

ANNEX 2

Consolidated Provincial Practice Direction for Family Proceedings

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This Practice Direction applies to all family court proceedings in the Ontario Superior Court of Justice province-wide *unless stated otherwise* below, effective June 15, 2023. It replaces all previous Consolidated Provincial Practice Directions and *Provincial Notices to the Profession, Parties, Public, and Media*.

Counsel and parties are advised to refer to the applicable regional practice directions and notices to the profession, which are also available on the Superior Court of Justice website at: www.ontariocourts.ca/scj.

Part I. Family Proceedings

A. Filing Materials Electronically

1. Justice Services Online (JSO): family online filing portal

Although services continue to be available at the court counter, counsel and parties in family law and child protection cases are expected to file or request issuance of their documents electronically, and to pay any associated fees, through the [family online filing portal](#) on the [Ministry's Justice Services Online \(JSO\) platform](#). Information about the family online filing portal is available on the Ministry's website at the following link: [www.ontario.ca/ file-family-court-documents-online](http://www.ontario.ca/file-family-court-documents-online)

Use the Court's [Standard Document Naming Protocol](#) when submitting documents to the Court in electronic format, set out in this section.

Uploading a document to [CaseLines](#) does **not** constitute filing the document. Unless the Court orders otherwise or a rule or provision of this Practice direction provides otherwise, only documents that have already been filed with the Court may be uploaded to CaseLines.

Once accepted by the court registrar, a document will be considered to have been issued or filed on the date indicated by the registrar or the filing software on the document or in the confirmation sent by the registrar.

Electronic filings must comply with restrictions that have been placed on the length of material that can be submitted in connection with each event, such as limits on the number of pages for an affidavit or conference brief. Refer to the restrictions provided in this practice direction at Part I, [Section E](#) and [Section F](#) and the relevant regional practice direction or notice to the profession for these requirements.

Filed materials should also include any prior orders or endorsements that were issued and that are relevant to the request(s) being made.

Parties are reminded of the importance of ensuring that previous orders and endorsements are available to the judge at each event. If CaseLines is not being used for the event, counsel and the parties are asked to submit copies of these documents via the [family online filing portal](#).

To help address any disputes regarding what material has been accepted for filing, parties are asked to retain the most recent copy of the confirmation of filed documents (Case Document List) that they receive with the Ministry email confirming acceptance of the filings so that it can be uploaded into CaseLines at the judge's request.

Unless the court directs otherwise, where counsel and parties file materials through JSO or by email, they must:

- retain any documents that were originally signed, certified, or commissioned in paper format until the day on which the case is finally disposed of or, if no notice of appeal is served in the case, the time for serving the notice has expired; and
- promptly make the original document available for inspection and copying on the request of the court or of any party to the case.

If you are unable to file documents through the family online filing portal or by email (for example, for accessibility-related reasons or technology limitations), you can file documents in person at the courthouse or contact the Accessibility Coordinator at the courthouse where your matter is being heard. Contact information for accessibility coordinators may be found at: <https://www.ontario.ca/locations/courts>

2. Limited Filing by Email

The Court will accept limited filing by e-mail at the specific e-mail addresses indicated in each region's notice or practice direction for the following matters:

- For matters that are urgent, including requests for an urgent hearing.
- Documents that must be filed for a court event or deadline that is **less than 5 business days** away.

The following documents **should not be filed through the family online filing portal**, but directly **emailed** to the court (at the specific e-mail addresses indicated in each region's notice or practice direction) or filed in person at the court counter:

- documents relating to an application for **adoption** or **openness orders** under the *Child Youth and Family Services Act*;
- documents relating to an application for **secure treatment of a minor** under the *Child Youth and Family Services Act*;
- documents relating to **writs of seizure and sale** under Rule 28 of the [Family Law Rules](#); and

- documents in support of a **sealing motion** or subject to a **sealing order**
 - i. The unredacted document proposed to be sealed must be emailed to the Trial Coordination Office, identifying the case name, court file number and the hearing date (if assigned), together with a request that the document be forwarded to the presiding judge or associate judge as a sealing order is being sought.
 - ii. Immediately following the granting of the sealing order, the moving party must enclose an unredacted version of the document in a sealed envelope, append the court order/endorsement to the envelope, and file it in hardcopy at the court office for inclusion in the court file.

3. Standard Document Naming Protocol

When documents are submitted to the court in electronic format, the document name **must** be saved as follows:

- Document type including the form number
- Type of party submitting the document,
- Name of the party submitting the document (including initials if the name is not unique to the case), and
- Date on which the document was created or signed, in the format DD-MMM-YYYY (e.g. 12-JAN-2021).

For example, documents should be saved as follows:

- Financial Statement Form 13.1 – Respondent – A. Wong – 21-NOV-2021
- Case Conference Brief Form 17A – Applicant – G. Singh – 13-MAR-2022
- Affidavit for Divorce Form 36 – Applicant – Nathanson – 12-JAN-2023

Document names shall not include firm-specific naming conventions, abbreviations, or file numbers. Form numbers are only to be included in the names of documents submitted in family cases.

4. Court Fees

Court fees are prescribed by regulation and are generally payable at the time a document with an associated fee is submitted to the court.

Where a document is submitted through the [family online filing portal](#), payment is made through the portal.

Where a document is submitted in person, payment is made in person.

Where a document is submitted by email or mail, payment can be made over the phone through a secure credit card transaction or by mail using a cheque and must be processed before the document will be accepted for filing and/or issuance. Court office phone numbers and mailing addresses can be found on the [Ministry of the Attorney General's website](#).

Parties who cannot afford to pay court fees may request a fee waiver certificate. Information about requesting a fee waiver can be found in the [Ministry of the Attorney General's Court Fee Waiver Guide and Forms](#). Fee waiver certificates apply to fees not yet paid.

Court fees for documents that were filed by email on or after March 16, 2020 can be paid over the phone through a secure credit card transaction. Court office phone numbers can be found on the [Ministry of the Attorney General's website](#).

Cheque payments must be made out to the Minister of Finance and, if mailed or couriered to the court, must be accompanied by a letter that indicates the court file number and title of proceeding, identifies the document that was filed by email, date of the email filing, party who filed the document by email and the name of the representative of the party (if any)

5. Help with Electronic Filing and Fee Payment: Ministry of the Attorney General

For questions on electronic filing through the family online filing portal, including fee payments through this portal, members of the public can call or email the Ministry's Contact Centre for Online Services:

- Telephone: 1-800-980-4962 or 647-438-0403 (TTY 1-833-820-0714 or 416-368-4202)
- Email: FamilyClaimsOnline@ontario.ca

B. Uploading Electronic Documents for Use at Court: CaseLines

1. Uploading to CaseLines

CaseLines is an online platform where judges, counsel, parties, and court staff view electronic court documents before and during hearings.

With the exception of the events and documents listed in the Section on [Documents That Should Not Be Uploaded to CaseLines](#), all court documents must be uploaded to CaseLines regardless of whether the hearing is in person or virtual.

Information about how to use CaseLines is available on the Court's website:

<https://www.ontariocourts.ca/scj/caselines/>.

This step is different from filing documents with the court. Documents uploaded to CaseLines for use at a hearing should have already been filed by the party as set out in [Part I Section B](#). Where there is a difference between the filed version of a document and the version provided to the court for use at a hearing, the filed version shall prevail.

Parties will receive an email from CaseLines with a link for their matter. Include your current email addresses on all documents that are filed with the court and make CaseLines a trusted sender by saving **caselines.com** in your contacts list, or regularly check your junk folder for emails from CaseLines.

CaseLines will automatically alert parties to changes that occur in a bundle, for instance if a party uploads material or if the Court uploads an order or endorsement following the event. These notifications are sent from **noreply@caselines.com** to the email addresses of all parties with access to the bundle. Staff provide this notification feature to parties when they are first invited into the case file. Parties and counsel should save **noreply@caselines.com** as a safe sender in their email settings.

Materials must be uploaded to CaseLines as follows and in accordance with the following deadlines:

- a. Documents must be uploaded at least **5 days in advance** of the hearing, or at the same time as any filing deadlines that are less than 5 days as set out by a rule of court or a regional practice direction or notice to the profession.
- b. Parties are encouraged to upload their accepted court filings into CaseLines as soon as they receive access to the case and bundle.

