Motions</b>			x
	<b>Short Motions</b>		x	
	<b>Long Motions &amp; Applications</b>	x		
<b>Family</b>	<b>Early or Urgent Case Conferences</b>		x	
	<b>Urgent Motions</b>		x	
	<b>Case Conferences, Settlement Conferences and Trial Management Conferences</b>	x		
	<b>Assignment Court /Trial Scheduling Conf</b>		x	
	<b>Procedural &amp; Consent motions</b>			x
	<b>Short motions</b>		x	
	<b>Long Motions</b>	x		
	<b>Trials</b>	x		
	<b>DRO conferences</b>		x	

## **A. Requests to Change or Objections to the Presumptive Mode of Hearing**

### **Criminal Events:**

Any party seeking to change the presumptive mode of hearing for an event must raise this request with the Court at the earliest attendance and no later than when scheduling the event.

The request can be raised with the presiding judge at a Pre-Trial or Speak to Court. Where necessary, the written request must be sent to the Trial Coordinator's Office, who will schedule a telephone or virtual attendance before a judge to consider the request and provide any necessary directions or orders.

### **Civil and Family Events**

Any party seeking to change the presumptive mode of hearing for an event must raise this request or objection with the Court when scheduling the event, within 10 days of receiving notice of the scheduled event or **no later than seven (7) days prior to the hearing**. See Rule 1.08(4).

The request must be made in writing and emailed to the Trial Coordinator's Office, copied to all other parties. **Responses by other parties are not required as their position can be set out at the telephone or virtual attendance with the judge.**

Whether the request is on consent or not, the Trial Coordinator's Office will arrange for a telephone or virtual attendance before a judge. Consent by counsel will not necessarily mean that the Court will accede to the request. The presiding judge will consider the factors in Rule 1,08(6) and counsel should be prepared to make submissions on these factors.

Failure to raise this at the first available opportunity will result in the event proceeding in the presumptive mode of hearing. The request will not be considered on the scheduled hearing date or within 7 days of the scheduled hearing date.

If no request is made to change the presumptive mode of hearing, the parties are deemed to have agreed to proceed with the presumptive mode of hearing. See Rule 1.08(7)

## PART 2 - FILING COURT DOCUMENTS

[Appendix A](#) contains information where Court documents MUST be electronically filed.

Court filed documents in criminal, civil and family proceedings must comply with the document standards set out in:

- R. 4.01 of the *Criminal Proceedings Rules*;
- R. 4.01 to 12 of the *Rules of Civil Procedure*;
- The *Family Law Rules* and Province-wide Notice to the Profession Regarding Family Law Cases

Court documents which do not comply with these document standards, including **the maximum length for any particular court document** will NOT be accepted for filing (and therefore cannot be uploaded to CaseLines).

**PLEASE ENSURE STRICT COMPLIANCE WITH FILING and UPLOADING TIMELINES and COURT FILING DOCUMENT STANDARDS.**



## **PART 3 - UPLOADING OF DOCUMENTS (CaseLines)**

### ***A. Generally***

#### **Ensure Correct parties receive the CaseLines Invite**

It is the responsibility of the parties (and former counsel), upon receipt of the CaseLines' invite to send an invite to new counsel or party, if there has been a change in counsel or the contact information of the current counsel or party is incorrect. Similarly, counsel may invite their legal assistant for the purpose of uploading documents for the event.

How do you forward an invite? You can do so by locating the case (found on your View Case List screen) and selecting Update Case. Next, click on the People tab found in the case file and then on Invite New Participant. Enter the participant's email address and select the bundles you would like to provide them access to (i.e., the event and Orders and Endorsements bundles). Once you click Invite, an automated CaseLines email will be sent to the person containing a link to the case.

#### **Only Upload filed documents**

**Only Court documents which have been accepted for filing are to be uploaded to CaseLines. Should either party upload documents which have not been filed, the party must bring this to the attention of the presiding judge.**

#### **Upload to the Correct Bundle for the Event**

Documents uploaded to CaseLines do not form part of the Court file.

CaseLines is a reading platform for hearings and trial as judges will not have access to the entire Court file – only the event bundle.

### ***B. Criminal Matters***

For full details please refer to the CW Notice to the Profession dated February 28, 2022:

[Central West Region: Notice to the Profession Regarding CaseLines in Criminal Matters | Superior Court of Justice \(ontariocourts.ca\)](#)

Upon service and filing of documents, counsel must immediately upload the filed documents to CaseLines. If necessary, counsel should contact the Court Office to obtain a CaseLines' invite for the event.

**Uploading to CaseLines the morning of or at the beginning of the hearing, must be avoided.**

CaseLines will be used for all criminal events except for the following events:

- a) Judicial pre-trials;
- b) Trial Readiness Court;

- c) Assignment Court;
- d) Bail Estreatments; and
- e) To Be Spoken To (TBST) matters.

**CaseLines is not to be used for any matter where the accused is self-represented.**

**Items that should not be uploaded onto CaseLines:**

- a) No materials related to child pornography;
- b) No document referring to a confidential informant; and
- c) Unless specifically directed by the Court to do otherwise, Crown and defence counsel will not upload the following documents into CaseLines:
  - A sealed document;
  - A document for which a sealing order is sought;
  - A privileged document, or a document where privilege is being asserted; and
  - Any other document where counsel have concerns, until judicial direction is given.

## **C. Civil**

Subject to a judicial order or endorsement, all scheduled civil and family events will use CaseLines with the exception of Assignment Courts.

For full details see the Notice to the Profession updated on February 28, 2022.

<https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/supplementary-notice-september-2-2020/>

If a self-represented litigant is not able to use CaseLines because of lack of access to technology, they can obtain help through Justice Services Online by contacting 1-800-980-4962 or by email at [info.CaseLines@ontario.ca](mailto:info.CaseLines@ontario.ca).

In summary, in addition to compliance with R. 4 (Court Documents) of the *Rules of Civil Procedure*, the following applies:

- a) **The parties should receive CaseLines' invite at least three (3) days prior to the event.** If a party has not received the CaseLines' invite at least three days before the hearing, it is the party's responsibility to contact the Court Office to enquire and obtain a CaseLines' invite;
- b) **Upload all filed documents to CaseLines no later than three days before the hearing date.** R. 4.05.3(4) of the *Rules of Civil Procedure*; and
- c) **The documents must be uploaded to the correct event bundle created as the judge will only have access to that specific event bundle.**

Failure to comply with the above may result in the event not proceeding as scheduled and, where appropriate, judicial sanctions and/or terms may be imposed.

**The following are document specific directions on what to upload or not upload:**

- a) **Affidavits of Service** – Upload affidavits of service to CaseLines only where service may be an issue;
- b) Confirmations must be uploaded to CaseLines;
- c) **Do Not Upload Sealed Documents;**
- d) **Motions for Removal as Lawyer** – In civil matters unredacted motion materials in such motions should not be uploaded onto CaseLines. These documents should be emailed to the Trial Coordinator's Office;
- e) **Upload Pleadings** – Parties must ensure that all pleadings have been uploaded into the Pleadings bundle in CaseLines;
- f) **Upload Prior Orders and Endorsements** – Parties must ensure that all previous orders and endorsements in the case have been uploaded into the Orders and Endorsements bundle in CaseLines.

## ***D. Family***

Subject to a judicial order or endorsement, all scheduled family events will use CaseLines with the exception of Assignment Courts.

For full details see the CW Notice to the Profession updated on February 28, 2022

<https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/supplementary-notice-september-2-2020/>

**The parties should receive CaseLines' invite at least three (3) days prior to the event.** If you have not received the CaseLines' invite prior to three days before the hearing, it is the party's responsibility to contact the Court Office to enquire and obtain your CaseLines' invite;

**It is the responsibility of the party to upload the filed Court documents to CaseLines immediately upon receiving the CaseLines' invite.**

**The Court documents must be uploaded to the specific bundle created for the event. The hearing judge will only have access to that specific event bundle.**

If a self-represented litigant is not able to use CaseLines because of lack of access to technology, they can obtain help at the filing office. Assistance with CaseLines is available through Justice Services Online by contacting 1-800-980-4962 or by email at [info.CaseLines@ontario.ca](mailto:info.CaseLines@ontario.ca) .

