

**ONTARIO COURT OF JUSTICE
491 STEELES AVENUE EAST, MILTON**

LOCAL PRACTICE MEMORANDUM:

**PROTOCOL FOR ALL DOMESTIC, CHILD PROTECTION and FRO FAMILY
MATTERS**

February 1, 2023

Updated January 31, 2024

This Practice Memorandum updates and replaces the February 1, 2023 Local Practice Memorandum.

This Notice and Local Practice Memorandum should be read in conjunction with the Scheduling of Family Matters (August 29, 2023), found at <https://www.ontariocourts.ca/ocj/notices/scheduling-of-family-matters/>

1. Return to In-Person Appearances

All family matters **including first appearance court and case conferences** shall proceed in person unless the presiding judge orders virtual appearances. Virtual appearances shall be considered on a case-by-case basis.

Appearances that have been set by the court to proceed by Zoom prior to this date will proceed by Zoom.

All counsel and self-represented litigants may request virtual court appearances if there are health concerns or access to justice issues.

Requests for virtual appearance should be made in-court or by 14B motion well before the return date. Exceptionally, last-minute requests due to new issues arising may be made up to 7 (seven) days prior to the scheduled court date by contacting the Trial-Coordinator at Halton.TrialCoordinator@ontario.ca.

2. First Appearance Court

First Appearance Court shall take place in person. This includes child protection matters returning for the first time.

If a matter has counsel for both litigants, a 14B motion may be brought on consent, requesting that the matter proceed to a Case Conference without the need for an attendance at first appearance court.

To proceed directly to a Case Conference, counsel must confirm that all documents are properly filed with the court including full financial disclosure. The responsibility falls to counsel to ensure all documents are in order; court's administration will not be reviewing the material.

3. Case Management

Domestic matters shall be case managed. The presiding judge shall ensure that *Rule 2 of the Family Law Rules* is applied at each court appearance. For ease of reference, *Rule 2* states:

Rule 2(2) Primary Objective:

The primary objective of these rules is to enable the court to deal with cases justly.

Rule 2(3) Dealing with Cases Justly:

Dealing with a case justly includes,

- a) ensuring that the procedure is fair to all parties;
- b) saving expense and time;
- c) dealing with the case in ways that are appropriate to its importance and complexity; and
- d) giving appropriate court resources to the case while taking account of the need to give resources to other cases.

Rule 2(4) Duty to Promote Primary Objective:

The court is required to apply these rules to promote the primary objective,

and parties and their lawyers are required to help the court to promote the primary objective.

Rule 2(5) Duty to Manage Cases:

The court shall promote the primary objective by active management of cases, which includes:

- a) at an early stage, identifying the issues, and separating and disposing of those that do not need full investigation and trial;
- b) encouraging and facilitating use of alternatives to the court process;
- c) helping the parties to settle all or part of the case;
- d) setting timetables or otherwise controlling all or part of the case;
- e) considering whether the likely benefits of taking a step justify the cost;
- f) dealing with as many aspects of the case as possible on the same occasion; and
- g) if appropriate, dealing with the case without parties and their lawyers needing to come to court, on the basis of written documents or by holding a telephone or video conference.

4. Case Conference

A Case Conference shall be held prior to any motion being scheduled except for urgent motions and motions brought without notice.

5. Requests for Priority Case Conferences

Priority case conferences will only be considered in matters which do not necessarily meet the stringent test of urgency, if there is a possibility of resolution, or if there are pressing issues that require a conference on a priority basis.

To request a priority case conference appearance the Moving party shall:

- a) Seek out the opposing party's consent.
- b) Serve and file a 14B Motion form (filing shall be by way of the Family

Submissions Online portal or by email to Milton.OCJ.courts@ontario.ca).

- c) The Moving party will set out in the 14B Motion Form whether the other party has agreed, summarize the issues that are identified as priorities and provide sufficient facts to support the nature of the priority claimed.
- d) The 14B Motion shall not exceed two pages. No affidavit or other attachments are to accompany the 14B Motion, other than an affidavit of service (which shall be filed along with the 14B Motion).
- e) If the Responding party does not agree with a priority case conference, they shall have four (4) business days to respond from the date of service of the Moving party's 14B motion. The Responding party is subject to the same requirements as set out above and shall clearly state/respond to the dates they are available that have been provided by the Moving Party.
- f) No Reply is permitted.
- g) If no Response is filed within four (4) days, the request shall be deemed to be unopposed, and the court shall deal with it accordingly.
- h) If the parties cannot agree on a date for the Case Conference the court shall select a date.

6. Motions

Motions shall be scheduled in court after the first case conference has been held. Should a motion date be required between court appearances a 14B motion with supporting affidavit must be brought on notice seeking leave for a motion date. The supporting affidavit shall be limited to two (2) pages, double-spaced, in a 12-point font.