- c. All documents must be uploaded in PDF format. The indexes to all Records should include hyperlinked bookmarks. Factums must also be uploaded in Word format.
- d. Upload documents into the specific bundle created for the hearing. Do **not** upload documents into the Master Bundle.
- e. Parties must ensure that all pleadings, 35.1 and 35.1A Affidavits, financial and net family property statements have been uploaded into the Pleadings sub-bundle in CaseLines so they can be accessed at upcoming events.
- f. Affidavits of service must be uploaded to CaseLines in the same bundles as the document served.
- g. Factums, Summaries of Argument and Books of Authorities must be uploaded to CaseLines according to the directions found in [Part I Section F 2](#) of this Practice Direction.
- h. Parties must ensure that all previous orders and endorsements in the case that are relevant at the hearing have been uploaded into the Orders and Endorsements sub-bundle in CaseLines so they can be accessed by the judge at future hearings.
- i. Documents must be named in accordance with the Standard Document Naming Protocol in [Part I, Section A 3](#) of this Practice Direction.
- j. At least one day before the event, the parties must upload a [Participant Information Form](#) setting out the name(s) of counsel and self-represented parties, how they wish to be addressed and the estimated time for oral submissions. This document is only uploaded to CaseLines. It is not also filed with the Court.
- k. **For trials only:** it is the party's obligation to upload to CaseLines any documents that they will be seeking to have entered as exhibits. These documents should be uploaded separately to the event bundle, as the registrar can only add one electronic exhibit stamp per document.

Parties and counsel must be prepared to use CaseLines bundles and the "Direct Others to Page" function at the court event, and to advise the Court of the CaseLines-generated page numbers when referring to documents.

2. Documents That Should Not be Uploaded to CaseLines

CaseLines is **not** currently approved for the following family cases or documents:

- child protection matters
- Family Responsibility Office enforcement matters,
- a document that [is subject to a sealing order or for which a sealing order is sought \(see below\)](#).
- Unredacted materials in support of [a motion for removal as a lawyer \(see below\)](#)

a) Documents Subject to a Sealing Order

Unredacted versions of documents that are or, are proposed to be, the subject of a sealing order should **NOT** be uploaded into CaseLines.

Although the notice of motion for the sealing order can be uploaded after it is filed with the Court, the unredacted document proposed to be sealed must be emailed to the Trial Coordination Office, identifying the case name, court file number and the hearing date (if assigned), together with a request that the document be forwarded to the presiding judge or associate judge as a sealing order is being sought.

If the hearing takes place by telephone or videoconference, immediately following the granting of the sealing order, the moving party must enclose an unredacted version of the document in a sealed envelope, append the court order/endorsement to the envelope, and file it in hardcopy at the court office for inclusion in the court file.

b) Motions for Removal as Lawyer

In motions to remove a lawyer under subrule 4 (12) and (13) of the [Family Law Rules](#), parties shall only upload the notice of motion and affidavits of service to CaseLines. The evidence in support of the motion should be emailed to the Trial Coordination Office for delivery to the judge, unless a regional practice direction or notice provides for another method of delivery.

c) Note Any Documents Improperly Uploaded into CaseLines

Parties should identify any documents that have been inappropriately uploaded by opposing parties by making a case note in CaseLines specifying the document/s and

why it/they should not have been uploaded. Where a confirmation form is required for the event, any documents that have been improperly uploaded should also be noted on that form.

3. Release of Orders and Endorsements

Where an event was heard using CaseLines, court staff may release orders and endorsements to the parties by uploading them to CaseLines instead of sending them by e-mail, subject to any direction from the judge. You can locate these documents by accessing the Orders and Endorsements sub-bundle in CaseLines.

4. Help with CaseLines

For assistance with technical issues, contact Thomson Reuters technical support at 1-800-290-9378 and select either “CaseLines”, “Case Center” or “Evidence Sharing” when you reach the directory, or email decsupport@thomsonreuters.com. Support is available from 8:00 a.m. to 5:00 p.m. (Monday to Friday).

If you are a **self-represented litigant**, the Ministry of the Attorney General’s Court Services Division is now offering telephone support. Please dial 1-800-980-4962 or 647-438-0403 and select option 4 for CaseLines support or email your questions to info.CaseLines@ontario.ca.

Information about how to use CaseLines is available on the Court’s website: <https://www.ontariocourts.ca/scj/caselines/>.

For self-represented parties without access to the necessary technology, assistance is also available through the court filing office or with the [Accessibility Coordinator](#) at the courthouse where your case is being heard. Contact information for accessibility coordinators may be found at: <https://www.ontario.ca/locations/courts>

C. Financial Disclosure

Family litigants are expected to exchange full and frank financial disclosure as early as possible in the case to avoid unnecessary delay and expense. It is the Court’s expectation that all reasonable efforts will be made to provide this disclosure to the other party **in advance of the case conference**.

Subrule 13 (3.1) of the [Family Law Rules](#) addresses the documents that must be included with a parties' financial statement where child or spousal support has been sought.

An updated Certificate of Financial Disclosure (Form 13A) should be provided to the other party with this documentation.

If disclosure cannot be resolved prior to the case conference, the party seeking that disclosure **must** include in their materials a list of the outstanding disclosure in accordance with subrule 13(11.01) of the [Family Law Rules](#).

Costs may be awarded pursuant to subrules 17(18) or 24(7) of the [Family Law Rules](#) where a party has failed to comply with their disclosure obligations in accordance with the applicable legislation or rules.

All disclosure issues should be addressed in advance of the settlement conference. Any necessary motions for disclosure must be heard in advance of the settlement conference.

More information about [financial statements](#) and the [documents that shall be exchanged to support a financial statement](#) is available at: <https://stepstojustice.ca/questions/family-law/what-financial-statement-what-documents-do-i-have-give-my-partner/>

D. Automatic Disclosure Orders, rule 8.0.1

As noted in [Section C of this Part](#), litigants must exchange their financial disclosure as early as possible to make each court attendance meaningful.

Rule 8.0.1 of the [Family Law Rules](#) directs the court to issue an automatic order when certain claims are made in an Application, Motion to Change, or Answer. This order requires parties to comply with their financial disclosure responsibilities, so the case conference is productive.

The party who receives automatic order from the court must serve the order on every other party in the case according to subrule 8.0.1(5) of the *Family Law Rules*.

A party who has not made all reasonable efforts to comply with their disclosure obligations in advance of the case conference may be responsible for the other party's costs.

Upon filing the originating materials, parties will also receive a reminder to attend a Mandatory Information Program (Rule 8.1) and to provide an updated email address on all court documents.

E. Conferences

1. Filing Materials for Conferences

Focused materials help facilitate a focused conference. Unfortunately, many filings include irrelevant or excessive material with voluminous attachments. Litigants are directed to prepare material that is focused and includes only the supplementary documents that are needed to facilitate a resolution of the outstanding issues.

a) Font Size and Spacing

All documents filed for a family conference or motion must be prepared using a font size of no less than **12 point** and **double spacing**.

b) Restrictions on Filing Conference Materials (Page Limits and Attachments)

Case conference briefs shall not exceed 8 pages, **plus** permissible attachments (as defined below) and additional documents that are required below or by the [Family Law Rules](#). This 8-page limit only includes the brief itself (Form 17A) **and** any additional pages of facts and/or arguments that are attached to the brief as an appendix or schedule;

Settlement conference briefs shall not exceed 12 pages, **plus** permissible attachments (as defined below) and additional documents that are required below or by the [Family Law Rules](#). This 12-page limit only includes the brief itself (Form 17C) **and** any additional pages of facts and/or arguments that are attached to the brief as an appendix or schedule;

Pursuant to subrule 17(13)4, trial management conference briefs should not be filed in advance of a trial management conference. Instead, litigants must file the completed

trial scheduling endorsement form and additional documents in accordance with this rule (see [Part I Section E.7 of this Practice Direction](#));

In preparing conference briefs, litigants may remove portions of the form that are not applicable to their situation (for example, the parenting sections where there are no parenting issues in dispute);

Permissible **attachments** should only include **relevant excerpts** from the following documents, which are not included in the above page restrictions:

- a. parenting assessments (pursuant to Section 30 of the *Children's Law Reform Act*), Office of the Children's Lawyer reports, and Voice of the Child Reports;
- b. documents that establish a child's educational needs (for example, report cards or Individual Education Plans);
- c. lists of any disclosure that remains outstanding;
- d. income or business valuations, pension valuations or real estate appraisals (where the value of property is in dispute);
- e. proof of income for the relevant period(s) including pay stubs, confirmation of benefits received and/or Statement of Business or Professional Activities from a party's Income Tax Return; and,
- f. domestic contracts, including separation agreements, marriage contracts, or cohabitation agreements that are relevant to the issues in dispute.

In addition, the parties should include with their materials:

- g. previous orders and/or endorsements **that are relevant to the issues that are to be addressed** at the event;
- h. updated Financial Statements, Net Family Property Statements/ Comparative Net Family Property Statements;
- i. litigation expert reports;
- j. offers to settle;
- k. support calculations; and

- I. terms of recognizance and police reports, or reports from a children's aid society, where applicable. (*Note that reports from a children's aid society [cannot be filed through JSO](#) nor [uploaded into CaseLines](#)).

These documents are also not included in the above page restrictions.

Litigants **must not** include as attachments voluminous texts, emails and/or social media postings. Instead, only the **relevant and necessary excerpts** from these communications should be referred to in the conference brief itself.

