

**Court of Queen's Bench of Alberta
Edmonton Family Law Town Hall Meeting
June 13, 2012, 1:00 p.m.
Edmonton Law Courts Building
Courtroom 317**

In Attendance

Associate Chief Justice J.D. Rooke
Justice B.A. Browne (Chair)
Justice A.W. Germain
Justice R.A. Graesser

Barb Petryk - Manager, Family Law Centre
Edith Captain - Queen's Bench Administrator, Family Law Centre
Sharon Hinz – Case Management Coordinator
Hillary Pittman - Judicial Assistant, Queen's Bench

Approximately 60 members of the Bar were present.

1. Welcome and Introductions

Justice Browne, Co-Chair of the Edmonton Family Law Committee of the Court of Queen's Bench, introduced herself, welcomed attendees and called the meeting to order at 1:01 p.m.

Justice Browne thanked the members of the Bar for attending the meeting and welcomed their comments.

2. Announcements and Information Sharing

Members of the Bar are invited to send comments and recommendations for improvement to Justice Browne in care of Hillary Pittman, via email at hillary.pittman@albertacourts.ca.

Another meeting will be held in January in an effort to continue to thoroughly and properly address all of the ongoing family law issues.

3. JDRs

Justice Browne invited the bar to pass on their remarks regarding availability and scheduling as well as any recommendations on JDRs so that she can in turn pass these on to the Civil Law Committee (Judges) by the June 30 deadline.

Q: A member of the bar asked if it would it be possible to hold half-day JDRs as often there is only one issue that the parties require judicial input.

R: Justice Browne advised that the concern with this is the Justice's required preparation time and there would therefore need to be a limit on the material. Associate Chief Justice Rooke advised that this scheme would also require that 2 half-day JDR requests come in at the same time to avoid wasting the other half-day and judicial/JDR resources. If counsel can make a request for 2 half-days that will utilize the 1 date they should do so. The other concern is that a scheduled half-day may run over in time.

Justice Browne advised that Family Settlement Services with Legal Aid can also conduct some settlement conferencing.

4. Self-Represented Litigants (SRLs)

There are a number of video courses for SRLs currently being developed by a number of public legal education organizations. These are aimed at assisting SRLs to focus in on the issues and preparing for court.

Q: A member of the bar suggested that, based on personal experience, there is a safety concern for lawyers when dealing with SRLs in EPO situations.

R: Justice Browne invited counsel to send her a letter outlining this issue. Associate Chief Justice Rooke suggested that perhaps another process is needed to obtain trial dates from the Court Coordinators when an SRL is involved.

Associate Chief Justice Rooke advised that Calgary has a self-represented litigant courtroom in family law.

Q: Julie Lloyd suggested that sometimes counsel can run over their allotted time in Chambers as well and that both SRLs and counsel need to be reminded of their allotted time. Ms. Lloyd cautioned that a separate SRL court might have different rules that may or may not be appropriate.

Q: A member of the bar suggested that counsel be aware of the time their matter is taking and that if they are going over the allotted 20 minutes, they stand the matter down until the end of the list.

Q: A member of the bar opined that, in combined courtrooms, counsel proceeding before SRLs allows the SRLs to observe and learn how the court proceeds.

5. Special Chambers – Barb Petryk

- Counsel need to ensure that, after going online to get availability, they book the date with the Clerks' Office before going into court to confirm that on the record. This is not always done which results in overbooks for any given day.

- The on-line Family Chambers Adjournment option is no longer available to adjourn Family Law Specials. You must contact the Clerks' Office to adjourn a Family Law Special and to secure another date if need be.
- Justice Browne reminded everyone that half-day specials are booked through the Special Chambers Court Coordinator, Peggy Lewis. A one-hour family special is booked through the Family Law Information Centre.

Problems arise when a one-hour special is booked and a cross-application is filed. There are 2 one-hour specials booked for each afternoon and with an application and a cross-application often the one-hour special goes longer than the scheduled time. *A suggestion was made that perhaps the forms confirming the special chambers application could be amended to indicate whether a cross-application is likely.*

Practice Note 2

Justice Browne advised that she is working on amendments to Practice Note 2 to address this however there are many issues to be resolved.

Confirming Letter – when and how many?

How many sets of material need to be filed?

- Q: A member of the bar asked about the number of affidavits to be filed when a cross-application is involved as there are then 2 applicants.
- R: Justice Browne advised that the original applicant is entitled to 1 affidavit, the cross-application can file a response and their own positive material, then the original applicant is entitled to file a response: 1 affidavit with original application, 1 affidavit in response/with cross-application, 1 affidavit in response to that.
- Q: The member of the bar suggested that the deadline be moved up 1 week and that the respondent be advised that a cross-application must be filed within 5 business days. It should then be counsel's responsibility to inform the Court if the cross-application can nonetheless be done within the 1 hour special. As well, the issue of third party affidavits needs to be addressed as there is currently nothing in the *Rules*.
- Q: A member of the bar asked:
Is there any way to authorize the Clerks' Office to file a second Confirming Letter on a cross-application? There's no point in me filing my first Confirming Letter as I have no idea what the Respondent is going to say to my application so the second Confirming Letter held the argument. I had to send somebody down and get a fiat even though it was the Thursday on the normally last deadline. Opposing counsel and I agreed upon it but the Clerk said there's nothing we can do about it that's our policy. So it's frustrating for them and it's frustrating for us because now we're expending even further resources beyond doing a second letter and sending somebody down to get a fiat.

