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Ce guide est également disponible en français.

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A Guide to Procedures in Family Court

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This guide does not provide legal advice. It is recommended that all parties seek legal advice where possible.

PART 7: REQUIRED STEPS

There are several steps that you will need to take before a judge can make a final decision in your family case. Many of these steps encourage you and the other party to try and settle as many of the issues as possible early on, so that you do not have to have a trial. A trial can take a long time and may be a very difficult and expensive experience for you and your family.

The *Family Law Rules* provide you and the other party with opportunities to settle at events called case conferences, settlement conferences and trial management conferences. You and the other party can always decide to settle on your own, even after a family case has started. It is not necessary to wait for a conference to try to resolve your issues.

Mandatory Information Program (MIP)

In most contested family court cases, litigants must attend a Mandatory Information Program (MIP). The MIP is offered at each family court location and provides information about:

- The impact of separation on parents and children;
- Options available for resolving differences, including alternatives to going to court;
- Legal issues
- The court process; and,
- Resources available to deal with problems arising from separation

You do not have to attend a MIP if your case is:

- An application that only includes a claim for a divorce, costs or an order incorporating the terms of an agreement or prior court order;
- Proceeding with the consent of both parties; or
- A motion to change support only.

You also do not have to attend a MIP if you have already attended one.

When the application or motion to change is filed, the court will schedule you and the other party to attend different MIP sessions. The applicant must serve the Respondent with his or her MIP notice along with the other documents.

If you are not available to attend on the scheduled date, you should call the number that is listed on your notice in order to reschedule.

After you have attended the MIP session, your notice will be signed to confirm your attendance. You must file the signed notice in your court file the next time you go to court. You do not need to file it right away after the MIP.

The judge will expect you to have attended the MIP and if you have not the judge may make an order against you for not attending.

If your circumstances are urgent or the requirement to attend the MIP would cause you hardship, you can request the court's permission to not attend the program. In these circumstances, you should take the family law information program that is available on-line at <http://www.legalaid.on.ca/en/getting/flip.asp> in order to learn about the issues that are covered in the MIP.

See **A Guide to Family Procedures, Part 6: Serving Documents** for more information on serving documents.

First Court Date

In some cases at the Family Court Branch of the Superior Court of Justice and for all cases at the Ontario Court of Justice, the next step may be a **first court date**. Court staff schedules the first court date and the date and time of the first court date is set out on the application.

The first court date often begins as a meeting with the court clerk, who will ensure that each party to the case, and any other person or agency required to be served, was served with a copy of the relevant forms and documents. The clerk also ensures that all required forms and documents have been filed with the court.

For all other cases at the Family Court Branch of the Superior Court of Justice and the Superior Court of Justice where a first court date is not required, one of the parties will need to ask the clerk to schedule a **case conference** for the case to proceed. It is important to remember that unlike a first court date where it is court staff that will automatically schedule a first court date, for case conferences, it is you that must ask court staff to schedule a case conference

Conferences

Case Conference

The first time you will speak to a judge about the issues in your case is called a case conference.

All the parties named in the family case must go to the case conference. If you have a lawyer, your lawyer must attend the conference with you.

A case conference can be held in a courtroom or in a less formal space in the courthouse, like a conference room or the judge's office. A case conference can also be held by telephone or videoconference, with the permission of the judge. When you get to court on the day of your case conference, you can check for your name and court file number on a case event list which will be posted outside a courtroom to see where the conference will be held, or you may ask court staff.

A case conference is held so that you and the other party can meet with a judge to:

- Discuss the chances of settling your case;
- Identify the issues that you and the other party cannot resolve;
- Determine if you and the other party have disclosed all relevant information that is required to settle the issues; and
- Set a date for the next step in the case.

The judge can make certain orders at a case conference, including:

- An order requiring one or both parties to provide the other with certain documents, like business financial statements or proof of business income;
- An order that one or both parties be allowed to ask the other questions about the evidence they have filed with the court;
- An order identifying next steps to be taken in the case, including that a party attend a MIP, conference, intake meeting with a court-affiliated mediation service or a community program or resource;
- If both parties agree, an order that they participate in an alternative form of dispute resolution, like mediation; or
- An order based on the agreement of the parties.

The judge can also make other orders where a party has served the other party with notice of the request and the judge agrees that the order should be made, including orders that preserve the rights of parties until the case is resolved.

A case conference can be scheduled by:

- The clerk at a first court date (if applicable);
- One of the parties asking the clerk to schedule a case conference; or
- The judge, if it considers it appropriate.

At least one conference must be held in each family case. There may be more, if you or the other party requests a conference or if the judge orders it.

In addition to case conferences, you may also ask for, or the judge may order, a settlement conference and/or a trial management conference.