Leave is required to file material beyond what is permitted in the above sections which will only be granted in exceptional circumstances. Unless approval has been obtained in advance or a regional practice direction or notice to the profession permits otherwise, court documents which do not comply with these document standards will **not** be accepted for filing (and therefore must not be uploaded to CaseLines). These documents will not be reviewed by the presiding judge and may result in an adjournment.

2. Requirements to Confer in Advance of a Conference

Rules 17(3.1 and 3.3) of the [Family Law Rules](#), direct that before a conference, parties are to confer or, if unable to do so, make best efforts to confer with every other party about (i) each party's outstanding requests for financial disclosure, (ii) any other procedural matters that need to be addressed, and (iii) a resolution of the outstanding issues. The goal is to ensure that each conference is as productive as possible.

Parties are exempted from this requirement if they are prohibited from such communication by court order or terms of recognizance, or there are concerns about family violence and the alleged abusive party is not represented by a lawyer.

It is expected that the parties will be able to identify any areas of agreement arising from these discussions at the outset of each conference.

Failure to confer prior to a conference could result in a postponement of the conference and an order for costs.

3. Confirmation Forms - Conferences

Each party to a conference must file a fully completed Form 17F (Confirmation of Conference) no later than 2:00 p.m. three (3) business days before the conference

Form 17F Confirmations must **only** list the specific issues that are to be addressed at that conference and the specific materials that the judge should review.

Where Form 17F Confirmation forms have not been properly completed and filed by the appropriate deadline by at least one party, the conference will not be heard on the scheduled day without the Court's permission.

It is the Court's expectation that parties will communicate with each other in advance of completion of the confirmation forms with respect to:

- The event itself, in terms of the time needed, and the material that should be reviewed by the judge;
- Any outstanding procedural issues including disclosure requests; and
- The issues that are to be addressed at the upcoming event, including a potential resolution of those issues on a temporary or final basis.

Parties are exempted from the requirement to confer prior to a conference if they are prohibited from such communication by court order or terms of recognizance, or there are concerns about family violence and the alleged abusive party is not represented by counsel. (Rule 17 (3.2))

Parties are also expected to update the confirmation form at *any time* before the event if the information is no longer correct. (Rule 17 (14.1.1))

4. Early Judicial Intervention and Procedural Direction

In many family cases, access to an early attendance before a judge can help the parties to (i) attempt to put temporary arrangements in place to avoid the need for a motion or other urgent attendance and (ii) obtain procedural directions including determining what the next step should be and whether any part of the case needs to be expedited. In many centres in Ontario, these issues can be canvassed at a case conference within a month and a half of the start of the case.

Where caseload pressures and backlogs do not allow the Court to provide early access to a case conference, several court locations are providing an opportunity for litigants to

seek the Court's assistance to address these limited issues at an early, brief attendance (e.g. 15-20 minutes).

Regional practice directions or notices to the profession will provide further direction regarding:

- The availability of these attendances;
- The limited materials that can be filed for these attendances;
- Limits that apply to the number of issues that can be raised at these attendances, if any; and
- How these attendances should be scheduled.

The Court, counsel, and the parties must take a proactive approach to controlling the trajectory of family cases. Counsel and the parties are encouraged to seek procedural direction at any subsequent attendances pursuant to rules 1(7.2) and 17(8), in order to address specific roadblocks (e.g. financial disclosure) and ensure the most proportionate process for the case. In some circumstances, where resolution efforts are proving unsuccessful, this can include requests to move the matter to conclusion by way of a trial or other hearing.

5. Combined Case/Settlement Conference

Recognizing that many separating families will attempt another form of dispute resolution prior to seeking relief from the Court, parties can request the Court's permission to move directly to a combined case conference/settlement conference as the first step in the case.

Rule 17(7.1) allows parties to make this request after they have tried to resolve the issues that are in dispute through mediation or a Legal Aid Ontario settlement conference, provided they are able to confirm that:

- the dispute resolution process included a screening for power imbalances and domestic violence;
- no motions for a temporary order in the case are pending or are contemplated; and,
- financial disclosure has been provided

These requests can be made by filing a 14B: Motion Form along with the Form 17G: Certificate of Dispute Resolution from each party that addresses the above requirements.

If permission is granted, the parties will be expected to comply with all requirements relating to a settlement conference, including filing a Form 17C: Settlement Conference Brief and any additional documentation (for example, a Net Family Property Statement/Comparative Net Family Statement/litigation expert reports/Offers to Settle).

In addition to requests that are made pursuant to Rule 17(7.1), pursuant to this Practice Direction, where both parties consent to this process, they can request the Court's permission to proceed directly to a combined case conference/settlement conference if they have participated in another dispute resolution process (for example collaborative family law) and also if (i) there are no outstanding temporary issues requiring a motion and (ii) financial disclosure has been provided.

These requests should be made by filing Form 14B and a Form 17G: Certificate of Dispute Resolution from each party with any necessary revisions.

6. Settlement Conferences and Trial Scheduling Conferences

The settlement conference is an important step in family cases. The primary purpose of the settlement conference is to settle or at least narrow the issues in dispute.

Pursuant to rule 17(5) (g) of the *Family Law Rules*, if the case is not settled at the settlement conference, one of the additional purposes of the conference is to identify the witnesses and other evidence to be presented at trial, estimate the time needed for trial and, where appropriate, to schedule the case for trial.

If the case has not settled at the conclusion of the settlement conference, the court shall determine if the *Trial Scheduling Endorsement Form* can be completed at the conference or shortly thereafter and shall give directions to the parties regarding the completion of this form.

If necessary, the Court may require the parties to attend a trial scheduling conference to canvass issues regarding the scheduling of the trial and ensure proper completion of the Trial Scheduling Endorsement Form. Unless the parties receive direction from the court otherwise, each party shall complete and file their portion of the Trial Scheduling

Endorsement Form with the court in advance of a trial scheduling conference in accordance with the timelines in rule 17(13.1).

A trial scheduling conference's purposes include (i) ensuring that the case is ready to proceed to trial, (ii) considering each party's list of proposed witnesses, and (iii) ensuring the accuracy of the estimated time for trial. Consideration should also be given to other conditions that would be appropriate under subrule 1(7.2) to limit the duration and scope of the trial.

A trial date will not be made available until the court has reviewed and endorsed the complete Trial Scheduling Endorsement Form.

In exceptional circumstances, the court may provide litigants with a trial date before the court has endorsed the complete Trial Scheduling Endorsement form. Where this has occurred, the form must be finalized no later than 60 days in advance of the trial to retain the scheduled date.

7. Trial Management Conferences

A trial management conference should be held in all family cases that have not been resolved at or before the settlement conference to ensure trial readiness and canvass settlement. The trial management conference should be scheduled no more than two weeks in advance of the scheduled trial date, wherever possible.

Form 17E: Trial Management Conference Brief is no longer required. Instead of the Trial Management Conference Brief, the following documents must be filed in advance of the trial management conference by the deadlines set out in rule 17(13.1) of the [*Family Law Rules*](#):

- The **completed** [Trial Scheduling Endorsement Form](#) must be filed by either the Applicant or the party who requested the conference;
- Each party must file an offer to settle all outstanding issues; and
- Each party must file an outline of their opening statement for trial.

The completed Trial Scheduling Endorsement Form shall be filed with or added to the Trial Record CaseLines bundle. No offers to settle should be included in the Trial Record.

Attendance at an assignment court or other similar scheduling event shall not be necessary where a trial management conference has been held and the trial date has been confirmed.

Where the case has been settled and the trial is no longer required, one of the parties shall immediately advise the Trial Coordinator so that the trial date can be vacated. A copy of any Minutes of Settlement or consent should be filed at the same time.

8. Dispute Resolution Officer (DRO) Program

This Practice Direction applies to **all** Dispute Resolution Officer (DRO) programs in the Ontario Superior Court of Justice, including existing permanent programs, pilot projects, and any future programs.

DRO programs are available in Kingston, Durham, Newmarket, Barrie, Toronto, Brampton, Milton, St. Catharines, Hamilton, Welland, Kitchener and London.

a) Role and Conduct of the DRO

DROs are senior family lawyers appointed to conduct select family case conferences. DRO conferences provide litigants in family proceedings with an early evaluation of their case by a neutral third party. This service often narrows the issues in dispute and facilitates settlement.

DROs must be appointed by the regional senior judge, pursuant to Rule 17(9) of the [Family Law Rules](#).

DROs shall:

- a. hear **all** first case conferences for motions to change under Rule 15 of the [Family Law Rules](#); and
- b. complete a “Screening Report” after the conclusion of each DRO Case Conference, which will be included as part of the court file.

DROs may:

- a. hear first case conferences on matters other than motions to change **only** when referred to the DRO by a judge, unless a party requests a conference with a judge;
- b. attempt to identify, resolve, or settle outstanding issues on consent;
- c. assist parties in organizing their issues and disclosure documents so that parties are ready to go before a judge; and/or
- d. assist parties in obtaining a signed consent order from a judge, where the parties have consented in writing at the DRO Case Conference.