R: Justice Browne advised that she would follow up.

Q: A member of the bar asked if materials could be sent electronically.

R: Problems arise when affidavits are tabbed as this does not come through in electronic format.

R: Justice Graesser advised that some judges including himself would rather get the materials electronically and that the issue of tabs can be overcome by simply adding page numbers for reference purposes.

R: Sharon Hinz (Case Management Court Coordinator) advised that materials should never be sent electronically to the Court Coordinators as they receive such a large amount of e-mails every day. The only electronic correspondence to go to their office should relate to booking.

R: Associate Chief Justice Rooke raised a concern regarding the amount of resources – both equipment and staff – that would be required if all materials were sent electronically due to the eventual need to print these.

6. EPOs and Restraining Orders

Justice Browne reminded counsel not to include parenting orders in EPOs. These should be 2 separate orders.

Q: A member of the bar expressed his concern that he has seen a lot of EPOs and that everyone ought to be treating EPOs without prejudice and not with an assumption of guilt as it is a without notice restraining order. He feels that many EPOs get confirmed because the party doesn't want to pay for a lawyer. If there are children involved, the EPO should state that notwithstanding the EPO any parenting order currently in place will not be a violation of the EPO and/or exclusive possession order.

7. Case Management – Sharon Hinz

The following material was handed out from the Case Management Office:

- The Justice whom Sharon books case management hearings.
- Proper process to book a case management hearing.
- Case Management Confirmation letters can now be obtained and submitted online. They are required once a date has been booked. Do not include affidavits.
- Case Management hearings cannot be adjourned online but only through telephone or personal communication with the Case Management Office.
- Trial Coordinators do not want/need to be kept apprised of the materials you are filing and e-mails being sent between the parties.

Q: A member of the bar asked who should be informed when a case management hearing is being booked into a Justice's duty week.

R: Sharon is the single point of contact for case management and she will coordinate with the appropriate areas.

Sharon reminded that a half-day or a full day hearing will usually not be heard on an expedited basis as other matters in the Justice's schedule need to be re-scheduled to accommodate.

Q: A member of the bar asked where Sandra Schulz comes into the process.

R: Sharon advised that case management with Sandra Schulz is on a referral basis on matters that are already under case management. The referral comes from the case management Justice. The matters with Sandra usually involve an SRL. Sharon books the time with Sandra. Sandra's availability can be found on-line. A new case management file may go before Sandra Schulz on the first instance should Associate Chief Justice Rooke advise. Sharon advised that Case Management Counsel's role is to narrow and resolve some of the issues not requiring a judicial decision.

R: Justice Browne provided some statistics for Sandra Schulz:

- Facilitated 96 scheduling, litigation and parenting plans and assignment.
- Worked on 41 family files and 31 civil non-family files.

R: Associate Chief Justice Rooke advised that this is a pilot project and therefore a work in progress. Calgary's program is restricted to new family files with SRLs. The motivation behind this project is toward file organization and litigation planning thereby utilizing judicial time more efficiently by moving matters that do not require a judicial decision to the Case Management Counsel. The CMC project is not a form of mediation. An evaluation of this project will be done at the end of 2012. The Court had asked for Case Management Masters with more decision making but did not get that however it is a possibility in the future.

R: Sharon advised that the number of case management hearings is increasing. Last year there were 867 case management hearings. January to May 2012 there have been 423 case management hearings. The goal is to decrease that number by utilizing case management counsel.

Q: A member of the bar asked what the Court needs from the bar to keep this going beyond a pilot project as she expressed that this project has been extremely successful for many of her difficult files.

R: Associate Chief Justice Rooke advised that the bar should write letters to him or Justice Browne expressing their thoughts and comments.

R: Justice Browne advised there are presently 525 court files under case management and 325 (or 60%) of those are family files.

8. Divorce

Barb Petryk advised that the turnaround time on divorces is at its best. Counsel should refer to the handout from January's Town Hall meeting (also available at the counter) for information on how to avoid having a divorce package returned for correction. Packages are most often returned because of the names of the parties are not taken directly from the marriage certificate.

Justice Browne reminded counsel that the Court prefers green orders for family files.

Out of Country Children

- Regarding Alberta divorces that involve the children living in another country, the children's names and birthdates as well as the name(s) of the parties that the children are residing with and where should be in the preamble of the order. The body of the divorce should not refer to custody of the children. If the party in the other country has custody this should be mentioned in the preamble. The body of the order should be strictly regarding the divorce itself. Child support can be reserved.
- If there is an immigration application pending by the party applying for the divorce, this needs to be addressed in an affidavit if an order for custody is sought for the purposes of immigration.

9. Morning Chambers

Q: A member of the bar reminded everyone that Student Legal Services has been cleared by the Law Society to help parties in Queen's Bench regarding *Family Law Act* child support, variation of child support, *Divorce Act* variation of child support and substitutional service orders. This is a pilot project.

10. General Discussion

There is a new Parenting After Separation program which focuses more on the psychological damage to the children. This will be rolled out in Edmonton in September.

Justice Browne informed everyone that there are some good BC education websites for children involved in family law matters/issues. They are:

www.familieschange.ca

www.kidsbc.ca/#/welcome

Meeting adjourned at 2:05 p.m.