**The following are document specific directions on what to upload or not upload:**

- a) **Affidavits of Service** – Upload affidavits of service to CaseLines in **all** family cases;
- b) **Confirmation Forms must be uploaded to CaseLines;**
- c) **Do NOT upload Sealed Documents;**
- d) **Motions for Removal as Lawyer** – In motions for removal as lawyer under Rule 4 (13) of the *Family Law Rules*, evidence in support of the motion should not be uploaded onto CaseLines. These documents should be emailed to the Trial Coordinator’s Office;
- e) **Upload Prior Orders and Endorsements** – Parties must ensure that all previous orders and endorsements in the case have been uploaded into the Orders and Endorsements bundle in CaseLines so they can be accessed by the judiciary at all future hearings;
- f) **Upload Pleadings** – Parties must also ensure that all pleadings have been uploaded into the Pleadings bundle in CaseLines. In family cases, parties must also upload Form 35.1/A affidavits into this bundle so they can be accessed at upcoming events.

Failure to comply with the above may result in the event not proceeding as scheduled and, where appropriate, judicial sanctions and/or terms may be imposed.

## ***E. Release of Orders and Endorsements***

Where an event was heard using CaseLines, Court staff may release orders and endorsements to the parties by uploading them to CaseLines instead of sending them by e-mail, subject to any direction from the presiding judicial official.

When orders and endorsements are released and updated to CaseLines, the parties will receive notification that CaseLines has been updated. Parties can then obtain these documents by accessing the Orders and Endorsements bundle in CaseLines.

In some cases, where the Court has reserved, the presiding judge may also send a copy of the reasons or endorsement to the parties via email.

## **PART 4- CRIMINAL PROCEEDINGS**

Parties must comply with the current practice direction regarding Province Wide Practice Direction in Criminal proceedings:

[Provincial Practice Direction /Amendment to the Criminal Proceedings Rules Regarding Criminal Proceedings | Superior Court of Justice \(ontariocourts.ca\)](#)

This Provincial Practice Direction covers the following topics:

Part I: Interpretation and Application of this Practice Direction

Part II: s. 11(b) – Appearances on Indictments

Part III: Factums

Part IV: Pre-trial Conferences

A. Updated Pre-trial Forms

B. Directions and Orders of Pre-Trial Conference Judge

C. Conducting Pre-trial Conferences by telephone or video conference

Part V: Bail Variations pursuant to s. 519.1 of the Code

Part VI: Applications under s. 11(b) of the Canadian Charter of Rights and Freedoms

A. Scheduling of s. 11(b) Applications

B. Supporting Materials in s. 11(b) Applications

Part VII: Related Amendments to Other Superior Court of Justice Practice Directions

Part VIII: Media Notification After Jury Sequestered

A. Purpose of this Part

B. Interpretation and Application of this Part

PART IX: Filing

PART X: Remote Proceedings

PART XI: Designations

## PART 5 – FAMILY PROCEEDINGS

Counsel and parties in family proceedings are advised to refer to the Province-Wide Notice to the Profession Regarding Family Law Cases which is available at:

<https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/notice-family-law-cases/>

### A. *Mediation and other Court-Connected Resources*

Parties should consider the use of processes that facilitate early resolution of parenting and financial disputes. These include:

- a) **Local family law, separation and divorce resources:** Litigants are encouraged to access parenting education programs, counselling services, [supervised contact/parenting time](#), [parenting coordination](#) and other related services. Information about these services is available through the Family Law Information Centres.
- b) **Mandatory Information Programs (MIP):** Parties are required to attend a MIP at an early stage of the proceeding with limited exceptions. Virtual MIPs are available in centres across Ontario. Information about how to register for the MIP is available through the Family Law Information Centre.
- c) **Mediation:** Affordable, [court-connected mediation services](#) are available in connection with all SCJ centres. Contact information for local mediation service providers is available [here](#). Referrals to private family mediation services are also available through professional organizations like [OAFM](#) and [FDRIO](#).
- d) **Family Court Support Workers:** [The Family Court Support Workers](#) Program provide direct support to victims of domestic violence who are involved in the family court process.

### B. *Automatic Orders*

An order will be issued administratively (i.e., automatically) when certain claims are made in an Application, Motion to Change or Answer in accordance with Rule 8.0.1 of the *Family Law Rules*. These automatic orders require each party to comply with their financial disclosure responsibilities.

Rule 13(3.1) of the *Family Law Rules* sets out which documents must be included with a Financial Statement where child or spousal support has been sought. An updated Certificate of Financial Disclosure must be provided to the other party.

A party who has not made all reasonable efforts to comply with their disclosure obligations may be subject to a cost sanction, directions/terms imposed and/or the adjournment of any motion brought by that party until compliance. In egregious cases, upon motion, continued non-compliance may result in a party's pleadings being struck.

## **C. Early Case Conferences – Brampton and Milton**

Parties can seek an Early Case Conference (ECC) from the Trial Coordinator's Office to:

- a) Attempt to put temporary arrangements in place to avoid the need for a motion or other urgent attendance; and,
- b) Obtain early procedural directions including determining what the next step should be and whether any part of the case needs to be expedited.

The ECCs are generally on Mondays (usually at 9 am or 10 am). ECCs are strictly limited to:

- a) Where there has not been a Case Conference;
- b) Where the issue or issues are urgent;
- c) Where there are only one or two issues to be raised at the ECC;
- d) Where the ECC will take no more than 10-15 minutes;
- e) If financial issues are to be discussed, updated financial statements must be filed or available to the Court; and
- f) ECC briefs are limited and must not exceed five double spaced pages setting out their positions and must not include lengthy attachments.

Both parties must certify they have fully discussed the issues to be dealt with at the ECC with the other side before their attendance at Court for the ECC. If the parties have not discussed the issues fully in advance of the conference, the ECC may be cancelled or rescheduled to the next regular case conference date. Once scheduled, the litigants are required to attend the ECC.

## **D. Straight to a combined Case/Settlement Conference**

To encourage litigants to attempt to resolve appropriate disputes through a form of family dispute resolution, requests can be made to obtain the Court's permission to move directly to a combined case conference/settlement conference where the parties have tried to resolve the disputed issues through mediation or Legal Aid Ontario settlement conference. These requests can only be made where the parties are able to confirm that:

- There are no outstanding temporary issues; and
- Neither party is seeking additional disclosure from the other party.

These requests can be made by filing a 14B Motion Form along with Form 17G: Certificate of Dispute Resolution which is available at:

<http://ontariocourtforms.on.ca/static/media/uploads/courtforms/family/17g/flr-17g-may21-en-fil.docx> .

If granted, the parties must file all the required Settlement Conference materials set out below.

## **F. Case Conferences**

### **i. Obtaining a Date and Filing**

A date for a Case Conference may be obtained from the Court Office. Counsel and litigants are expected to attend all conferences in person, unless directed otherwise.

**Adjournments:** A Case Conference cannot be adjourned in advance unless on consent of all parties or approved in writing by the Court or a judge (which will be granted rarely if not on consent).

A **consent adjournment** may be obtained by the parties writing to the Court at least one week prior to the Case Conference expressly stating it is on consent of all interested parties. Any resulting rescheduled Case Conference will NOT be given priority for a new date.

Unless adjourned on consent or by court direction, the Case Conference will proceed with or without the attendance of a party.

**Late filing:** Neither the court staff nor the judicial assistants can or will accept late conference briefs or conference briefs which do not comply with the restrictions regarding the length or proper formatting of filed documents. Requests to file and upload late conference briefs must be made to the presiding judge and may result in an adjournment and/or cost consequences to the non-compliant party.

Filing restrictions relating to family events are included in the Province-Wide Family Notice to the Profession at:

[https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/notice-family-law-cases/#1\\_Restrictions\\_on\\_Materials\\_Filed](https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/notice-family-law-cases/#1_Restrictions_on_Materials_Filed).

## **ii. Case Conference Briefs (Max. 8 pages)**

Parties must serve and file a Case Conference Brief (Form 17A) in accordance with the *Family Law Rules*.