DROs shall not:

- a. write consents or draft orders on behalf of parties;
- b. make orders, on consent or otherwise; or
- c. award costs.

b) Dispute Resolution Conferences (DRCs)

Rule 17 of the [Family Law Rules](#) applies to case conferences including those heard by a DRO pursuant to Rule 17(9).

Parties attending a dispute resolution conference (DRC) must therefore comply with the document requirements under Rule 17 of the [Family Law Rules](#), including advance filing of:

- a. a Form 17A: Case Conference Brief, which on a motion to change should at minimum include:
 - a copy of the previous order that is the subject of the motion to change;
 - documentation supporting the “change in circumstance”;
 - a description of the change being sought;
- b. The deadline for serving and filing Form 17A prior to the DRC is six (6) business days for the applicant/moving party, and four (4) business days for the respondent.

- c. A form 17F: Confirmation Form must also be filed not later than 2:00 pm, three (3) business days prior to the date scheduled for the DRC.

c) DRO Screening Reports

At minimum, DRO Screening Reports **shall** include the following information, although additions may be made locally:

- a. Name of the DRO;
- b. Whether parties were represented or unrepresented;
- c. Whether the matter was scheduled before the DRO was a case conference on a motion to change or a case conference on an issue other than a motion to change;
- d. Indication of whether the DRC was (1) “fully settled”, (2) “partially settled”, (3) resulted in no resolution, or (4) resulted in disclosure only, upon conclusion;
- e. Identification of any issues resolved and/or agreed upon for consideration by a judge,
- f. Identification of any outstanding issues if only (1) “partially settled”, (2) only disclosure arranged, or (3) no resolution;
- g. Timelines for matters that must be completed (i.e. disclosure by certain dates) by the parties, if issues were not resolved during the DRC; and
- h. Indication of whether the conduct of any party has frustrated the objectives of the DRC.

A judge presiding at a subsequent court event for the parties may rely on the DRO’s notations in the Screening Report, after hearing submissions on the issues, in determining if costs are appropriate.

d) Next Steps after the DRC

Wherever possible, on each DRC Hearing Date, at least one judge will be available to review any consent orders, minutes of settlement, or temporary orders arising out of the DRCs from the day’s list. Where these settlements are reached at the end of a DRC, all efforts will be made to ensure parties and counsel will receive a judicial response on the same day as their DRC.

Upon completion of a DRC, parties shall be permitted to schedule as a next step:

- a. another case conference in front of a DRO if necessary;
- b. case conference in front of a judge;
- c. a settlement conference in front of a judge;

e) Local Schedules & Procedures Regarding DRO Programs

Parties attending DRCs in their respective court locations should also consult their local courthouse for any specific local procedures.

Local DRO Schedules in each relevant court location will be provided in the [DRO Schedule Annex](#), available on the Superior Court's website at: www.ontariocourts.ca/scj/practice/practice-directions/annex/.

F. Motions

1. Short and Long Motions

The times for short and long motions for family proceedings can be found in your regional practice direction or notice to the profession. You may also contact your court location to find out whether your motion will be treated as a short motion or a long motion.

2. Filing Materials for Motions

Focused materials help facilitate a focused hearing. Unfortunately, many filings include irrelevant or excessive material with voluminous attachments. Litigants are directed to prepare material that is focused and includes only the supplementary documents that are needed to facilitate a resolution of the outstanding issues.

a) Font Size and Spacing

All documents filed for a family motion must be prepared using a font size of no less than **12 point** and **double spacing**.

b) Restrictions on Filing Motion Materials (Page Limits and Attachments)

For short or regular motions, each party is restricted to one primary affidavit in support of their position on the motion and cross-motion (if applicable) which shall not exceed 12 pages of narrative. If a party also intends to rely on an affidavit that has been previously filed with the Court, the length of that affidavit is included in the 12-page limit.

This limit does not include third party and reply affidavits, where required, which shall not exceed 5 pages each, or affidavits relating to a party's financial statement in accordance with Rule 13(12)(b).

In addition, **exhibits** to each party's affidavit shall be limited to only the **necessary and relevant** evidence and are generally expected not to exceed 10 pages. Litigants **shall not** include voluminous texts, emails, and/or social media postings. Instead, only the relevant and necessary **excerpts** from these communications should be attached as exhibits.

Permissible **attachments** should only include **relevant excerpts** from the following documents, which are not included in the above page restrictions:

- a. Parenting assessments (pursuant to Section 30 of the *Children's Law Reform Act*), Office of the Children's Lawyer reports, and Voice of the Child Reports;
- b. Documents that establish a child's educational needs (for example, report cards or Individual Education Plans);
- c. Lists of any disclosure that remains outstanding;
- d. Income or business valuations, pension valuations or real estate appraisals (where the value of property is in dispute);
- e. Proof of income for the relevant period(s) including pay stubs, confirmation of benefits received and/or Statement of Business or Professional Activities from a party's Income Tax Return; and,
- f. Domestic contracts, including separation agreements, marriage contracts, or cohabitation agreements that are relevant to the issues in dispute.

In addition, the parties should include with their materials:

- g. previous orders and/or endorsements **that are relevant to the issues that are to be addressed** at the event;
- h. updated Financial Statements, Net Family Property Statements/ Comparative Net Family Property Statements;
- i. litigation expert reports;
- j. support calculations; and
- k. terms of recognizance and police reports, or reports from a children's aid society, where applicable. (*Note that reports from a children's aid society [cannot be filed through JSO](#) nor [uploaded into CaseLines](#)).

These documents are also **not** included in the above page restrictions.

These restrictions **do not apply** to long motions for summary judgment or hearings with respect to the wrongful removal or retention of a child. Additional direction regarding the materials that may be filed for these events may be included in the applicable regional practice direction or notice to the profession.

Leave is required to file material beyond what is permitted in this practice direction which will only be granted in exceptional circumstances. For motion materials, leave should be sought at the case conference. Unless approval has been obtained in advance or a regional practice direction or notice to the profession permits otherwise, court documents which do not comply with these document standards will **not** be accepted for filing (and therefore must not be uploaded to CaseLines). These documents will not be reviewed by the presiding judge and may result in an adjournment.

To assist the Court in finalizing family orders more quickly, litigants on a motion should also provide a draft order that lists the specific relief that they are seeking with reference to the appropriate legislative authority in accordance with [Form 25: Order](#) (General). References to legislation that do not apply can be removed. Sample order clauses that can be used in the preparation of draft orders are available at: <http://ontariocourtforms.on.ca/en/family-law-rules-forms/standard-clauses/>. A sample draft order is attached as [Appendix A](#)

c) Facts and Summaries of Argument

The following requirements apply within all judicial Regions of the Ontario Superior Court of Justice for motions in family proceedings. (The *single exception* is family proceedings in the Toronto Region which are governed by the [Consolidated Practice Direction Concerning Family Cases in the Toronto Region](#)):

- a. Factums or summaries of argument under subrule 17(8) of the *Family Law Rules* are required for all [long family motions](#) (and in the **Toronto Region**, they are **also** required on short motions) unless otherwise directed by a case conference judge;
- b. No factum or summary of argument may exceed 20 pages (double spaced and 12-point font) unless leave is granted; and
- c. The times for service and filing of factums or summaries of argument shall be in accordance with the times for service and filing of other motions materials under the [Family Law Rules](#), unless a region-specific Practice Direction states otherwise.
- d. The factum or summary of argument should only include cases that counsel or the party intends to refer to in the oral argument.
- e. Each party's factum or summary of argument shall hyperlink authorities to a publicly available, free website such as CanLII, whenever they are available on such a website.
- f. Each time a case is cited in the factum or summary of argument, it must include a paragraph reference to the case, with the applicable paragraph also hyperlinked.

Pursuant to a regional practice direction or notice to the profession, additional restrictions may apply to the length of a factum or summary of argument.

d) Books of Authorities

Where the party's factum includes only cases that are hyperlinked to a publicly available, free website, it will not be necessary to file a book of authorities.

Where a party files an electronic book of authorities, authorities that are available on a free public website such as CanLII shall be linked from the table of contents only. Authorities that are not available on a free public website, such as unreported decisions,

decisions only available on approved private electronic databases, and excerpts from textbooks, shall be included in full. The book of authorities shall have a table of contents that has internal hyperlinks to the cases and textbook excerpts contained within it.

*“Approved private electronic databases” are private databases that are dedicated to the publication of judicial decisions (e.g., LexisNexis Quicklaw and Westlaw).