This does not include contempt motions or Motion to Change documents as the procedure for these documents are set out in the *Family Law Rules*.

The Trial-Coordinator is not to be contacted to schedule motion dates in-between court dates.

7. Requests for Urgent Motions

Where a priority case conference cannot be held, in order to request an urgent motion in a domestic matter, the Moving party shall serve and file the following four (4) documents

by filing with the Family Submissions Online portal or by email to Milton.OCJ.courts@ontario.ca:

- 14B Motion form.
- An affidavit in support of the request for an urgent motion. The affidavit shall not exceed six (6) pages, plus exhibits, unless authorized by a judge, in advance, by way of separate 14B Motion. The affidavit shall succinctly summarize the relevant facts which give rise to the urgency of the issue and shall state why a priority case conference date could not be obtained.
- A copy of the last two (2) endorsements, and any other prior order or endorsement that is relevant to the urgent matter that is before the court.
- An affidavit of Service of the 14B Motion form and supporting affidavit.

The Responding party shall have four (4) business days to respond from the date of service of the Moving party's 14B Motion and supporting affidavit. The Responding party's response shall be subject to the same filing requirements as set above.

No Reply is permitted.

If no Response is filed within four (4) days, the request shall be deemed to be unopposed, and the court shall deal with it accordingly.

If an urgent motion date is granted, counsel must secure a date for the hearing of the motion by emailing Halton.Trialcoordinator@ontario.ca. The Trial-Coordinator will provide several dates for the motion. The Moving party must then canvass with the Responding party to reach a mutually agreeable date. In the event the parties cannot agree on a date, the court shall select the date for the motion to be heard.

8. Motions without Notice

Strict compliance with Rule 14(12) of the *Family Law Rules* shall be adhered to. The Rule states:

A motion may be made without notice if,

- a) the nature or circumstances of the motion make notice unnecessary or not reasonably possible;

- b) there is an immediate danger of a child's removal from Ontario, and the delay involved in serving a notice of motion would probably have serious consequences;
- c) there is an immediate danger to the health or safety of a child or of the party making the motion, and the delay involved in serving a notice of motion would probably have serious consequences; or
- d) service of a notice of motion would probably have serious consequences.

9. Urgent Matters: Child Protection

Place of safety hearings shall be brought within five (5) days after the removal of a child without the need for prior approval. The hearing shall take place in person. If a temporary care hearing is sought, the matter will be organized and scheduled by that judge. The pleadings shall be provided to the court twenty-four (24) hours prior to the scheduled court date.

10. Child Protection

For new Child Protection Applications and Status Review Applications that have had a prior matter before the court and been assigned a case management judge, all efforts will be made to assign the same case management judge from early proceedings.

The Society shall ensure that when a new application is made the proper case management judge is identified to Court Staff.

For clarity, first court dates in child protection matters shall be in person unless otherwise ordered.

11. FRO – Refraining Orders

Motions for refraining orders are considered urgent family matters and will proceed via zoom on the date and time set out in the notice of motion. The moving party must serve FRO. Pursuant to O.Reg. 76-20, all service of documents on FRO must be effected by electronic means. The current email address for service on FRO is: FROLEGALSERVICE@ontario.ca.

FRO's general contact information (during business hours) is:

Toronto: 416-326-1817

Toll-free: 1-800-267-4330

TTY (service for people who are Deaf, deafened, or hard of hearing): 1-866-545-0083

Also, automated information is available 24 hours a day for Parties enrolled in FRO's Public Secure Online system for case specific information and for general information at www.thefro.ca

12. 17F Forms – To Update the Court Between Court Appearances

Prior to each court appearance a 17F form shall be filed with the court providing an update concerning what has occurred since the last court date. This shall be limited to two (2) pages, double spaced, 12-point font. Because matters are case managed it is unnecessary to set out the history of the file.

The 17F shall be filed with the court by 2:00 p.m. three (3) days prior to the conference unless otherwise permitted by court order.

13. 17F Forms – Adjournment Requests

If one party is represented by counsel and there is an agreement to adjourn the court date, the parties shall file a 17F form. No other relief other than the adjournment shall be dealt with by the judge.

The 17F form must set out the reason for the adjournment, for example, a report is not ready, the parties are in mediation, etc.

No more than one (1) adjournment by 17F shall be permitted.

Prior to filing the 17F the counsel must obtain adjournment dates by emailing Halton.Trialcoordinator@ontario.ca. The Trial-Coordinator will provide several dates for the adjournment request.

Once the date is agreed upon by counsel, they will advise the Trial-Coordinator by email to the same email address. The date is not scheduled in court until counsel has confirmed the date with the Trial-Coordinator and filed their 17F.