- a) Parties should prepare their conference briefs with a view to a realistic agenda that can be completed in the time scheduled for the conference. These briefs should be prepared in a manner that will promote settlement and must include the party's proposal for any unresolved issues.
- b) **Case Conference Briefs must not exceed 8 pages, plus** permissible attachments (as defined below) and additional documents that are required by the *Family Law Rules*.
- c) **This 8-page limit includes the brief itself (Form 17A) and any additional pages of facts and/or arguments that are attached to the brief as an appendix or schedule.**
- d) **All Court documents must use a font of not less than 12 point and double spacing.**
- e) If disclosure is not resolved prior to the Case Conference, any party seeking disclosure **must** include in their materials a list of the outstanding disclosure (not included in the 8-page limitation).

"Permissible attachments" include only **relevant excerpts** from the following documents, (which are not included in the 8-page limitation):

- a) Parenting assessments (pursuant to Section 30 of the *Children's Law Reform Act*), Office of the Children's Lawyer reports and Voice of the Child Reports;
- b) Documents that establish a child's educational needs (for example, report cards or Individual Education Plans);



- c) Income or business valuations, pension valuations or real estate appraisals (where the value of property is in dispute);
- d) Proof of income for the relevant period(s) including pay stubs, confirmation of benefits received and/or Statement of Business or Professional Activities from a party's Income Tax Return;
- e) Domestic contracts, including separation agreements, marriage contracts or cohabitation agreements that are relevant to the issues in dispute.
- f) Support calculations; and
- g) Terms of recognizance, police reports or reports from the Children's Aid Society, where applicable.

The Case Conference Brief should expressly set out any orders that a party seeks to have the Court make at the Case Conference. The Case Conference judge has jurisdiction to make substantive orders in appropriate cases where requested in a Case Conference Brief. FLR 17(8)(b.1).

### **iii. Requirement to Confer and Make Disclosure Prior to Case Conference**

Prior to attending at a Case Conference, the *Family Law Rules* require the parties to confer and discuss resolution of the outstanding issues. The parties must confirm, at the beginning of the Case Conference, that they have complied with this requirement.

Where the parties/counsel have failed to discuss the issues in advance of the Case Conference, the Case Conference judge will determine whether to adjourn the Case Conference or proceed with it and determine whether costs may be awarded against the party not complying with the *Family Law Rules*.

The parties have a statutory obligation to make reasonable financial disclosure under the *Family Law Rules* before the Case Conference. The usefulness of a Case Conference is seriously compromised where the financial disclosure has not been made.

Where a party has failed to comply with the disclosure provisions of the *Family Law Rules*, including the provisions of the automatic order, the Case Conference judge will consider a cost award against the party who has not complied with their disclosure obligation/Automatic Order and make an order imposing a peremptory timeline for the outstanding disclosure or permit the opposing party to bring a motion to strike the defaulting party's pleading.

### **iv. Confirmation Form**

The parties are to communicate with each other **in advance** of completion of the Confirmation Form, unless the parties are prohibited from communicating by Court order or terms of recognizance, or there are concerns about family violence and the alleged abusive party is not represented by counsel.

When completing the Confirmation Form for a motion or conference, parties shall list the **specific** issues that need to be addressed at the event. Advising the Court that "All issues" are to be discussed is NOT acceptable.

The parties should confirm whether they have complied with the disclosure requirements in the Automatic Order.

Confirmation Forms are to be filed **and** uploaded to CaseLines. Unless a Confirmation Form is filed **at least by 2pm three days prior to the hearing**, the Case Conference is cancelled.

**v. Uploading to CaseLines**

**The Case Conference materials (including the Confirmation Forms) must be uploaded to CaseLines immediately upon receipt of the CaseLines' invite.**

**vi. Generally, only one Case Conference**

If a further Case Conference is necessary, the Court will attempt to schedule it before the same Case Conference judge. A second Case Conference will only be scheduled where the Case Conference judge is satisfied that the circumstances or issues are such that it is reasonable **and** necessary in the circumstances.

A second Case Conference before another judge will be rare.

**vii. Generally, only one motion after the Case Conference**

Parties should canvass what motions are required at the Case Conference and attempt to resolve temporary issues at that time. If they are unable to resolve the temporary issues and the matter cannot be addressed by a procedural order by the conference judge, a motion can be scheduled and timetabled at the case conference.

The parties should assume they will only be able to bring one motion before proceeding to trial. A second short motion or using multiple motions to avoid a long motion by either party or both parties will not be permitted unless there are exceptional circumstances warranting it.

Leave is required to bring a second or subsequent motion which can be obtained either by bringing a 14B motion in advance or by seeking leave of the judge before whom the parties appear on the first motion. At such a request, the moving party will be required to address:

- why a subsequent motion is reasonable and necessary in the circumstances of the particular case,
- why was it not dealt with during the prior motion,
- whether the issue was canvassed at the Case Conference,
- why the matter cannot or should not proceed directly to trial rather than a motion; and
- whether there have been intervening events or a significant changes which make the subsequent motion now necessary.

**ix. Proceed to a Settlement Conference**

If resolution was not achieved at the Case Conference, the primary aim of a Case Conference will be to ensure that there can be a useful Settlement Conference with all the necessary and relevant information and documentation available to the parties and the court. In such a case, the presiding judge at a Case Conference will order a timetable for completion of various steps, such as any

outstanding disclosure, order questioning, identify motions to be brought, identify whether expert evidence will be necessary and timetable such expert reports.

The Case Conference judge will schedule a Settlement Conference. Settlement Conferences will be scheduled well into the future to permit any motions, any ordered disclosure or other steps (for example appointment of the Office of the Children’s Lawyer (OCL) or an assessor) to be completed prior to the Settlement Conference.

On an appropriate matter, such as a Rule 15 Motion to Change, the Case Conference judge may timetable the matter directly to a long motion date, or a Trial Scheduling Conference.

**Once a Case or Settlement Conference has been scheduled no adjournments will be permitted except in exceptional circumstances.** If exceptional circumstances arise, the party requesting the adjournment must obtain the permission, in writing, of a judge.

## **G. Settlement Conferences (Max. 12 pages)**

The primary aim of Settlement Conferences is to resolve, on a final basis, all issues in the proceeding or as many discrete issues possible. All litigants must be present at the Settlement Conference.

### **i. Must Confer before the Settlement Conference**

Prior to attending at a Settlement Conference, the *Family Law Rules* require the parties to confer and discuss resolution of the outstanding issues. The parties must confirm, at the beginning of the Settlement Conference, that they have complied with this requirement.

Where the parties/counsel have failed to discuss the issues in advance of the Settlement Conference, the Settlement Conference judge will determine whether to adjourn the Settlement Conference or proceed with it and determine whether costs should be awarded against the party not complying with the *Family Law Rules*.

### **ii. Only one adjournment on Consent**

It is expected that very few Settlement Conferences will be adjourned.

Unless adjourned on the written consent of the parties (obtained at least one week prior to the Settlement Conference date from the Court Office) or by Court order, the Settlement Conference will proceed as scheduled.

If an adjournment is granted, the parties should not expect an expedited rescheduled Settlement Conference.

### **iii. Directions for Settlement Conferences**

The parties must comply with the following directions:

- a) **Confirmations must be emailed to the Court no later than 2 pm 3 days before the Settlement Conference date.**
- b) **Confirmation Forms must also be uploaded to CaseLines.**
- c) **A Settlement Conference Brief is required not to exceed 12 pages, plus** permissible attachments (as defined in the Case Conference section above) and additional documents required by the *Family Law Rules*. This 12-page limit includes the brief itself (Form 17C) **and** any additional pages of facts and/or arguments that are attached to the brief as an appendix or schedule. **All documents filed must use a font of not less than 12 point and double spacing.**
- d) If there are any financial issues, an up-to-date Financial Statement and a Certificate of Financial Disclosure;
- e) If Parenting is at issue, an updated Form 35.1 Parenting Affidavit with any Assessments or Reports attached;
- f) If Child or Spousal Support is at issue, Divorce Mate calculations for each year in dispute and a chart calculating proposed net arrears (if any);
- g) If Equalization is at issue, a comparative Net Family Property (NFP) with a Brief of contested values;
- h) A Rule 18 Offer to Settle; and
- i) A draft Order.

Where the opinions of the OCL's clinicians or those of other experts, who have delivered a report are likely to be contested at trial, these clinicians and experts should be encouraged to attend or be available for the Settlement Conference.