Counsel and parties should be aware that judicial decisions posted on electronic databases may be subject to correction or editing within a few days of the initial posting and, accordingly, parties should ensure that any decision obtained from an electronic database has not been subsequently amended. Parties should provide the date that the copy of any decision was obtained from an electronic database, as part of the citation information. Parties should provide the neutral citation number (e.g. 2010 ONSC 1)

3. Confirmation Forms - Motions

Each party to a motion must file a fully completed Form 14C (Confirmation of Motion) no later than 2:00 p.m. three (3) business days before the motion, except as follows:

- Urgent motions that are being brought without notice to the other party do not need to be confirmed; and
- Long motions must be confirmed **earlier than** three (3) days in advance in several locations, as determined by the regional practice direction or notice to the profession.

Form 14C Confirmations must **only** list the specific issues that are to be addressed at that motion and the specific materials that the judge should review.

Where Form 14C Confirmation forms have not been properly completed and filed by the appropriate deadline by at least one party, the event will not be heard on the scheduled day without the court’s permission.

It is the Court’s expectation that parties will communicate with each other in advance of completion of the confirmation forms with respect to:

- The event itself, in terms of the time needed, and the material that should be reviewed by the judge;
- Any outstanding procedural issues including disclosure requests; and

- The issues that are to be addressed at the upcoming event, including a potential resolution of those issues on a temporary or final basis.

Parties are also expected to update the confirmation form at *any time* before the event if the information is no longer correct. (Rule 14(11.2))

4. Providing Accurate Estimates of Required Hearing Time

Parties must give careful consideration to what is to be covered in the hearing time, the pace at which documents and authorities can reasonably be reviewed, and the time needed for oral argument on the issues raised. This consideration should extend to:

- the number of issues which can properly be dealt with in oral argument, and
- the number of authorities actually required in order to establish the legal propositions relied upon.

Inaccurate estimates for the time required for hearings may result in a case being adjourned (either before or during the hearing) and rescheduled for a realistic time estimate with no expedition of the rescheduling. There may also be costs consequences.

5. Early Organization of Long Motions

Last minute adjournments of long motions must be avoided so that court time is not wasted.

Parties are **strongly** encouraged to file materials for long motions in advance of the regular timelines under the [Family Law Rules](#) so that these motions can proceed as scheduled. Where possible, these timelines should be addressed at the case conference. Regional practice directions or notices to the profession may also include timelines for the filing of materials and confirmation of a long motion.

Regions that do not yet have protocols in place to ensure that these events can proceed at the scheduled time have been encouraged to introduce them in their practice directions or notices to the profession

G. Motions to Change Endorsement Forms

Subrule 15 (24.1) directs the Court at the first attendance on a Motion to Change to determine the next steps in the motion, with a view to ensuring that the motion proceeds in the most efficient manner appropriate in the circumstances.

The subrule also directs the Court to determine the most appropriate process for reaching a quick and just conclusion of the case, if possible in the circumstances.

A Motion to Change Endorsement form is available [here](#). Parties are encouraged to provide a draft Motion to Change Endorsement form with their materials for the first judicial conference to obtain early direction regarding the appropriate process for the case.

H. Restrictions on Adjournments

In several regions, events in family cases are routinely being adjourned on short notice. This limits the Court's ability to use the available time and, as a result, its ability to offer timely events. For this reason, some Regions have specific policies that require permission for adjournments, even on consent.

Even where such regional policies do not exist, it is the Court's expectation that matters will not need to be adjourned because counsel and/or litigants have not spoken ahead of time and/or taken the necessary steps for the matter to be able to proceed as scheduled.

Where a matter is adjourned because a party is not prepared, the Court may make a costs order against that party pursuant to subrules 17(18) or 24(7) of the [Family Law Rules](#).

I. Materials Relied Upon Must Be Referenced During Hearing

The oral hearing is the opportunity for parties to succinctly set out their arguments. Parties must bring to the attention of the court all relevant material facts and the authorities that they are relying on at the hearing.

It is not sufficient to merely upload filed materials to CaseLines.

Materials that are not brought to the attention of the judicial officer at the hearing may not be considered. Judicial officers' judgment writing time is not sufficient to permit it to be used as an extension of the time allocated for oral argument.

J. Privacy

1. Judges May Restrict Publication of Identifying Information (CLRA s.70)

Note that when addressing a parenting issue under part II of the [Children's Law Reform Act](#), Judges of the Superior Court of Justice have a duty to consider whether to restrict publication of information that would identify an individual if the information is sensitive or if doing so would cause physical, mental or emotional harm to the individual.

2. Public Access to Family Court Files, Rule 1.3

Under Section 137 of the **Courts of Justice Act**, the public is entitled to access any document filed in a civil court proceeding, including a family proceeding, unless an Act or court order provides otherwise. (For example, documents filed in child protection matter may not be made public pursuant to CYFSA section 87(8).)

Rule 1.3 of the *Family Law Rules*, however, requires a member of the public to give 10 days' written notice to the parties in a case before they may access a family court file that involves the following issues:

- decision-making responsibility, parenting time, or contact with respect to a child under the [Divorce Act](#) or Part III of the [Children's Law Reform Act](#);
- orders under Part I of the [Children's Law Reform Act](#) (parentage); or
- international child abduction.

Notice must also be sent to the Children's Lawyer if they are representing a child in the case or conducting an investigation for the court.

After receiving notice, a party who wishes to restrict access to the file has 10 days to file a 14B motion. If such a motion is brought, court staff may not grant the requested access until the Court decides the motion.

If no motion is brought within 10 days, the person requesting access must file an affidavit (Form 14A) confirming 1) the date on which the person gave notice under subrule 1.3 (2), to whom and by what method, and 2) that they have not been served with a motion for a restricted access order before they are granted access to the file.

The following persons are exempted from the notice requirement under rule 1.3:

- a. A party or their lawyer
- b. A person authorized in writing by a party or the party's lawyer
- c. The Director of the Family Responsibility Office
- d. The Children's Lawyer
- e. A children's aid society
- f. Legal Aid Ontario
- g. A recipient, or an agency referred to in clause (b) or (c) of the definition of "recipient" in subrule 2(1) when attempting to determine whether it is a recipient (i.e. Ontario Works or ODSP)
- h. A Crown Attorney, assistant Crown Attorney, or Deputy Crown Attorney
- i. A police officer, First Nations Constable, or officer of the Royal Canadian Mounted Police, when acting in the course of their duties
- j. A service provider within the meaning of section 149 of the Courts of Justice Act (i.e., court-connected mediation service providers)

For more information about accessing family court files, see the [Ministry of the Attorney General's website](https://www.ontario.ca/document/access-court-files-documents-and-exhibits/section-4-public-access-family-court-files), <https://www.ontario.ca/document/access-court-files-documents-and-exhibits/section-4-public-access-family-court-files>

K. Orders

Judgments, endorsements, and orders of the Court are effective as of the date they are made, unless the judgment, endorsement, or order states otherwise.

Where a draft order is submitted online for issuing and entering, the registrar can electronically issue the order and email it to the requestor. Attending at the courthouse to have an order issued and entered in person is not recommended unless it is time-

sensitive, such as a family law restraining order, an order requiring police enforcement or an issued order that is needed to commence an appeal.

Please note that an issued and entered order is required for the purpose of an appeal to the Court of Appeal for Ontario or an appeal to the Divisional Court Branch of the Superior Court of Justice.

L. Mediation and Other Court-Connected and Community Resources

Court supports and processes that facilitate early resolution of parenting and financial disputes creates earlier and better outcomes for families and allows for a more efficient use of court resources for the family cases that require more extensive judicial intervention. These include:

1. Local family law, separation, and divorce resources

Litigants are encouraged to access parenting education programs, counselling services, [supervised contact/parenting time](#), [parenting coordination](#) and other related services. Information about these services is available through your court's [Family Law Information Centre \(FLIC\)](#).

2. Mandatory Information Programs (MIP)

Pursuant to Rule 8.1 of the [Family Law Rules](#), parties are required to attend a MIP at an early stage of the proceeding with limited exceptions. Virtual MIPs are available in centres across Ontario. Information about how to register for the MIP is available through your court's [Family Law Information Centre](#).

3. Mediation

Affordable, [court-connected mediation services](#) are available at all Superior Courts. Contact information for local mediation service providers is available [here](#). Referrals to private family mediation services are also available through professional organizations such as [OAFM](#) and [FDRIO](#).

Parties are encouraged to consider using family mediation services to attempt to resolve their disputes. Contact your local mediation service-provider for information about these services including whether mediation is appropriate in the circumstances.

4. Family Court Support Workers

Family Court Support Workers provide direct support to victims of family violence who are involved in the family court process.

M. Legal Advice

It is recommended that self-represented litigants seek legal advice in advance of court attendances to help understand the law and how it applies to their circumstances.

For litigants who qualify financially, assistance may be available from Legal Aid Ontario (1-800-668-8258 or www.legalaid.on.ca/services/family-legal-issues/) or Pro Bono Students Canada's Family Justice Centre (<https://www.probonostudents.ca/family-justice-centre>).

