

CASE CONFERENCES IN FAMILY LAW MATTERS

Counsel are reminded that under the *Family Law Rules*, the goals of case conferences are to:

- explore the chances of settling the case
- identify which issues are in dispute and which are not, and dispose of undisputed issues by an agreement or court order
- explore ways to resolve the disputed issues, including options outside court, like mediation or an assessment
- ensure disclosure of the facts and documents needed to resolve the disputed issues
- note any facts that a party admits to be true and that may simplify the case
- set up a plan and a date for the next steps in the case, including a settlement conference to try to resolve all the disputed issues and avoid a trial.

Case conference briefs should be drafted with those goals in mind. They should contain a brief statement of the facts, the issues for the conference and proposals for resolution of the issues to be dealt with at the conference.

Case conference briefs were designed to replace the adversarial pleadings and affidavits that used to be exchanged at the beginning of family law files. Lengthy briefs, briefs containing material irrelevant to the case conference issues and adversarial language are discouraged, as they do not promote a productive settlement atmosphere at the conference.

Counsel are requested to be respectful of the time constraints for the judiciary to prepare for and conduct case conferences. In Newmarket, case conferences are currently scheduled for 30 minutes each. Briefs should be prepared with a view to a realistic agenda that can be addressed in the time available with the court that day. Preferably, briefs should be restricted to the four page prescribed form, but if it is impossible to convey the necessary information within the four-page brief, counsel may add a **short** attachment of not more than two pages,. Briefs that exceed the prescribed limit or that contain adversarial and unhelpful language will not be read and cost sanctions may be imposed under rule 17(18).

The case conference should not be the first time that the parties discuss the case or endeavour to resolve issues between themselves. The efforts that have been made to resolve issues should be noted in paragraph 8 of the brief. In particular, parties are expected to address and try to resolve all standard disclosure issues before the case conference. The presiding judge will address any specific disclosure issues that remain outstanding, provided they are specifically outlined in the brief with proposals from both sides.

One of the goals of the case conference is to try to avoid a costly motion for temporary relief, particularly while the disclosure process is being completed.

Counsel should identify any issues that are not in dispute and prepare a consent to be filed and turned into a court order at the case conference.

It is the expectation of the court that there will generally be some temporary agreement for child support made at a case conference. The payor spouse should indicate in his or her brief what amount of support he or she is prepared to consent to.

Absent special circumstances, it is also expected that counsel will have exchanged proposals for temporary parenting arrangements, so that there is some agreement for each parent to have contact with the children by the conclusion of the case conference.