Where a party fails to file all the above documents, the Settlement Conference judge may consider an adjournment, impose terms and make a cost order against the defaulting party.

#### **iv. Only One Settlement Conference**

No party may schedule a second Settlement Conference without approval of a judge, which can be obtained at the Settlement Conference. If the Settlement Conference judge allows a second Settlement Conference, the Court will attempt to schedule it before the same Settlement Conference judge.

#### **v. Proceed to Trial Management Conference**

At the conclusion of the conference, the Settlement Conference judge will set a date for a Trial Management Conference (TMC), only if the matter is not settled and the matter is ready for trial. If it is not ready, the judge will make a peremptory Timetable Order directing the parties to complete what remains outstanding for trial. Failure to comply with the Timetable Order may be brought back before the court as a motion to strike pleadings, further directions and a cost order against the defaulting party.

## **H. Trial Management Conferences**

### **i. Adjournments of TMCs will be Rare**

Because Trial Management Conferences (TMC) are scheduled by a judge's endorsement, TMC's may only be adjourned with a judge's approval, even if there is consent of the parties. Approval may be obtained either by 14B motion or by appearing before a judge. The adjournment request must set out compelling reasons why the parties are not ready to go ahead, along with a proposed timetable to move the case forward to conclusion.

### **ii. TSEF**

If a Trial Scheduling Endorsement Form (TSEF) was not filed at the Settlement Conference or there are material amendments, the parties are to serve and file a joint, proposed TSEF with their updated Certificates of Financial Disclosure, draft Orders, Opening Statements and Offers to Settle. If a party refuses, is unwilling or fails to cooperate in the preparation of a joint TSEF, each party shall prepare a separate TSEF. When this happens, the Trial Management Conference judge may consider an adjournment and cost consequences as per Rule 17.

### **iii. Compliance with previous orders and directions**

If a party has failed to comply with any directions/Timetable Order of the Settlement Conference judge, the Trial Management Conference judge will consider whether to adjourn the Trial Management Conference, proceed and deal with the failure by considering it a factor in deciding costs, or permit a motion under Rule 1(8) for non-compliance with a Court order. The Trial Management Conference judge will not leave such issues to be dealt with by the trial judge.

### **iv. Trial Management matters**

The Trial Management Conference judge will ensure counsel provide and commit to reasonable time estimates for the entire trial.

At the conclusion of the Trial Management Conference, the judge will endorse any additional trial procedural matters, and/or a summary of the issues to be tried, to which the TSEF shall be attached. Subject to the trial judge's discretion, the endorsement and the TSEF will govern the conduct of the trial, failing which the remedies set out in the TSEF will be considered. Breach of any orders made at the TMC may result in serious consequences, such as striking pleadings, exclusion of evidence and an order of contempt or costs.

In Brampton, the Trial Management Conference judge may set a date for trials less than four days and, where trials are five days or longer, set the matter over to a Trial Assignment Court date. Other centres schedule family cases to the Assignment Court lists.

## ***I. Motions in Writing***

Where all interested parties agree that a motion may be decided by written materials and submissions (without an attendance in person or virtually), they must agree on a timetable and when all Court documents are ready, file same with the Court in accordance with Part 2.

**Uploading of materials into CaseLines is NOT required.**

Motions in writing will be forwarded to a presiding judge to be dealt with as expeditiously as possible.

## ***J. Form 14B Motions and Basket Motions***

Where these types of motions are brought on a regular or short motions list, absent compelling circumstances, the motion judge will direct the party to file the “basket motion” and may make a cost award against the party bringing the regular motion.

### **i. Consent and uncontested Procedural motions**

**Simple, procedural, consent and known uncontested matters** must be brought by a 14B Motion. A draft Order must be filed with a 14B Motion. Where these are brought on a regular motions list, the motion judge will direct the party to file the “basket motion” and may make a cost award against the party bringing the regular motion.

Contested motions (and those anticipated to be opposed or unknown whether they will be opposed) should not be filed as basket motions. These motions should be scheduled and heard in a motions court (or in writing, if the parties agree).

Rule 14B motions should rarely be used for making substantive orders (such as parenting, decision-making) except in the clearest of cases and where it is on consent of all parties.

14B and Basket Motions must be filed with the Court in accordance with the filing requirements set out above.

**Uploading of materials into CaseLines is NOT required.**

Nevertheless, it is up to the judge to review the uncontested trial materials and decide whether to deal with part or all of the issues as a “basket motion,” or alternatively to ask for further submissions or to refer part or all of the matter to a *viva voce* hearing. A judge may determine whether to direct that notice of either the motion or the material for the uncontested trial be served on other side, particularly if the materials show the need to hear from that party regarding a parenting or a financial issue.

### **ii. Uncontested Trials**

If no Answer has been filed within the *Family Law Rules* timelines, an Applicant may seek final Orders on an uncontested trial by 14B Motion (Rule 23(22)). Assuming proper service of the

Application was made on the opposing party and has been documented in the file, notice of an uncontested trial on a defaulting party is not necessary.

A draft Form 23 Order must be filed with the 14B Motion.

**Uploading of materials into CaseLines is NOT required.**

## ***K. Urgent Motions on Notice***

Parties should contact the Trial Coordinator's Office to schedule these motions. All motion materials must be filed in accordance with the filing requirements set out above.

A party may seek an urgent motion on notice without a Case Conference only in situations of urgency or hardship such as abduction and threats of harm where an Early Case Conference is not available.

**A Confirmation Form is NOT required to be filed.**

## ***L. Urgent Motions without Notice***

A party seeking to bring a motion without notice to the other interested party(s) must also set out why notice is unnecessary, inappropriate, or not reasonably possible in the circumstances.

A factum or Summary of Argument is NOT required for an urgent motion without notice.

**A Confirmation is NOT required to be filed.**

## ***M. Short Motions (less than one hour)***

### **i. Scheduling the Short Motion**

Motions expected to take less than one hour may be scheduled on a regular motions day by serving and filing the motion material at the Court office at the location where the motion is to be heard within the timelines set out in the *Family Law Rules*.

Filing a cross-motion does NOT extend the estimated time for the motion to be heard (the estimated time remains less than one hour otherwise a long motion date must be obtained). If the relief in a cross-motion is related to the relief in the motion and the total time for both the motion and cross-motion will be an hour or longer, a long motion date must be obtained. If the relief in the cross-motion is entirely separate from the relief in the motion, then it is in reality a separate motion and the party bringing the cross-motion must schedule this separate motion by obtaining another date from the Court Office.

The motions judge may adjourn a motion where a reasonable estimate of time for the motion to deal with all the issues exceeds one hour.

Parties must serve and file with their motion materials including the Affidavit of Service.

Parties should canvass what motions are required at the Case Conference and attempt to resolve their temporary issues at that time. If they are unable to resolve the temporary issues at the Case

Conference, a long or short motion can be scheduled and timetabled. **As noted above, parties should assume they will only be able to bring one motion each, pending trial.**

**ii. Filing and Uploading Short Motion Materials (max 12 pages narrative)**

**Parties must comply with the filing requirements in the *Family Law Rules*.**

**Limitations on Short Motion Materials:**

- **Except for motions arising from the wrongful removal or retention of a child, each party is restricted to one primary affidavit in support of their position on the motion and cross-motion (if applicable) which shall not exceed 12 pages of narrative.**
- **In addition, exhibits to each party's affidavit shall be limited to only the necessary and relevant evidence and are generally expected not to exceed 10 pages.**
- **Leave is required to file documents beyond these restrictions which will only be granted in exceptional circumstances.**
- **Without exception, all documents filed must use a font of not less than 12 point and double spacing.**

Court documents which do not comply with the above will NOT be accepted for filing.

Late filing of or uploading of motion materials (or exceeding the prescribed length or formatting) will not be accepted by court staff. The request and reasons for late filing or uploading of motion materials will have to be addressed by the motions judge who will determine whether the motion goes ahead with or without the late filed materials or is adjourned. Adjournments and cost consequences may result.

**iii. Confirmation Forms**

The moving party to a motion must email a Form 14C: Confirmation Form **no later than 2 p.m. three business days before the date of the motion**. The parties may file a Confirmation Form jointly.