For matters where both parties are self-represented, adjournment requests shall be done in court, on the scheduled court date.

14. Second and Multiple Adjournment Requests

Should a second or multiple adjournments be necessary, the requests to adjourn a court date shall be made by way of a 14B motion. If the matter is being adjourned on consent an affidavit is not required, however, it must clearly be explained why the adjournment is necessary and a list of dates available to counsel must be provided. If one party is seeking an adjournment and the other party does not consent, then a 14B motion with notice must be filed along with a supporting affidavit.

When a second or third adjournment is being sought, the Trial-Cordinator is not to be contacted to adjourn matters and set a new date outside of court.

If the adjournment is granted, the Trial-Cordinator will contact the parties with a list of available dates.

15. Trial Management Conferences

Parties shall consult with one another to complete a Draft Trial Scheduling Endorsement Form prior to the document being filed with the court. The parties shall file the form with the court and provide a copy of the form, in Word, to the Trial-Cordinator.

The presiding judge will advise whether Trial Management Conference Briefs are required in addition to the Draft Trial Management Endorsement Form.

16. Filing Documents

Documents may be submitted in three ways:

- Electronically using the Family Submissions Online portal, (however, please check www.ontario.ca/familyclaims to ensure that your documents may be filed using the portal);
- Electronically using the email address: Milton.OCJ.courts@ontario.ca. **Note, this method shall only be used under the following circumstances:**
 - a) For matters where a judge has ordered that the documents are to be filed by e-mail.
 - b) For matters that are urgent, including requests for an urgent hearing.
 - c) Documents that must be filed for a court date that is less than 5 business days

away.

d) Documents that must be filed for a deadline that is less than 5 business days away: and

e) Where alternate filing requirements are required due to an accessibility request.

- In-person at the courthouse

Do not use multiple methods for filing the same document. Choose **one** of the above.

When a document has been accepted for electronic filing, it is not necessary to file a paper copy. Original documents filed electronically must be kept by the parties or their counsel, to be provided if the presiding judge requests the original.

If you file a document by e-mail in contravention of the direction regarding e-mail filing, it will be rejected.

If you are unable to file documents electronically you should contact the Milton courthouse before attending court, either by email to Milton.OCJ.courts@ontario.ca or by telephone 905-693-3035 to find out about other options that are available or information about attending the courthouse. Court counters are only open between 9:00 a.m. to 11:00 a.m. and 2:00 p.m. to 4:00 p.m. from Monday to Friday.

17. Procedural and Document Naming Protocols

Subject to the discretion of the judge hearing the matter, all documents filed must conform to the page number restrictions set out herein and to the formatting and filing and naming protocols and procedures set out below under this heading. If these are not followed, your material will not be accepted for filing and will not be brought to the attention of a judge.

The formatting and filing protocols that must be followed include the following:

- (a) Applicants shall serve their Application, Motion to Change, along with sworn 35.1 Affidavits and sworn financial statements where applicable, as required by the *Family Law Rules*.
- (b) Respondents shall serve their Answers, Response to Motion to Change, along with sworn 35.1 Affidavits and sworn financial statements where applicable, as required by the *Family Law Rules*.

- (c) All documents shall be in 12-point font. Spacing shall be 1.5 lines. Normal margins shall be used.
- (d) The documents to be filed by each party are to be attached to one email only.
- (e) All documents shall be in PDF format.
- (f) Each document shall be in a separate PDF attachment to the party's email.
- (g) You must ensure that each parties' and counsels' current email addresses and the name of the case management judge is listed on any 14B Motion Form and Form 17F, and in the body of the filing email as directed below; and
- (h) Where service is required by order of the Court or pursuant to the *Family Law Rules*, you must attach an affidavit of service with respect to each document served and filed.

To ensure your request is received and processed by the appropriate court office, the subject line should include the following information:

1. LEVEL OF COURT (OCJ)
2. TYPE OF MATTER (Family, CYFSA)
3. FILE NUMBER (Indicate NEW if no court file number exists)
4. TYPE OF DOCUMENT (14B Motion, Case Conference, Settlement Conference, Trial Management Conference, Focused Hearing, Urgent Motion, Urgent Application, Trial, Other Request)

The body of the email should include the following information if applicable:

- i. court file number (if it is an existing file)
- ii. short title of proceeding
- iii. list of documents attached (note: attachments cannot exceed 35MB)
- iv. type of request
- v. confirmation that all parties have been served and that the affidavit(s) of service is attached to the email.

- vi. name, role (i.e. legal representative, party, etc.,) and contact information of person submitting the request (email and phone number).
- vii. The name of the case management judge if one has already been assigned or is managing the current proceedings.

