

LOCAL PRACTICE DIRECTION FOR FAMILY COURT MATTERS AT BRAMPTON OCJ - JUNE 29, 2020

On June 16, 2020, the Office of the Chief Justice issued a notice to the public indicating that the phase one of the re-opening of courts would commence July 6, 2020, subject to the necessary health and safety measures being implemented in courthouses.

You are encouraged to read the Notice, which may be accessed at;

<https://www.ontariocourts.ca/ocj/covid-19/covid-19-family-matters/>

TYPES OF COURT AVAILABLE

Effective July 6, 2020 there will be three types of family court in Brampton;

- 1) The continuation of a remote court for domestic matters with hearings by teleconference and possibly Zoom video conference. The presiding justice will be in chambers and may not have access to the paper file. The hearing will be recorded by teleconference and then transferred to the court's digital recording system ("DRD") The parties shall follow the remote hearing protocol which will be e-mailed with each endorsement for the parties first attendance after the administrative adjournments.
- 2) The continuation of a remote court for most child protection matters with the presiding justice in court with a court reporter for direct recording to the DRD. Counsel and litigants will attend by teleconference and if ordered by the case management judge by Zoom video conference. Zoom video conference will not be used for remote conferences unless all parties are able to access that platform.
- 3) An in-person courtroom which will be reserved for trials, certain child protection hearings, and settlement and trial management conferences, at the direction of a judge.

Courtroom 208 will be retrofitted to allow for in-person appearances in family cases. In all in-person courts health and safety protocols will be followed and the number of persons allowed into the courthouse and into the individual courts will be limited.

COURT SCHEDULING

In the period March 17 to May 29/20 all matters on the dockets were administratively adjourned to a new date. Beginning June 1/20, the judges addressed their own dockets. In domestic matters if a party complied with the May 7/20 Notice to the Profession and Public from the LAJ and filed a 14B motion and a case conference brief, teleconference hearings supplemented by video occurred. If no 14B was filed, the case management justice adjourned the matter to their next available list day with a time slot for the hearing by teleconference. After receiving the Notice from the Office of the Chief Justice dated June 16/20 case management justices at their discretion could adjourn a settlement or trial management conference or a motion or focused trial to an in-person hearing after July 6/20. The parties are emailed the endorsements

setting out how and when their next attendance will occur.

For matters whose administratively adjourned dates have yet to be reached the parties can still arrange a case conference by the filing of a 14B motion with a case conference brief. If they do not, the matter will be adjourned administratively unless the case management justice contacts the parties in advance of the scheduled date to arrange a hearing.

NO NEW APPLICATIONS/MOTIONS TO CHANGE UNLESS URGENT

New Applications/Motions to Change-unless urgent-will not be scheduled for a first appearance at this time. Where a new proceeding is issued it will be held until authorization is given by the Chief Justice to proceed with the hearing of those matters.

The court has always been able to address any urgent motions brought by a party without notice to the other party by the filing of a 14B motion. The attached affidavit must address the criteria for urgency set out in Rule 14 (12) of the *Family Law Rules* which reads;

(12) 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. O. Reg. 114/99, r. 14 (12).

The urgent motion will be reviewed by the duty judge for the day and if granted that judge will schedule a motion review date before a judge by teleconference with or without a videoconference. That case management judge will then determine the next steps in the proceeding.

TRIAL SITTINGS

There are Trial Audit courts scheduled for July 22 (the adjournment of the April 1 trial audit) and July 29 (the original trial audit for matters to be scheduled for the August 17 sittings). Both trial audits will now be used to schedule matters for the August 17 sittings. The trial audits will be held in a DRD court and counsel and parties will attend by teleconference and Zoom video conference (if available to them).

As the trial audit involves both child protection and domestic cases the child protection trial audit will begin at

9:30 a.m. and the domestic cases audit will begin an 10:15 a.m.

The expectation is that trials will be in-person. However, at the trial audit the presiding justice will review the endorsement of the case management justice and may direct that some evidence be submitted by way of affidavit and some evidence be received by video. In appropriate cases, the parties will be given the option to have the entire trial done by video hearing.

All parties who are in receipt of an endorsement that required them to attend on the June 22 or July 29 trial audits will receive an email from the court (if an email address was provided otherwise by mail) advising them of the need for their attendance by teleconference supplemented by Zoom video on either July 22 or July 29. If the parties or counsel do not attend their matter will be struck from the trial list and re-scheduled for an attendance before their case management justice.

CHILD PROTECTION MATTERS

The court will continue to have a Wednesday list of child protection matters. This list will be addressed in a DRD court, with a judge, clerk and reporter as noted above. The court has directed the Peel Children's Aid Society ("PCAS"), to schedule time slots and provide the teleconference number to the parties when scheduling Place of Safety Hearings and first returns of Applications and Status Reviews. The judge scheduled to preside on the return date will amend or approve the time slots in advance of the hearing. That judge will determine if a Zoom video attendance will be offered by the court, but the matter will only proceed by video if all parties can access that platform.

Place of safety hearings will be heard in a DRD court. Settlement conferences, trial management conferences, and temporary care and custody hearings may be heard in an in-person court at the discretion of the presiding justice.

Judicial case management of all child protection cases will continue. The case management justice will set the date and the time slot when scheduling the next case management event. The dates and times slots may need to change to accommodate limited court resources especially during trial sittings

COURT FILINGS

All filings shall continue to be by email, to the following addresses;

Child protection matters: **OCJ.Family.Brampton@ontario.ca**

Domestic matters: **Brampton.OCJ.Courts@ontario.ca**

Limitations with respect to case conference and settlement conference briefs shall continue. Briefs shall be in 12-point font, spacing shall be 1.5. lines. Briefs shall not be more than 10 pages, including all attachments, but not including any offers to settle, affidavits of service or copies of prior endorsements or orders. The

narrative should be limited to only relevant matters. Where a domestic hearing proceeds remotely, counsel must assume that the judge does not have access to the entire court file. Accordingly, the brief must provide a succinct statement of the relevant background to the matter, and not cross reference previously filed materials

17F Confirmations forms must be filed for all conferences and motions.

ATTENDANCE AT THE COURT

No party shall attend at the courthouse unless their matter has previously been scheduled for an in-person hearing.

When matters are set for in-person trials, hearings or conferences the following rules apply;

- 1) If the matter is scheduled for 10 a.m. counsel and parties shall arrive at the courthouse by 9:15 a.m. to allow time to clear security. When the matter is concluded the parties and counsel must leave the courthouse immediately.
- 2) If the matter is scheduled for 2 p.m. counsel and the parties shall arrive at the courthouse by 1:15 p.m. to allow time to clear security. When the matter is concluded the parties and counsel must leave the courthouse immediately.
- 3) If the matter is scheduled for the day beginning at 10 a.m. sub-paragraph 1) applies as to arrival time.

We appreciate your patience to date and look forward to working co-operatively with litigants, counsel and court staff as we engage in this process of recovery.

Justice Philip J. Clay

Local Administrative Judge

Ontario Court of Justice Family, Brampton