As noted above, the parties or their counsel should consult with each other prior to filing their Confirmation Forms, unless the parties are self-represented and prohibited from communicating by Court order. These consultations must address both the attendance (time required and materials) and a potential resolution of the outstanding issues.

Where Confirmation Forms have not been filed, the motion will not proceed.

The Confirmation Form must list the specific issues that are to be addressed at the event and be uploaded to CaseLines. It must also set out clearly which materials are **necessary** for the judge to review. Referring to all prior affidavits or documents which have not been uploaded to CaseLines or documents which have not been accepted for filing or documents that will not be referred to is not permitted.

The Confirmation Form must also include an appropriate time estimate for the entire motion including time required by the other party.



**Confirmation forms must be uploaded to CaseLines into the correct bundle.** Otherwise, the judge will NOT have access to your uploaded materials.

#### **iv. Uploading to CaseLines**

The motion materials must be uploaded to CaseLines immediately upon receipt of the CaseLines' invite (which should be received at least 3 days before).

### ***N. Long Motions (one hour or longer)***

#### **i. Scheduling a Long Motion**

Motions that are expected to take an hour or longer (including the other party's reply and cross motion, if any) must be scheduled as long motions and scheduled through the Trial Coordinator in the location where the motion is to be heard.

To obtain a long motion date from the Trial Coordinator's Office in the Central West Region, counsel/litigants must:

- a. Unless the long motion is *ex parte*, confer with the opposing party to identify possible dates for the long motion and to discuss the estimated time required for the motion;
- b. The moving party then must obtain a long motion date from the Trial Coordinator's Office from the courthouse where the motion is to be heard. When obtaining a date, counsel and litigants must advise the Trial Coordinator's Office the estimated time required for the long motion; and
- c. After the long motion date has been obtained, the moving party must serve and file their motion materials **within 10 days** (Notice of Motion, supporting affidavits and a draft Order) along with the Proof of Service. Subject to an order from a judge, failure to do so will result in the hearing date being vacated.

#### **ii. Timetabling the Necessary Steps**

After the motion materials have been served on all interested parties, all counsel/litigants must agree in writing upon a schedule for completion of all steps necessary for the long motion to proceed on the scheduled date. This will include filing of all responding materials, reply materials, cross-examinations (if needed) and filing of facta.

Counsel/litigants must file the scheduling agreement/email or other documentation attached to their Confirmation Form for motion.

If counsel and the litigants are NOT able to agree to a timetable within 30 days of obtaining the hearing date, the moving party must request a telephone attendance before a judge to set a timetable and/or other directions the judge considers appropriate. The Court may consider costs if a

party is withholding agreement to a reasonable timetable proposal or is deliberately delaying the hearing of the motion.

In the event the long motion does not proceed on the scheduled hearing date and there is no timetable agreement or order, the Court will consider this a significant factor in determining whether to grant an adjournment and/or to award costs and the quantum of costs of the aborted long motion hearing date.

### **iii. Adjournment of Long Motions**

Adjournments of long motions are strongly discouraged. Counsel and parties should expect that unnecessary adjournments will attract cost awards.

#### ***i) Consent adjournments more than 3 weeks prior to the long motion hearing date***

If all parties consent in writing, at least 21 days prior to the long motion hearing date, that the long motion is to be adjourned, one of the parties may write to the Court (copied to all other parties) setting out:

- a. The request for an adjournment;
- b. That it is on consent of all interested parties; and
- c. The reasons why the adjournment is appropriate or necessary.

Only one adjournment will be granted on consent.

Counsel and the parties will be given the next available long motion date. Counsel and litigants should not expect to be given an earlier date as a result of the consent adjournment.

#### ***ii) Opposed adjournments more than 21 days prior to the long motion hearing date***

If counsel or a party seeks an opposed adjournment, at least 21 days prior to the long motion hearing date, the party seeking the adjournment shall obtain from the Trial Coordinator's Office a telephone attendance before a judge who will determine whether to grant the opposed adjournment of the long motion date or make an order for directions regarding the long motion.

#### ***iii) Consent or opposed adjournments within 21 days of the long motion hearing date***

Unless otherwise dealt with by a judge in advance of the long motion hearing date, any adjournments sought within 21 days of the long motion hearing date, must be made to the motions judge on the scheduled hearing date.

A copy of the timetable agreement must be provided to the motions judge.

**Counsel and parties should be prepared to proceed with the long motion on the scheduled date in the event the adjournment is NOT granted.**

If an adjournment is granted, all counsel and parties must bring and have available their Costs Outlines to permit the motions judge to deal with the issue of costs of the adjournment and to make any other order for directions.

**iv. Confirming the Long Motion (21 days before the motion)**

Unless otherwise directed by a judge:

- a) All long motions must be confirmed by all interested parties by filing Confirmation Forms **no later than by 2pm 21 days prior to the hearing date**. Failure to file a Confirmation Form will result in the long motion hearing date being vacated and made available to other parties on a short notice basis.
- b) The parties or their counsel should consult with each other prior to filing their Confirmation Forms unless the parties are self-represented and prohibited from communicating by Court order.
- c) Where a Confirmation Form has not been filed by either party, the motion will not proceed and the date will be vacated.
- d) The Confirmation Form must list the specific issues that are to be addressed at the event. The form should also indicate which materials the judge should review. Referring to all prior affidavits or documents which have not been uploaded to CaseLines is not appropriate.
- e) The Confirmation Form must also include an appropriate time estimate for the entire motion including time required by the other party.

A failure to comply with the above may, subject to the discretion of the motions judge, result in the motion not being heard, adjourned, dismissed or directions issued.

Moving party's Counsel must advise the Court Office immediately upon the motion being settled. Failure to do so may attract cost consequences or require an attendance by all counsel and parties.

**Confirmation forms must be uploaded to CaseLines into the correct bundle.**

**v. Uploading to CaseLines**

All parties are required to upload their documents to CaseLines **at least three (3) days prior to the hearing date**, properly formatted, indexed and bookmarked or hyperlinked to permit a judge to easily move from one clearly identified document to another clearly identified document.

All parties should be able to direct the presiding judge to the applicable Caseline's page number when referring to documents.

**vi. Facta and Compendiums**

A factum (or Summary of Argument) is required on all long motions. If the moving party does not file a factum, the motion date will be cancelled.

Except with leave of the Court, facta are limited to 20 pages, at least 12 font and double spaced. Once again, all Court documents, including facta, must comply with R. 4 of the *Rules of Civil*

*Procedure* with respect to formatting and comply with the maximum length requirements set out in this Practice Direction. Failure to do so may result in the document being rejected for filing and, therefore, prohibited from being uploaded to CaseLines.

**The moving party's factum must be served and filed three weeks prior to the hearing date.**

**The responding party's factum must be served and filed two weeks prior to the hearing date.**

The failure by a responding party to file a factum in accordance with these timelines will be addressed by the judge hearing the long motion, which may result in an adjournment or cost consequences.

The authorities that are included on the Court's list of [Often Cited Family Cases](#) do not need to be provided to the Court. Counsel and parties are advised to refer to Part I of the Consolidated Provincial Practice Direction for further direction.

A Compendium containing of the Court filed documents and evidence essential to the hearing of the motion may be uploaded to CaseLines for long or complex motions. Where possible, the parties should agree on a Joint Compendium.

## ***O. Cost Orders in Family Law Motions and Applications***

Pursuant to Rule 24(10) of the *Family Law Rules*, costs should be determined in a summary manner promptly after dealing with each step in a case. In addition, any claim for costs shall be supported by documentation that is satisfactory to the Court. Moreover, any party who opposes a claim for costs shall provide documentation showing the party's own fees and expenses (Rule 24(12.2)).

The parties should attempt to resolve the quantum of costs prior to the hearing and advise the motion's judge of any resolution or that they have been unable to agree on the issue of costs.

**If the parties are unable to resolve the quantum of costs, all counsel appearing on motions and conferences must attend the hearing with their Costs Outline. If the Costs Outline is not available, the judge may decline to make a costs award in their favour or make such other direction or order as appropriate.**

## ***P. Dispute Resolution Officer Program – Brampton and Milton***

**DRO conferences are available for all family matters and in all centers in Central West. Counsel or parties should enquire of the court or when attending before a judge to request a conference before a DRO.**

The first Case Conference on a Motion to Change in Brampton or Milton will be scheduled before a Dispute Resolution Officer (DRO). Counsel and parties are advised to refer to Part I of the Provincial Practice Direction for further direction.