Settlement Conference or Trial Management Conference

At a settlement conference, the judge focuses on how the issues in dispute may be resolved and which issues may be settled without further court attendances.

Trial management conferences are in place to ensure that the parties are ready to proceed with their case once a trial date is set. At a trial management conference, each party must provide the court with information about how they intend to present their case at trial, including the witnesses they intend to bring and how long the party expects that it will take to put his or her evidence before the judge.

Steps to Schedule a Case Conference at Family Court

Step 1: Identifying the Forms You Need for a Case Conference

You will need:

- Form 17: Conference Notice; and
- Form 17A: Case Conference Brief (General).

You will also need:

- Form 6B: Affidavit of Service;
- A copy of the Cumulative Table of Contents; and
- Form 14C: Confirmation.

If your financial statement is more than 30 days old, you will also need to update your financial information before the case conference date by serving and filing either:

- A new financial statement (Form 13 or Form 13.1) if any major changes to your existing financial statement are required;
- An affidavit (Form 14) that sets out any minor changes that should be made; or
- An affidavit (Form 14) saying that the information you provided in the last financial statement has not changed and is still true.

All of the court forms you will need for a case conference are available at the family court office or on-line at www.ontariocourtforms.on.ca. Read and follow the instructions on the forms carefully.

Step 2: Completing the Forms

You can obtain and fill in most of the court forms you will need on-line. The Ministry of the Attorney General has developed the Ontario Court Forms Assistant to help you to complete family court forms on-line. Once you select a form, you will answer a series of questions. The Assistant will use your answers to create the court form. You can print and save your forms and take them to the courthouse to be filed. Visit www.ontariocourtforms.on.ca list of the family court forms and instructions on how to use the program.

You may also print the forms from the website and complete them by hand. Forms are also available at the family court office. If you handwrite the information, make sure it is clear so that the other party and the judge can read it. Court staff cannot fill in the forms for you.

Once you have completed the forms, you will need the original form(s) to file with the court, together with one copy for each of the following:

- Your copy of the continuing record;
- You to serve on each party to the case; and
- You to serve on any other person or agency required to be served.

If a case conference has not already been scheduled, you must attend court to obtain a case conference date. Once the clerk has scheduled the case conference, he or she will also sign and date the conference notice.

Step 3: Serving the Forms

You will need to serve every party named in the case with a copy of the conference notice and all the documents you want the judge to consider.

If you are the one that requested the case conference, you must serve and file your case conference brief and any other supporting documents **at least seven days before** the case conference date is scheduled to be heard to allow the other party enough time to prepare and also serve you with their case conference brief before the case conference date.

If you are the party served with the notice of case conference and case conference brief, you must serve and file your case conference brief and any other supporting documents **no later than four days before** the scheduled case conference date.

A conference notice and a case conference brief may be served by **regular service or by special service**. See **A Guide to Family Procedures, Part 6: Serving Documents**.

Step 4: Completing the Affidavit of Service

After serving the case conference notice and all supporting forms and documents as described in Step 3, the person who served the documents will need to complete and file Form 6B: Affidavit of Service for each person served.

Step 5: Filing the Forms with the Court

You will need to bring your completed, original form(s) identified in Step 1 and at least one copy to the family court office where your case is being heard, along with your affidavit of service. The case conference brief is not included in the continuing record, but it will be placed in your court file so that the judge has an opportunity to review it before the case conference. After the case conference, it will either be returned to you or destroyed by the clerk.

You will need to file the affidavit(s) of service in the continuing record and update the table of contents contained in the Endorsements volume. You can also file your MIP Notice with the court at this time to confirm that you have attended the program.

Confirming the Conference - Form 14C: Confirmation.

No later than 2:00 p.m. two days before the case conference, each party must file a Confirmation – Form 14C, confirming that he or she will attend the conference and their MIP Notice, if it has not already been filed. If you are only filing the confirmation form, you can do this either by taking the form to the court office or by faxing it to the court. You can call the court to obtain the fax number.

Settlement Conference or Trial Management Conference

If the judge thinks that another conference is necessary, he or she can schedule another case conference. The judge may also schedule a settlement conference or a trial management conference.

The purpose of a settlement conference or a trial management conference is similar to those of a case conference and your preparation steps are similar as well.

For a settlement conference, each party must file a Settlement Conference Brief – Form 17C and for a trial management conference, each party must file a Trial Management Conference Brief – Form 17E.

The time for serving and filing documents is the same for all of the conferences. The Confirmation – Form 14C is also the same for all of the conferences.

For more information on case conferences, settlement conferences or trial management conferences, see Rule 17: Conferences of the *Family Law Rules*. You can find the *Family Law Rules* on the Ministry of the Attorney General's website at www.attorneygeneral.jus.gov.on.ca. Go to "Family Justice" and click on "Family Law Rules".