THE COURT OF QUEEN'S BENCH OF ALBERTA

CONSOLIDATED NOTICES TO THE PROFESSION

The procedural rules for civil (and some criminal) actions in the Court of Queen's Bench of Alberta (the Court) are primarily composed of those under the *Alberta Rules of Court* (Rules) issued by the Alberta Rules of Court Committee and Practice Notes (PN) issued by the Council of the Court. However, occasionally for good reason over the past a more informal notice of procedure has developed which has seen the issuance of Notices to the Profession, Notices, Directions of the Court, Guidelines and other instruments (collectively Notices to the Profession) by, or on behalf of, the Chief Justice of the Court. Regrettably such Notices to the Profession have not always been broadly distributed to the Bar, and new members of the Bar have not received them. Indeed some are even practices that have developed internally within the Court without publication. In almost all cases they have not all been collected and published in one place, with the result that, on occasion, members of the Bench and/or Bar are not familiar with them. To avoid this problem, we hereby issue the Court's **CONSOLIDATED NOTICES TO THE PROFESSION** (CNP) that we believe to exist and remain generally applicable as at September 1, 2004.

We propose to update this consolidation periodically in the future, usually as at September 15 and January 15 each year, if there are amendments in the intervening period. We say "generally applicable" because we recognize that some now need amendment due to the passage of time and change in circumstances - however, our primary purpose in this consolidation is to publish what currently exists. We will send them to the Secretary of the Rules of Court Committee and request that they be published in the Alberta Rules of Court binders. As time passes we will prepare appropriate amendments and will determine which of these might be reissued more formally as Rules or Practice Notes, or be repealed.

If you are aware of any Notice to the Profession of the Court that we have omitted in this consolidation, please advise the Court in writing to the attention of Justice John Rooke, Court of Queen's Bench designate to the Rules of Court Committee.

September 15, 2004

Honourable A.H. Wachowich,
Chief Justice
Honourable A.B. Sulatycky,
Associate Chief Justice

September 15, 2004

THE COURT OF QUEEN'S BENCH OF ALBERTA

CONSOLIDATED NOTICES TO THE PROFESSION

A. CIVIL

1. MASTERS' JURISDICTION[1]

The attached document outlines the Masters' jurisdiction. Applications involving matters within the Masters' jurisdiction should be returnable before the Masters in Chambers, not a Justice of the Court of Queen's Bench. I have given instructions to the Clerk to vet the list of all motions before the court, including morning chambers and special chambers, to ensure that all applications over which the Masters have jurisdiction are put on the Masters' list. The Clerk will remove matters from the Judges' list and put them on the Masters' list.

In the future, would you please ensure, where appropriate, that your application is returnable before the Master.

December 15, 1993 Honourable Allan H. Wachowich
Associate Chief Justice

Masters' Jurisdiction

The Court of Queen's Bench Act, sets out the jurisdiction of the Masters. A Master in Chambers has the same jurisdiction as a Queen's Bench Judge sitting in Chambers with the following exceptions:

A. Statutory exceptions:

- appeals or applications relating to appeals: s. 9(1)(a)(i);
- applications to vary or rescind an order made by a judge: s. 9(1)(a)(i);
- applications to stay an order or a judgment of a judge unless all parties consent to a Master hearing it: s. 9(1)(a)(i);
- trials: s. 9(2)(a)(i);
- criminal matters: s. 9(2)(c);
- applications relating to the liberty of a person: s. 9(2)(c);
- applications relating to civil contempt: s. 9(2)(c);
- applications for an injunction: s. 9(2)(d);
- applications for judicial review: s. 9(2)(d);

[1] Originally issued to the Members of the Bar in the Edmonton Judicial District, but in fact applies to all Judicial Centres where the Masters sit. It is recognized that some amendments are required to this Notice.

- anything which by law is required to be done by a judge i.e. where a Rule or a statute expressly says "judge", instead of "Court": s. 9(2)(e).

B. Case law and other exceptions:

- applications to the Surrogate Court, because the Masters are not appointed for that court;
- applications under the *Divorce Act*: Klassen v. Klassen (1978) 10 AR 606 (CA);
- judgment for or assessment of damages in an unliquidated damage claim: S.B.I. Management v. 109014 Holdings (1982) 32 AR 6 (CA).