Legal assistance may also be available at reduced rates through JusticeNet (www.justicenet.ca/how-to-find-a-professional/). Family law services are also available on an unbundled basis from lawyers across Ontario through the Family Law Limited Scope Service project (www.familylawlssp.ca) and, in Toronto, through the Advice and Settlement Counsel Project (www.ascfamily.com).

In Unified Family Court locations, assistance may also be available on the day of court from Duty Counsel. Litigants who may qualify financially are encouraged to contact Legal Aid Ontario (1-800-668-8258 or www.legalaid.on.ca/services/family-legal-issues/) in advance to request these services.

The Law Society of Ontario also offers the online Law Society Referral Service (<https://lsrs.lso.ca/lsrs/welcome>). The service can give you the name of a lawyer who will provide a free initial consultation up to 30 minutes to determine your options. If you decide to retain the lawyer, their normal fees will apply.

Part II. Provisions Applicable to All Superior Court of Justice Proceedings

A. Virtual Hearings

1. Preparing for Your Virtual hearing

To ensure the virtual hearing runs smoothly, please see the [Court's guidance](#) to help you prepare for the hearing, (including by testing your internet connectivity and having a charger available during the hearing)

All participants and members of the public who attend a virtual court proceeding must conduct themselves as if they were physically in the courtroom. All individuals participating in virtual court proceedings must continue to observe the well-established rules of court decorum which can be found here: [Virtual courtroom etiquette rules](#)

2. Public and Media Access to SCJ Virtual Hearings

Any member of the public who wishes to hear/observe a public, virtual proceeding may email their request to the local courthouse staff in advance of the hearing. Indicate which hearing you wish to hear/observe and provide your contact information. Certain proceedings, such as conferences involving settlement discussions and child protection matters, may be closed to the media and the public by legislation or court order.

3. Recording and other illegal conduct during a virtual hearing

Participants and observers shall not record, take photos, screen capture, or broadcast any part of a Court proceeding unless it is expressly authorized by the presiding judicial official. It is an offence under section 136 of the [Courts of Justice Act](#) and you may also be charged with an offence under the *Criminal Code*, if you record, photograph, screen capture, publish, broadcast (or live stream) any part of a court proceeding without the express permission of the presiding judicial official.

Other conduct during a virtual court hearing may be an offence under the *Criminal Code* or may constitute contempt of court, for example, racist comments or threats to harm a person or justice participant.

B. Gowning for Counsel

Counsel must be gowned for any virtual proceeding that, if conducted in person, would require gowning. Family counsel are not required to gown for the following court attendances:

- case conferences, settlement conferences, trial scheduling conferences, trial management conferences; and

- assignment court;

Counsel must be gowned for all other in-person or virtual proceedings. They must do so regardless of whether the presiding judicial official is a judge or an associate judge.

C. Communicating with Court, Staff and Trial Coordinators

For assistance with issues such as [limited filing by email](#), scheduling and other general questions, counsel and parties may communicate with the court filing and trial coordination offices by email. The regional practice directions or notices to the profession will indicate the appropriate email contact information.

2. When communicating by email with court filing and trial coordination offices, counsel and self-represented parties should:

- a. Include the following information in the **subject line**:
 - Level of Court (SCJ)
 - Type of Matter (Family; Child Protection)
 - File Number (indicate NEW if no court file number exists)
 - Originating Court Location
 - Type of Document (e.g., Motion, Conference Brief, Other Request)
 - Style of Cause
 - Date of Event
- b. Include **in the body of the email** the following information if applicable:
 - Court file number (if it is an existing file)
 - Style of Cause
 - Date of Event
 - Short title of proceeding
 - List of documents attached
 - Type of request

- Name, role (i.e. lawyer, representative, party, etc.,) and contact information of person submitting the request (email and phone number)

c. Copy all parties on emails sent to the court.

Counsel and parties shall not communicate directly with a judge unless the court directs otherwise.

D. Ensuring the Integrity of Scheduled Trials, Hearings, and Appeals

This section is intended to ensure that trials, hearings, and appeals are scheduled based on the chronological order in which lawyers make their commitments to appear in court. It has three important objectives:

- to ensure that the trial lists of the Superior Court of Justice and the Ontario Court of Justice are respected;
- to reduce court delays, the waste of court resources, and the unnecessary expense and inconvenience to the public brought about by adjournments; and
- to assist parties in having adequate representation by a lawyer acceptable to them.

1. Trial Dates

Where a date for trial or other hearing has been set by the Superior Court of Justice or the Ontario Court of Justice, the trial or hearing is expected to take place on that date.

2. Presumption of Commitment

By agreeing to a trial or other hearing date, a lawyer or party is presumed to have made a commitment to appear on that date and to be bound not to make any other commitments that would make the lawyer's or party's appearance on that date impossible.

3. Duty to Inform of Previous Commitments

When setting a date for trials, appeals or other hearings in the Superior Court of Justice or the Ontario Court of Justice, every lawyer or party has a duty to disclose previous commitments to another court that may conflict with a proposed date..

E. Accessing Court Transcripts

A request for an official transcript of a court proceeding may be made by accessing the information and following the procedure set forth on the Ministry of Attorney General website for Court Transcripts:

https://www.attorneygeneral.jus.gov.on.ca/english/courts/court_transcripts.php.

If the authorized court transcriptionist is unable to access the recording to make a transcript, you may make a motion to the judge to ask that access be granted.

Unless a judge of the Superior Court of Justice orders otherwise, no transcripts are available to anyone - including the parties - for case, settlement, and trial management conferences.

When the public is excluded from a court proceeding (known as *in camera* proceedings), the public may not have access to records relating to that portion of the proceedings. This includes the portion of the transcript where the public was excluded, the Information or any order that may have resulted.

Under Section 87(4) of the Child, Youth and Family Services Act, 2017 (CYFSA), child protection hearings and appeals of child protection decisions are closed to the public unless ordered by the court. Access to transcripts of CYFSA proceedings may only be given to a party to the hearing or a party's lawyer.

F. Release of Digital Court Recordings

This section outlines the policy on the release of digital court recordings. Members of the public, counsel, litigants, or the media may obtain copies of digital family court recordings (hereinafter referred to as "digital recordings") made from Digital Recording Devices (DRDs) of matters heard in open court, in accordance with the requirements of this section. The copies of digital court recordings will include annotations.

All digital recordings are subject to the prohibition set out in s. 136 of the ***Courts of Justice Act***, which prohibits the broadcast, reproduction and dissemination of audio recordings. Any person who contravenes s. 136 is guilty of an offence and subject to a penalty, in accordance with s. 136(4) of the ***Courts of Justice Act***.

1. Definitions

For the purposes of this section, “judge” means all judges and associate judges of the Superior Court of Justice.

2. Restrictions on Access to Digital Recordings from DRDs

All copies or access to digital recordings are subject to any express order the presiding judge may make. The presiding judge may expand or restrict access to the digital recordings in any particular proceeding before him or her.

Unless a judge of the Superior Court of Justice orders otherwise, no digital recordings are available to anyone in the following proceedings:

- a. *in camera* proceedings or any portion of a proceeding that is heard *in camera*, (meaning where the media and the public are excluded);
- b. private hearings (e.g. s. 87 of the ***Child, Youth and Family Services Act***);
- c. proceedings subject to a statutory, common law or court ordered restriction on the provision of transcripts or digital recordings of the proceeding; and,
- d. case, settlement, and trial management conferences; *and*,
- e- motions

3. Access to Digital Recordings from DRDs – Undertakings

Unless this section provides otherwise, all persons must execute an undertaking with the court to access the digital recordings. The undertaking prescribes the way in which the digital recording is to be used and the terms and conditions under which the digital recording is being provided

a) Counsel of Record

A counsel of record in a proceeding may obtain the digital recordings of that proceeding upon completion of the “[Undertaking of Counsel/Licensed Paralegal of Record](#)” and payment of the prescribed fee.

Persons attending on behalf of counsel of record may obtain the digital recording if he or she: (i) provides a signed undertaking from counsel of record; (ii) signs the authorization included in the “[Undertaking of Counsel/Licensed Paralegal of Record](#)”; and (iii) pays the prescribed fee.

b) Litigant or Accused

A litigant or accused in a proceeding may obtain the digital recordings of that proceeding upon completion of the “[Undertaking to the Court for Access to Digital Court Recordings](#)” and payment of the prescribed fee.

c) The Media

Members of the media, identified on the “[Joint Courts’ List of Designated Media for Access to Digital Court Recordings](#),” may obtain the digital recordings upon completion of the “[Undertaking to the Court for Access to Digital Court Recordings](#)” and payment of the prescribed fee.

Members of the media who are not identified on the “[Joint Courts’ List of Designated Media for Access to Digital Court Recordings](#)” may make an application for an order in accordance with this section authorizing him or her to obtain access to the digital recordings of the proceeding.