A DRO conference may also be held on matters, other than motions to change, as may be directed by a judge.

## Q. *Trial Records*

The Applicant must file a Trial Record at least 30 days prior to the scheduled Trial date.

Failure to do so may result in the matter being removed from the Trial list unless the Court orders otherwise.

## R. *Motions To Change*

The *Family Law Rules* direct the Court to determine the next steps in a Motion to Change, with a view to ensuring that these motions proceed in the most efficient manner appropriate in the circumstances. The Court is directed to determine the most appropriate process for reaching an expeditious and just conclusion of the case in the circumstances.

A new Motion to Change Endorsement form is available [here](#). Parties are encouraged to provide a draft Motion to Change Endorsement form with their materials for the first judicial conference to obtain early direction regarding the most appropriate process for the case. Parties should be prepared to address these issues at the first attendance before a DRO or a judge.

The Rule 15 Motions to Change seek variations or reviews of Superior Court of Justice parenting and support Orders. It is important to clearly identify in a party's materials whether the Order(s) sought are pursuant to Section 17 of the *Divorce Act* or Section 37 of the *Family Law Act*.

Parties or counsel must clearly identify whether the change sought is a review or a variation and, if it is a variation, set out clearly the material change(s) in circumstances.

Parties to a Motion to Change in Brampton and Milton must first attend a Case Conference before a DRO, unless there is an Order allowing them to waive that attendance. The DRO will confirm that the parties have attended a MIP, considered mediation and served Rule 18 Offers to Settle, before moving the matter forward. A Form 35.1 Parenting Affidavit must be filed by each parent or any person seeking a contact Order. The DRO will then schedule a Motion or Settlement Conference for any unresolved issues.

If the Motion to Change is a parenting case, parties or counsel must advise whether independent, child-focused evidence is required, such as an assessment or OCL involvement, and if the children's views and preferences can be ascertained by a Voice of the Child Report.

*Family Law Rule 15 (26)* permits the Court to determine the Motion to Change on a final basis on the material filed **unless the judge determines that the issue cannot be properly decided without a trial**. If the presiding judge cannot decide the issues on the Motion to Change properly, without a trial, then the presiding judge will make any necessary order(s) to get the matter ready for trial and schedule a Settlement Conference.

If the matter does not resolve at the Settlement Conference, the Settlement Conference Judge will schedule the Long Motion or the trial. If a matter requires a trial, a Trial Management Conference may be scheduled.

## **PART 6 – CIVIL PROCEEDINGS**

### ***A. Motions to Transfer a Civil Proceeding***

All requests for a transfer of a civil proceeding from one judicial region to another must comply with Rule 13.01.02 of the *Rules of Civil Procedure*.

All such motions by a party must be brought in the judicial region to which the proceeding is sought to be transferred.

The Court may, on its own initiative, at a motion or other hearing, transfer the proceeding to another judicial region where appropriate.

### ***B. Designated Counties for the Commencement of Mortgage Proceedings***

Pursuant to rule 13.1.01(3) of the *Rules of Civil Procedure*, Brampton, Milton, Orangeville or Owen Sound have been designated as the place for commencement of mortgage proceedings for property located anywhere in the Central West Region.

### ***C. Motions in Writing***

Where all interested parties agree that a motion may be decided on written materials and by written submissions (without an attendance in person or virtually), then the parties must agree on a timetable and when all Court documents are ready, file same with the Court in accordance with Part 2 above.

**Uploading to CaseLines is NOT required.**

Motions in writing will be forwarded to a presiding judge to be dealt with as expeditiously as possible.

### ***D. Basket Motions***

Basket Motions must be filed with the Court in accordance with the filing requirements set out above.

**Uploading to CaseLines is NOT required.**

Simple, procedural, consent and known uncontested matters must be filed or brought as a basket motion. A draft Order must be filed. Nevertheless, it is up to the judge to review the “basket motion,” and may ask for further submissions or to refer part or all of the matter to a *viva voce* hearing. A judge may determine whether to direct that notice the motion be served on other side or be heard in open court (on notice to all other interested parties).

Where these are brought on a regular or short motions list, the motion judge will direct the party to file the “basket motion” and may make a cost award against the party bringing the regular motion.

Contested motions (and those anticipated to be opposed or unknown whether they will be opposed) should not be scheduled or heard as basket motions. These motions should be scheduled and heard in a motions court.

## ***E. Short Motions and Applications (less than one hour)***

### **i. Scheduling a Short Motion/Applicaton**

Motions or Applications that are expected to take less than one hour may be scheduled on a regular motion’s day by serving and filing the motion material at the Court office at the location where the motion is to be heard. See Part 2 for Electronic Filing for the Central West Region.

Where motions stating that they require “59 minutes” will be carefully scrutinized by the presiding motion judge to assess where the motion should have been brought as a long motion.

Filing a cross-motion does NOT extend the estimated time for the motion to be heard (the estimated time remains less than one hour otherwise a long motion date must be obtained). If the relief in a cross-motion is related to the relief in the motion and the total time for both the motion and cross-motion will be an hour or longer, a long motion date must be obtained. If the relief in the cross-motion is entirely separate from the relief in the motion, then it is in reality a separate motion and the party bringing the cross-motion must schedule this separate motion by obtaining another date from the Court Office.

The motions judge may adjourn a motion where a reasonable estimate of time for the motion to deal with all the issues exceeds one hour.

### **ii. Filing and Uploading Motion Materials**

The moving and responding parties must comply with the Filing requirements set out above in Part 2 above.

Late filing of or uploading of short motion materials (or those which fail to meet document standards or exceed the prescribed length or formatting) cannot or will not be accepted by the Court staff and therefore cannot be uploaded to CaseLines.

The request and reasons for late filing or uploading of motion materials will have to be addressed to the presiding motions judge, who will determine whether the motion proceeds with or without the late-served materials or is adjourned. Adjournments and cost consequences may result.

### **iii. Confirmations**

**A Confirmation (Form 37B or 38B) must be filed:**

- **By the moving party by 2 pm, five days before the hearing;**
- **The responding party by 10:00 am three business days before the hearing; or**

- **The parties may file a Confirmation jointly on or before 2pm, five days before the hearing.**

The parties or their counsel should consult with each other prior to filing their Confirmations, unless the parties are self-represented and prohibited from communicating by court order.

Where a Confirmation has not been filed by either party, the short motion will not be proceed and the date will be vacated.

The Confirmation must only list the specific issues that are to be decided at the event. They should also indicate which materials the judge should review with clear reference to the specific volume, tab and page numbers. Referring to “all” prior affidavits or documents is not appropriate and will be ignored. Referring to documents that the party does not intend to refer to in submissions is discouraged and may be a factor in determining costs.

The Confirmation must also include an appropriate time estimate for submissions on all issues in the motion including time required by the other party. If a party chooses not to make submission on an issue, the Court is entitled to consider that the party has abandoned that specific issue.

**Confirmation forms must be uploaded to CaseLines into the correct bundle.**

#### **iv. Uploading to Caselines**

As set out above, **uploading of all filed motion materials must be done on or before the day and time for filing a Confirmation.**

## ***F. Long Motions and Applications (one hour or more)***

Motions that are expected to take one hour or more (including the other party’s reply and cross-motion, if any) and Applications must be scheduled as Long Motions/Applications and scheduled through the Trial Coordinator in the location where the motion is to be heard.

### **i. Scheduling a Long Motion/Application**

Motions and Applications that are expected to take more than one hour (including the other party’s reply and cross-motion, if any) must be scheduled as long motions/Application and scheduled through the Trial Coordinator in the location where the motion or Application is to be heard.

To schedule and secure a long motion/Application hearing date from the Trial Coordinator’s Office in the Central West Region, counsel and litigants must:

- Unless the long motion/Application is *ex parte*, confer with the opposing party to identify possible dates for the long motion/Application and to discuss the estimated time required for the long motion/Application;
- The moving party then must obtain a hearing date from the Trial Coordinator’s Office from the courthouse where the long motion/Application is to be heard. When



obtaining a date, counsel and litigants must advise the Trial Coordinator's Office of the estimated time required for the hearing; and

- c. After the hearing date has been obtained, the moving party must serve and file the long motion/Application materials **within 10 days** (Notice of Motion/Application, supporting affidavits and a draft order) along with the Proof of Service. Subject to an order from a judge, failure to do so will result in the hearing date being vacated.