18. Page Limits

Financial Statements are not subject to any page limits.

All affidavits (except as set out herein in paragraphs 6, 7 and 14 above) shall be limited to ten (10) pages, plus exhibits, unless leave of the court to file a lengthier affidavit has been obtained in advance:

Case Conference Briefs shall be limited to ten (10) pages in total, including all attachments but excluding DivorceMate calculations, endorsements, orders, and separation agreements. The only exception is where the party has obtained an order in advance permitting a lengthier brief to be served and filed.

Settlement Conference Briefs shall be limited to ten (10) pages in total, including all attachments but excluding DivorceMate calculations, endorsements, orders, separation agreements, draft or signed Minutes of Settlement, draft or signed Consents, Offers to Settle, draft or signed Statements of Agreed Facts, and draft proposed final orders. The only exception is where the party has obtained an order in advance permitting a lengthier brief to be served and filed; and

Trial Management Conference Briefs shall be limited to ten (10) pages in total, excluding Trial Scheduling Endorsement Form, signed Minutes of Settlement, signed Consents, signed Statements of Agreed Facts, and draft proposed final orders. The only exception is where the party has obtained an order in advance permitting a lengthier brief to be served and filed.

19. Sharepoint And Caselines

All documents shall first be filed with the court through the Portal. Should counsel choose to upload to CaseLines they may do so.

It is important to note that if documents are uploaded to CaseLines only, ***this means the documents have not been filed with the court and the presiding judge will not review them prior to the court date.***

If case law, DivorceMate calculations or other aids to the court are uploaded to CaseLines, this must be set out in the 17F form, failing which, the presiding judge **will not** review the documents prior to the court date. Documents uploaded to CaseLines without service on, or consent of, the opposing party will not be reviewed by the presiding judge.

20. Communicating With The Court / A Family Judge In The OCJ

Do not attempt to communicate (directly or indirectly) with a family judge by way of letter, email, fax, or other form of communication, except on explicit invitation from the Court, or as may be directed by order of a family judge.

21. Mandatory Information Program (MIP)

MIPs are available via zoom technology

Contact the IRC at 905-849-0417 or at miltonontariomip@gmail.com for more information or to schedule a MIP

22. Information and Referral Services (IRC)

The IRC is available in person, by phone or email to help provide information and to connect families with community resources such as:

- Supervised access
- Counselling services
- Emergency services such as shelters and other programs to support victims of domestic violence

Contact the IRC at 905-849-0417 or at miltonontariomip@gmail.com

23. Mediation Services

The Ministry of the Attorney General provides on-site and off-site mediation services. Free mediation is available for anyone at first appearance, on a conference, motion, or trial. Free intakes for off-site mediations are also available, along with the subsidized mediations. You may also wish to contact the mediation services for information about resources that are available in your location, including virtual mandatory information sessions.

You can find them here: [Ministry of the Attorney General – Mediators by Court Location](https://www.attorneygeneral.jus.gov.on.ca/english/family/service_provider_by_family_court_location.php) (https://www.attorneygeneral.jus.gov.on.ca/english/family/service_provider_by_family_court_location.php)

On-site Legal Aid mediation: 905-693-6539 or email dcf.halton@lao.on.ca

Mediators are on site on Mondays, Tuesdays, Wednesdays, and Thursdays and in First Appearance Court virtually on Fridays.

24. Guide For Self-Represented Family Litigants

The Ontario Court of Justice has prepared a guide for self-represented family litigants. <https://www.ontariocourts.ca/ocj/family-court/before-going-to-court/>

25. Duty Counsel Assistance

If you need duty counsel assistance, including a First Appearance Court attendance, proceeding in the Milton OCJ Family Court, call or email:

Tel. (905)693-6539 / email dcf.halton@lao.on.ca

Please be prepared to answer questions on personal finances as Duty Counsel assistance is based on financial eligibility. Same day service will be provided for those in court on that day. Otherwise, appointments are required and are to be booked at the above noted number.

Here are some tips:

- You do not need to wait until the day of court to call. You can, and should, call a few days ahead of time. At this time local Duty Counsel cannot guarantee same day assistance if calling in on the day of court. Calling ahead of your scheduled court date will ensure assistance if available for you.
- If you call and get voicemail, leave your name, number, your court date, and reason for call. Someone will call you back. Calls will be returned within 24 hours. Return calls from Duty Counsel will be listed as “No Caller ID” and voicemail messages will not be left. This is to protect your privacy.
- If you have not received a call back, try again.

- Make sure you have an electronic copy of the court documents so that you can send a copy to the duty counsel who will be assisting you.

If you would like general legal advice, or if you want to apply for legal aid, please call the central Legal Aid Duty Counsel number at 1-800-668-8258.