The applicant may obtain the digital recordings if he or she: (i) obtains a court order authorizing access, (ii) completes “[Undertaking to the Court for Access to Digital Court Recordings](#)”, and (iii) pays the prescribed fee.

c) Members of the Public

Members of the public may make an application for an order in accordance with this section authorizing him or her to obtain access to the digital recordings of the proceeding.

The applicant may obtain the digital recording if he or she: (i) obtains a court order authorizing access, (ii) completes the “[Undertaking to the Court for Access to Digital Court Recordings](#)”, and (iii) pays the prescribed fee.

d) Named Administrative Bodies or Organizations

Representatives of the bodies or organizations authorized pursuant to a Memorandum of Understanding with the Ministry of Attorney General to have access to digital audio recordings may obtain digital court recordings of court proceedings related directly to the matters under consideration by these bodies or organizations, upon completion of an Undertaking approved by the court and prescribed by the Memorandum of Understanding.

4) Hearing of the Application

Applications regarding access to the digital recording for any ongoing proceeding will be heard by the judge who is seized of the proceeding.

Applications shall be brought in accordance with the procedural rules that govern the court proceeding.

Applications regarding access to the digital recording for any other type of proceeding or for a proceeding that has concluded will be heard by the judge who presided at the hearing.

Where the judge who presided at the hearing is not available to hear the application or where no particular judge is associated with the proceeding, the RSJ, LAJ (or his or her delegate) may hear the application. Applicants should be aware that, especially for proceedings that have concluded or proceedings adjourned for a lengthy period of time, it may not always be possible to schedule an application before the appropriate judge on short notice because a judge may have many ongoing obligations in other proceedings.

G. Electronic Devices in the Courtroom

This section outlines the protocol on how electronic devices may be used in courtrooms of the Ontario Superior Court of Justice by counsel, licensed paralegals, law students,

and law clerks assisting counsel, self-represented litigants, and media or journalists. **Note:** This section does not apply to persons who require electronic devices (or services requiring the use of electronic devices) to accommodate a disability.

1. Definitions

Electronic Devices

For the purposes of this section, “electronic devices” include all forms of computers, personal electronic and digital devices, such as cell phones tablets.

Publicly Accessible Live Communications

For the purposes of this section, “publicly accessible live communications” are defined as the act of using an electronic device to transmit information from the courtroom to a publicly accessible medium (e.g. via Twitter or live blogs).

Judge

For the purposes of this section, “judge” means all judges, and associate judges of the Superior Court of Justice,

2. Prohibited Use of Electronic Devices by the Public

Members of the public gallery observing the hearing are *not permitted* to use electronic devices in the courtroom unless the presiding judge orders otherwise.

3. Use of Electronic Devices in the Courtroom

Unless the presiding judge orders otherwise, the use electronic devices used in silent mode and in a discreet and unobtrusive manner is permitted in the courtroom for the purposes of the court proceeding, by:

- a. counsel;
- b. paralegals who are licensed by the Law Society of Ontario;
- c. law students and law clerks assisting counsel during the proceeding;
- d. parties; and,

- e. media or journalists

Where the use of electronic devices is permitted, usage is subject to the following restrictions:

- a. The electronic device cannot interfere with courtroom decorum or otherwise interfere with the proper administration of justice.
- b. The electronic device cannot interfere with the court recording equipment or other technology in the courtroom.
- c. The electronic device cannot be used to send publicly accessible live communications where to do so would breach a restriction on publication made in the proceeding. **Note:** Anyone using an electronic device to transmit publicly accessible live communications from the courtroom has the responsibility to identify and comply with any publication bans, or other restrictions that have been imposed either by statute or by court order.
- d. The electronic device cannot be used to take photographs or videos unless the judge has granted permission to do so, in accordance with s. 136 of the ***Courts of Justice Act***.
- e. Counsel, parties, the media and journalists must seek leave of the Court for permission to audio record a proceeding. Any audio recording that has been approved by the court is for the sole purpose of supplementing or replacing handwritten notes.
- f. Talking on electronic devices or using electronic devices is not permitted in the courtroom.

4. Enforcement

Anyone who uses an electronic device in a manner that is inconsistent with this section, any orders of the presiding judge or that the presiding judge determines to be unacceptable may be:

- a. subject to prosecution for breaches of s. 136 of the ***Courts of Justice Act***, a citation and prosecution for contempt of court, or prosecution for other offences;
- b. ordered to turn off the device;

- c. ordered to leave the device outside the courtroom;
- d. ordered to leave the courtroom; and/or
- e. ordered to abide by any other order the presiding judge may make.

H. Publication Bans

This part applies to all applications or motions for discretionary publication bans. It does not apply to publication bans that are mandated by statute (i.e. those that either operate automatically by virtue of statute or that a statute provides are mandatory on request).

1. Formal Notice of Application/Motion Required

Unless otherwise directed by the court, any person seeking a discretionary order restricting publication of any Superior Court proceeding must serve and file a notice of motion or application and any supporting materials, in accordance with the applicable procedural rules.

2. Notification of the Media

Unless otherwise directed by the court, the person seeking the publication ban (the requesting party) must provide notice to the media of the motion/application, using the procedure set out in this section.

The requesting party must complete and submit the "[Notice of Request for Publication Ban](#)" form available on the Superior Court of Justice website.

The notice period for submitting a Notice of Request for a Publication Ban is the same as the notice period under the [Family Law Rules](#) for serving and filing a Notice of Motion

The information on the Notice of Request for Publication Ban will be distributed electronically to members of the media who have subscribed to receive notice of all publication ban applications/motions in the Superior Court.

Any member of the media who wishes to receive copies of the Notices prepared and submitted under this section should [submit a request](#) through the Superior Court of Justice website.

The requesting party may be required to produce a copy of the Notice of Request for Publication Ban to the Court at the hearing of the application/motion to establish that notice was provided in accordance with this section.

I. Manner of Address for Judges and Associate Judges

Judges and Associate Judges should be addressed in English as “Your Honour” and in French as “*Votre Honneur*”.

J. Reserved Decisions

If a judge or associate judge does not release a decision or endorsement within the timeframe provided by the judicial officer or as required under s.123 of the [Courts of Justice Act](#), and if the parties have not been advised that an extension of time has been granted by the Regional Senior Judge or Chief Justice, counsel or parties should make reasonable inquiries with the appropriate court office. If, after reasonable inquiries, the decision is still not released and no extension or explanation has been provided, counsel or the party (if self-represented) are advised to write to the Regional Senior Judge.

Part III. Guidelines to Determine Mode of Proceeding : Family

Please see regional practice directions or notices to the profession for scheduling protocols related to the application of the following presumptive guidelines including scheduling processes related to requests for changes in the presumption.

A. Over-arching principles in the application of the presumptive guidelines

These guidelines set out presumptive methods of attendance for events in Superior Court of Justice proceedings. In applying these guidelines, the Court will take into account the following general principles:

1. Discretion of the Court

While presumptions for each event set out the default position of the Court, the final determination of how an event will proceed will remain subject to the discretion of the Court. This will take into account the issues in the proceeding, the expected length of the hearing, the evidentiary record, the status of parties (e.g. self-represented litigants) and access to technology (including virtual capacity at institutions and courthouses).

3. Access to justice

While virtual platforms to conduct proceedings remotely have enhanced access to justice for many, the Court also recognizes that there are significant variations in the abilities of litigants to access and use the technology that is required for virtual hearings. Until such time as there is a means to provide access to technology to those who do not have it so that they can fully participate in a remote hearing, the Court will take this access issue into account when determining the appropriate mode of proceeding. In that respect, if remote proceedings are utilized, the needs of all participants must be met so they can fully and equally participate.

3. Self-represented litigants

While the Court's determination of the appropriate mode of proceeding will necessarily take into account the ability of litigants to access and effectively use technology for virtual hearings, the Court will also consider other circumstances uniquely related to self-represented litigants. Issues such as the inability to obtain timely assistance from duty counsel and court staff, needing support to use technology or the inability to adequately address issues in writing may mean that in proceedings involving a self-represented litigant, Courts may favour an in-person mode of proceeding.

4. In-person hearings important

While the continued use of virtual proceedings increases efficiency at many stages in the litigation process, the Court also recognizes the importance of in-person interaction and hearings for more substantive attendances. For these matters, in-person advocacy and participation will remain an essential feature of our justice system.

5. Hybrid options

In determining the mode of proceeding and the application of the guidelines, the Court will also take into account whether some parts of a proceeding should be conducted

virtually and other parts conducted in person. In other words, hybrid options will be considered where appropriate or necessary.

6. Impediments to a virtual hearing

There may be statutory, security or other impediments to having a remote hearing in certain matters, particularly criminal cases, civil contempt hearings and other matters that deal with sensitive information (e.g. child protection cases). Moreover, a party's or participant's personal circumstances (e.g. disabilities or caregiver responsibilities) may make remote hearings less suitable.