## **ii. Timetabling the Necessary Steps**

After the motion materials have been served on all interested parties, all counsel/litigants must agree in writing upon a schedule for completion of all steps necessary for the long motion to proceed on the scheduled date. This will include filing of all responding materials, reply materials, cross-examinations (if needed) and filing of facts.

Counsel/litigants must file the scheduling agreement/email or other documentation along with their Confirmation Form for motion.

If counsel and the litigants are NOT able to agree to a timetable within 30 days from when the hearing date was obtained, the moving party must request a telephone attendance before a judge to set a timetable and/or other directions the judge considers appropriate. The Court may consider costs if a party is withholding agreement to a reasonable timetable proposal or is deliberately delaying the hearing of the motion.

In the event the long motion does not proceed on the scheduled hearing date and there is no timetable agreement or order, the Court will consider this a significant factor in determining whether to grant an adjournment and/or to award costs and the quantum of costs of the aborted long motion hearing date.

## **iii. Adjournment of Long Motions/ Applications**

Adjournments of long motions are discouraged. Counsel and parties should expect that unnecessary adjournments will attract cost awards.

### ***i) Consent adjournments more than 3 weeks prior to the long motion hearing date***

If all parties consent in writing, at least 21 days prior to the long motion hearing date, that the long motion is to be adjourned, one of the parties may write to the Court (copied to all other parties) setting out:

- a. The request for an adjournment;
- b. That it is on consent of all interested parties; and
- c. The reasons why the adjournment is appropriate or necessary.

Only one adjournment will be granted on consent.

Counsel and the parties will be given the next available long motion date. Counsel and litigants should not expect to be given an earlier date as a result of the consent adjournment.

***ii) Opposed adjournments more than 21 days prior to the long motion hearing date***

If counsel or a party seeks an opposed adjournment, at least 21 days prior to the long motion hearing date, the party seeking the adjournment shall obtain from the Trial Coordinator's Office a telephone attendance before a judge who will determine whether to grant the opposed adjournment of the long motion date or make an order for directions regarding the long motion.

***iii) Consent or opposed adjournments within 21 days of the long motion hearing date***

Unless otherwise dealt with by a judge in advance of the long motion hearing date, any adjournments sought within 21 days of the long motion hearing date, must be made to the motions judge on the scheduled hearing date.

A copy of the timetable agreement must be provided to the motions judge.

Counsel and parties should be prepared to proceed with the long motion on the scheduled date in the event the adjournment is NOT granted.

If an adjournment is granted, all counsel and parties must bring and have available their Costs Outlines to permit the motions judge to deal with the issue of costs of the adjournment and to make any other order for directions.

**iv. Confirming the Long Motion/Application**

Unless otherwise directed by a judge:

- All **LONG MOTIONS** must be confirmed by emailing **Confirmations (revised form 37B)** no later than 2pm, 21 days prior to the hearing date.
- All **Long APPLICATIONS (revised form 38B)** must be confirmed by emailing a confirmation no later than 2 pm, 5 days prior to the hearing date.

Failure to file a Confirmation will result in the long motion/Application hearing date being vacated and made available to other parties on a short notice basis.

**Confirmation forms must be uploaded to CaseLines into the correct event bundle.** The motions judge will only have access to the specific event bundle.

**v. Uploading the Long Motion and Application materials**

All long motion and application materials must be **uploaded to CaseLines at least three (3) days before the hearing (as the CaseLines invite will be sent out at least 3 days prior to the hearing)**.

#### **vi. Facta and Compendiums**

A factum (or Summary of Argument) is required on all long motions and Applications. If the moving party does not file a factum where required, the motion/Application will not be scheduled.

**The moving party's factum must be served and filed three weeks prior to the hearing date.**

**The responding party's factum must be served and filed two weeks prior to the hearing date.**

No facta may exceed 20 pages without leave of the court and must comply with R. 4 of the *Rules of Civil Procedure* with respect to document standards and formatting. Failure to do so may result in the document being rejected for filing and, therefore, prohibited from being uploaded to CaseLines.

A Compendium containing of the court filed documents and evidence essential to the hearing of the motion may be uploaded to CaseLines for long or complex motions. Where possible, the parties should agree on a Joint Compendium.

### ***G. Emergency Motions or Applications***

Counsel and parties who wish to schedule an urgent motion must contact the Trial Coordinator's Office.

Counsel will have to provide a letter setting out:

- Why the matter is urgent;
- The nature of the relief sought;
- Whether the matter will be on notice or not;
- Whether the motion materials are ready to proceed;
- A time estimate for the motion;
- A draft Order; and

Setting out arguments or submissions in the letter as to the merits of the proposed motion or application is not appropriate.

Where possible, the motion materials should be available for a judge to review.

The Trial Coordinator's Office will provide the letter/materials to a judge to determine whether and how the matter is to proceed as an urgent motion. The moving party will be advised accordingly.

### ***H. Costs in Civil Motions and Applications***

The parties should resolve the quantum of costs prior to the hearing and advise the motion's judge of any resolution or that they have been unable to agree on the issue of costs.

Rule 57.01(6) of the *Rules of Civil Procedure* requires that, unless the parties have agreed on costs:

Every party who intends to seek costs for that step shall give to every other party involved in the same step, and bring to the hearing, a costs outline (Form 57B) not exceeding three pages in length.

This permits the presiding judge, where feasible, to summarily determine the issue of costs. The overriding principle is that “the court shall devise and adopt the simplest, least expensive, and most expeditious process for fixing costs...” Rule 57.01(7).

Counsel are frequently attending motions and Applications without Costs Outlines. When judges ask for Costs Outlines or bills of costs, counsel often seek to file written submissions as to costs. This is contrary to the intention of the Rules, delays the determination of the issue, and requires judges to determine costs issues for motions and applications that were often decided weeks or months before.

Unless the parties have agreed on the quantum of costs, all counsel appearing on motions and applications must attend the hearing with their Costs Outline in accordance with Rule 57.01 and be prepared to provide the cost outlines to the presiding judge. If a Costs Outline is not available to be given to the presiding judge, the judge may decline to make any costs award in favour of the defaulting party.

## ***I. Setting Down for Trial and Assignment Court***

Once the trial record is set down for trial pursuant to Rule 48, Rule 48.04 sets out the consequences of setting the action down for trial. Rule 48.04 provides that a party who sets an action down for trial or consents to placing the action on the trial list cannot initiate or continue any form of discovery or interlocutory motion without leave of the Court. Leave will be granted only in rare circumstances.

The Registrar will provide an Assignment Court date to the party who set the action down for trial and send a copy to the opposing parties shown in the Court records. The party setting the action down for trial must ensure that all interested parties are properly identified in the Notice of Assignment Court and, if there is a difference in contact information, are required to notify the opposing counsel/party of the Assignment Court date.

At the Assignment Court, the action will, unless there are exceptional circumstances, either be placed on a trial list or struck from the trial list. If placed on a trial list, all parties are deemed ready for trial.

To restore an action that has been struck from the trial list, the parties must obtain an order granting leave from a judge under Rule 48.11 to restore it to the trial list. An order can be obtained by writing to the Court, on the consent of both parties, confirming that all parties are now ready to proceed to trial. Upon receipt of such a request, the matter will be placed on the next Assignment Court date.

## ***J. Pre-Trials***

In Brampton, Pre-Trial dates will be scheduled at the Assignment Court or, after obtaining a scheduled trial date, by the parties jointly contacting the Trial Coordinator’s Office to obtain available dates.

In all other centers, the parties should contact the Trial Coordinator's Office to obtain a pre-trial date, at which they will receive an Assignment Court date or a trial date.

Pre-trial dates will, where possible, be scheduled within 120 days of the first day fixed for trial or the commencement of the sittings.

Counsel and parties must comply with Rule 50 including that parties with authority to settle must attend pre-trial hearings.