B. Terms used in the guidelines

“Virtual” = proceedings using a platform like Zoom video or audioconference or by teleconference.

“Hybrid” = proceedings in which some justice participants are appearing physically in the courtroom and others are participating virtually.

“In-person” = all parties, counsel and the judge are physically in the courtroom.

“Videoconference or audioconference” = connecting into a proceeding using a platform like Zoom through video and audio or audio only.

“Teleconference” = connecting into a proceeding via a telephone number to a landline.

C. Presumptive guidelines to determine mode of proceeding in family matters

The following guidelines set out the Court's expectations for the default method of appearance for all family events that will be applied across the province. However, the Court also recognizes that some Regions, in particular the Northwest, Northeast and those with circuiting judges, will require greater flexibility in hearing more cases virtually.

1. Family

1. First appearances:

Where required, first appearance courts will be heard virtually unless the Court specifies a different method of attendance. In deciding whether these attendances will be conducted other than virtually, the Court will take into account the availability of duty counsel and on-site mediation services.

2. Early or urgent case conferences and triage courts (where available):

All early or urgent case conferences and early intervention courts will be held by videoconference unless the Court specifies a different method of attendance.

3. Urgent motions:

All urgent motions will be heard by videoconference unless the Court specifies a different method of attendance when the event is scheduled. A party who takes the position that the urgent motion should be heard in person should include in their motion materials the reasons why the motion should not be heard by videoconference.

4. Case conferences, settlement conferences and trial management conferences:

All (i) case conferences, (ii) settlement conferences, and (iii) trial management conferences with a settlement focus, will be held in person unless a different method of attendance is approved by the Court in advance.

5. Trial scheduling conferences, other trial management conferences and assignment court attendances (where required):

All trial scheduling conferences, trial management conferences where the focus is on preparation for trial and assignment court attendances (where required) will be heard by videoconference unless, at a prior conference, the Court has specified a different method of attendance.

6. Motions for procedural relief and motions on consent:

All motions on consent, unopposed motions and simple procedural motions will be conducted in writing. More complex procedural motions will be conducted by videoconference, unless the Court specifies that an in-person attendance is required.

7. Substantive regular/short motions:

Outside of Toronto and Windsor, where regular motions in family cases are heard on mixed civil and family lists, substantive motions of less than an hour will be held by videoconference.

In Unified Family Court locations, Toronto and Windsor, regional practice direction or notice to the profession will direct the mode of appearance for these events.

All motions for contempt will be held in person.

8. Long motions:

All long motions will be held in person unless the Court has agreed to a virtual attendance in advance, which will be decided at the case conference.

If contempt is sought or there is a hearing alleging the wrongful removal or retention of a child, the motion will be held in person.

9. Trials:

All trials will be held in person unless all parties consent to a virtual trial and the Court approves. The Court may consider the option of a hybrid proceeding and whether a witness may be permitted to testify virtually by videoconference. Requests for virtual or hybrid trials will be addressed with the completion of the Trial Scheduling Endorsement Form prior to the scheduling of the trial.

2.. Child Protection

1. First hearing where child has been brought to a place of safety (5-day hearings):

5-day hearings will be heard virtually unless the Court decides that an in-person hearing is required, taking into account any concerns regarding: (i) parental participation in virtual hearings or (ii) Legal Aid support for these events.

2. Child protection lists or TBST appearances:

Child protection lists or To Be Spoken To appearances will be held by videoconference unless the Court decides that an in-person hearing is required, taking into account any concerns regarding: (i) parental participation in virtual hearings or (ii) Legal Aid support for these events.

3. Settlement conferences and trial management conferences:

All (i) settlement conferences and (ii) trial management conferences with a settlement focus will be held in person unless a different method of attendance is approved by the Court in advance.

4. Trial scheduling conferences, other trial management conferences and assignment court attendances (where required):

All trial scheduling conferences, trial management conferences where the focus is on preparation for trial and assignment court attendances (where required) will be heard by videoconference unless, at a prior conference, the Court has specified a different method of attendance.

5. Motions on consent and motions for procedural relief only (including 14B motions):

All motions on consent, unopposed motions or simple procedural motions will be conducted in writing. More complex procedural motions will be conducted by videoconference, unless the Court specifies that an in-person attendance is required.

6. Substantive/regular short motions:

Regional practice directions or notices to the profession will direct the mode of appearance for these attendances.

7. Long motions including summary judgment motions and temporary care and custody hearings:

All long motions, including summary judgment motions, and temporary care and custody hearings will be held in person unless the Court has agreed to a virtual attendance in advance, which requests should be raised at a prior court attendance.

8. Trials:

All trials will be held in person unless all parties consent to a virtual trial and the Court approves. The Court may consider the option of a hybrid proceeding and whether a witness may be permitted to testify virtually by videoconference. Requests for virtual or

hybrid trials will be addressed with the completion of the Trial Scheduling Endorsement Form prior to the scheduling of the trial.

3. FRO Lists and Refraining Motions

All Family Responsibility Office matters will be heard in person unless the Court directs a different method of attendance.

Refraining motions that are not held on regular FRO sittings at Unified Family Court locations, including those held in generalist locations, will be held by videoconference unless the Court directs a different method of attendance.

4. Dispute Resolution Conferences

All Dispute Resolution Conferences will continue to be held by videoconference.

Part IV. Pilot Projects: Family

A. Binding Judicial Dispute Resolution Pilot Project

The Superior Court of Justice been piloting Binding Judicial Dispute Resolution (JDR) in certain court locations since May 14, 2021. “Binding JDR” provides a streamlined alternative to reach a final resolution for some family law cases. The pilot is currently operating in the Superior Court of Justice in all of the Central East region, Kitchener, Ottawa, Cornwall and L’Orignal and in the Northwest and Northeast regions.

Binding JDR is a party-initiated, flexible process that allows parties to obtain final orders in family cases without the need for a trial. The parties ask the same judge to try to assist them to settle their issues on consent and to make final orders about unresolved issues at the same hearing. Prior to the Binding JDR hearing proceeding, the parties must sign a request and consent form and obtain the approval of the Court.

A Binding JDR hearing includes *both* the settlement and the adjudication parts of the process. The judge conducting the Binding JDR hearing will explore with the parties (and their lawyers, if any) possibilities for resolution. As in any court proceeding, the judge conducting the Binding JDR hearing has an oversight role and must approve any terms of settlement.

For any issues that cannot be resolved on consent, the judge will hear submissions from the parties about the orders that they are seeking. The judge may ask the parties questions and request additional information, if necessary, to reach an informed and fair decision.

At the conclusion of the Binding JDR hearing, the judge will provide a final order on the issues, including those that have been resolved on consent.

For more information about Binding JDR, see the Court's *Practice Advisory Concerning the Superior Court of Justice's Binding Judicial Dispute Resolution Pilot Project*.

B. Right of Appearance Pilot Project, Law Society of Ontario

To help facilitate the delivery of affordable family law services, effective January 17, 2022, lawyer candidates may appear on certain events in a family law case without needing advance permission from the Court as required by Family Law Rule 4(1)(c).

Articling students, Law Practice Program students, students who are completing a work term through an approved Integrated Practice Curriculum (currently, Lakehead University and Toronto Metropolitan University) and lawyer candidates who have not yet been called to the bar but have a Law Society-approved supervision agreement in place with a licensed lawyer may appear under this pilot.

The scope of attendances included in this pilot is available [here](#).

Lawyer candidates who are authorized to appear for these steps in a family case must (i) be prepared with full instructions for all matters that are expected to be addressed at the attendance, and (ii) be appropriately supervised by a lawyer in their firm. A supervising lawyer with knowledge of the matter must be available on-call to assist with the matter at the request of the presiding judge.

More details about the requirements relating to this pilot are available at [Rights of Appearance | Law Society of Ontario \(lso.ca\)](#).

C. Child and Youth Informed Mediation (CYIM) Project

The Child and Youth Informed Mediation (CYIM) is a Pilot Project which is designed to bring the views of children (ages 7-18) into court-connected mediation cases with the assistance of the Office of the Children's Lawyer (OCL).

Effective March 1, 2023, this Pilot currently operates at Superior Court of Justice locations in Brampton and Orangeville. It is a collaboration between the OCL and Peel Family Mediation Services (PFMS).

In order to qualify for CYIM, parties must have an open family file (excluding CAS files) with the Superior Court of Justice in Brampton or Orangeville. Also, they must be either involved in the mediation process with PFMS or be willing to attend family mediation with PFMS.

Prior to participating in CYIM, the parties must

- Obtain a court order for OCL representation for children between the ages of 7 -18 who are the subjects of a family court proceeding;
- Provide their consent to participate in the CYIM pilot program;
- Participate with mandatory screening for family mediation to determine if the file is appropriate for mediation.

For more information about the pilot program CYIM, please contact Antoinette Clarke, Executive Director of **Peel Family mediation Services** at aclarke@peelfamilymediation.org OR 905-453-7795.