To make pre-trial conferences productive, counsel and any self-represented party are required, at least seven days in advance of the pre-trial conference, to consult and fill out a Rule 50.08 Pre-Trial Conference Report form (or a Rule 76 Report to the Trial Judge form) with the required information respecting witnesses and any other portions of the Report on which the parties agree. For example, that summaries of the proposed evidence of witnesses or opening statements will be exchanged.

After the parties have consulted, and the partially completed the Report, it must be served, filed **AND uploaded to CaseLines by the plaintiff.**

The fact that the parties agree on certain matters does not bind the pre-trial conference judge to accept the agreement with respect to the process to be followed or completion of the Report.

The parties must comply with the provisions of Rule 53.03 with respect to expert reports and deliver the Certificate referred to in Rule 50.03. Failure to deliver all expert reports at least 90 days prior to the pre-trial will likely attract a cost sanction and other directions and terms may be imposed by the pre-trial judge including an order prohibiting expert testimony by any expert whose report was not served in compliance with this Rule.



RSJ Ricchetti

April 08, 2022

## APPENDIX A

**Documents MUST be filed through the appropriate portal set out herein or the documents will be rejected.**

The Court will **only** accept filings by e-mail or in-person for the following reasons:

- For matters that are urgent, including requests for an urgent hearing;
- Documents that must be filed for a court date that is less than 5 business days away; and,
- Documents that must be filed for a deadline that is less than 5 business days away.
- Where alternate filing requirements are required due to an accessibility request.

**All Payments and fees are due per policy and directive.**

### CRIMINAL- Electronic Court Filings

All filings for Criminal matters and requests for urgent Criminal hearings may be filed/sent to the following email addresses:

Brampton-Peel Region Courthouse	<a href="mailto:scjtrialofficebrampton@ontario.ca">scjtrialofficebrampton@ontario.ca</a>
Milton-Halton Region Courthouse	<a href="mailto:SCJHaltontrialoffice@ontario.ca">SCJHaltontrialoffice@ontario.ca</a>
Orangeville – Dufferin County Courthouse	<a href="mailto:OrangevilleSCJTrialOffice@ontario.ca">OrangevilleSCJTrialOffice@ontario.ca</a>
Guelph- Wellington County Courthouse	<a href="mailto:GuelphOffice.SCJ@ontario.ca">GuelphOffice.SCJ@ontario.ca</a>
Owen Sound- Grey County Courthouse	<a href="mailto:SCJGreyBruce@ontario.ca">SCJGreyBruce@ontario.ca</a>
Walkerton- Bruce County Courthouse	<a href="mailto:SCJGreyBruce@ontario.ca">SCJGreyBruce@ontario.ca</a>

### CIVIL-Electronic Court Filings

Civil court documents shall be electronically filed and/or issued by using the existing [Civil Claims Online](#) Portal or the new [Civil Submissions Online](#) Portal, as appropriate, in accordance with the *Rules of Civil Procedure*.

Small Claims Court claims shall be filed through the [Small Claims Online](#) filing platform.

The Court will **only** accept civil filings by e-mail for the following:

- For matters that are urgent, including requests for an urgent hearing;
- Documents that must be filed for a court date that is less than 5 business days away; and,
- Documents that must be filed for a deadline that is less than 5 business days away.
- Where alternate filing requirements are required due to an accessibility request.

In the above circumstances, documents may be filed electronically at the following email address:

Brampton-Peel Region Courthouse	<a href="mailto:BramptonSCJCourt@ontario.ca">BramptonSCJCourt@ontario.ca</a>
Milton-Halton Region Courthouse	<a href="mailto:MiltonSCJCourt@ontario.ca">MiltonSCJCourt@ontario.ca</a>
Orangeville – Dufferin County Courthouse	<a href="mailto:OrangevilleSCJCourt@ontario.ca">OrangevilleSCJCourt@ontario.ca</a>
Guelph- Wellington County Courthouse	<a href="mailto:Guelph.SCJ.Courts@ontario.ca">Guelph.SCJ.Courts@ontario.ca</a>
Owen Sound- Grey County Courthouse	<a href="mailto:OwenSound.SCJ.Courts@ontario.ca">OwenSound.SCJ.Courts@ontario.ca</a>
Walkerton- Bruce County Courthouse	<a href="mailto:Walkerton.SCJ.Courts@ontario.ca">Walkerton.SCJ.Courts@ontario.ca</a>

Confirmation forms for CIVIL motions must be filed electronically to the following email address:

Brampton-Peel Region Courthouse	<a href="mailto:scjtrialofficebrampton@ontario.ca">scjtrialofficebrampton@ontario.ca</a>
Milton-Halton Region Courthouse	<a href="mailto:SCJHaltontrialoffice@ontario.ca">SCJHaltontrialoffice@ontario.ca</a>
Orangeville – Dufferin County Courthouse	<a href="mailto:OrangevilleSCJTrialOffice@ontario.ca">OrangevilleSCJTrialOffice@ontario.ca</a>

Guelph- Wellington County Courthouse	<a href="mailto:GuelphOffice.SCJ@ontario.ca">GuelphOffice.SCJ@ontario.ca</a>
Owen Sound- Grey County Courthouse	<a href="mailto:SCJGreyBruce@ontario.ca">SCJGreyBruce@ontario.ca</a>
Walkerton- Bruce County Courthouse	<a href="mailto:SCJGreyBruce@ontario.ca">SCJGreyBruce@ontario.ca</a>

### **FAMILY – Electronic Court Filings**

Family court documents shall be electronically filed and/or issued by using [Family Submissions Online](#) portal. The portal is authorized to accept the electronic filing of most documents in a family law or child protection case, along with any necessary filing fees. New applications and motions to change can also be filed through this portal, along with requests for fee waivers.

In addition, several family court documents relating to a simple or joint divorce may continue to be filed electronically by using the Ministry's [Family Claims Online Portal](#), in accordance with the *Family Law Rules*.

The Court will **only** accept family filings by e-mail for the following:

- For matters that are urgent, including requests for an urgent hearing;
- Documents that must be filed for a court date that is less than 5 business days away; and,
- Documents that must be filed for a deadline that is less than 5 business days away.
- Where alternate filing requirements are required due to an accessibility request.

In the above circumstances, documents may be filed electronically at the following email address:

Brampton-Peel Region Courthouse	<a href="mailto:BramptonSCJCourt@ontario.ca">BramptonSCJCourt@ontario.ca</a>
Milton-Halton Region Courthouse	<a href="mailto:MiltonSCJCourt@ontario.ca">MiltonSCJCourt@ontario.ca</a>
Orangeville – Dufferin County Courthouse	<a href="mailto:OrangevilleSCJCourt@ontario.ca">OrangevilleSCJCourt@ontario.ca</a>
Guelph- Wellington County Courthouse	<a href="mailto:Guelph.SCJ.Courts@ontario.ca">Guelph.SCJ.Courts@ontario.ca</a>



Owen Sound- Grey County Courthouse	<a href="mailto:OwenSound.SCJ.Courts@ontario.ca"><u>OwenSound.SCJ.Courts@ontario.ca</u></a>
Walkerton- Bruce County Courthouse	<a href="mailto:Walkerton.SCJ.Courts@ontario.ca"><u>Walkerton.SCJ.Courts@ontario.ca</u></a>

Confirmation forms for FAMILY motions and conferences must be filed electronically to the following email address:

Brampton-Peel Region Courthouse	<a href="mailto:scjtrialofficebrampton@ontario.ca"><u>scjtrialofficebrampton@ontario.ca</u></a>
Milton-Halton Region Courthouse	<a href="mailto:SCJHaltontrialoffice@ontario.ca"><u>SCJHaltontrialoffice@ontario.ca</u></a>
Orangeville – Dufferin County Courthouse	<a href="mailto:OrangevilleSCJTrialOffice@ontario.ca"><u>OrangevilleSCJTrialOffice@ontario.ca</u></a>
Guelph- Wellington County Courthouse	<a href="mailto:GuelphOffice.SCJ@ontario.ca"><u>GuelphOffice.SCJ@ontario.ca</u></a>
Owen Sound- Grey County Courthouse	<a href="mailto:SCJGreyBruce@ontario.ca"><u>SCJGreyBruce@ontario.ca</u></a>
Walkerton- Bruce County Courthouse	<a href="mailto:SCJGreyBruce@ontario.ca"><u>SCJGreyBruce@ontario.ca</u></a>