C. Administrative exceptions:

- applications under R. 229 to have two actions heard together (July 22, 1988 memorandum);
- application to have a civil trial heard with a jury (May 22, 1992 memorandum);
- applications brought after a certificate of readiness has been filed (September 27, 1991 memorandum).

2. GOWNING

When does the Court (and counsel) gown? The answer may vary with the Judicial Centre (e.g. Calgary v. Edmonton), but the following are the general rules as to when gowning is necessary (when in doubt, ask the Trial Co-ordinator(s)):

- Anytime *viva voce* evidence is to be heard
  - trials, special chambers (only if *viva voce* evidence)
  - Reciprocal Enforcement of Maintenance Orders Act (provisional and confirmation)[2]

  But not
  - pretrial conferences or mini trials [judicial dispute resolution]
  - divorces - Calgary = No, but Edmonton = discretion of Judge[3]
  - C.U.P. [Parentage and Maintenance] (Docket)

[2] Now add Summary Trials, even without *viva voce* evidence.

[3] Generally all oral hearings for divorce require gowning.

- All criminal trials, and most criminal proceedings, including
  - guilty pleas
  - arraignments
  - jury selection

  But not
  - for bail, bail forfeitures, pretrial conferences (perhaps unless an accused is unrepresented and the conference is on the record), remands only & adjournments

- All civil trials (including uncontested divorces, summary trials, estate trials and assessments)

- All appeals (except Masters)[4]
  - summary convictions
  - small debt
  - surface rights

- Parentage (C.U.P.'s) & Maintenance Recovery & Dependent Adult
  - for *viva voce* hearings only, not docket - if both together the judge should be gowned for all and counsel for those where there is viva voce evidence

- For Judgment (Except where no gowning for the hearing) - see *Wong v. Vancouver Art Gallery* [1986] B.C.J. No. 2694 (S.C. - Gibbs, J.)

- Ceremonial Hearings
  - Adoptions (Calgary = in the discretion of the Judge - remember it is an important ceremony to those involved) (Edmonton = gowning)
  - Bar Admissions (for students-at-law, although transfer and second bar admissions are at the discretion of the Judge)
  - Swearing-in Ceremonies

- Not for (unless viva voce evidence is to be heard):
  - Bankruptcy hearings
  - Board of inquiries
  - Chambers, unless viva voce evidence
  - Maintenance Enforcement Show Cause Hearings

January, 2001 (Unsigned)[5]

[4] The list that follows is not exhaustive – obviously included should be appeals from Provincial Court, Family Division.

[5] This Notice was not formally publicly issued by the Court, but has been utilized internally within the Court as a general reference, and often referenced by the Clerks' Offices and sometimes distributed to counsel. It is recognized that some minor different practices may be followed in some Judicial Districts and by some Justices.

3. CONDITIONAL CERTIFICATE OF READINESS (CALGARY)

As a courtesy to counsel, the Civil Trial Co-ordinator had been allowing a short period of grace to complete conditions specified in a Conditional Certificate of Readiness after the deadline. Some counsel have challenged the additional time as unreasonable.

In order to avoid similar occurrences, I have directed the Trial Co-ordinator not to allow any additional time for the completion of conditions specified in a Conditional Certificate of Readiness. I have also directed that cases set for trial by Conditional Certificate of Readiness be removed from the trial list immediately upon default of any condition without further notice. Trial dates may only be reinstated thereafter by order of the Chief Justice or Associate Chief Justice.

To ensure that trial dates are not lost, counsel are encouraged to advise the Civil Trial Co-ordinator that all conditions have been met prior to the deadline specified in the Conditional Certificate.

February 19, 2003

A.B. Sulatycky
Associate Chief Justice
Court of Queen's Bench

4. EARLY PRE-TRIAL CONFERENCES

It has been over ten years since Judicial Dispute Resolution was introduced to the Court of Queen's Bench. The success of this summary procedure to settle disputes is apparent from the extensive use made of it by the Litigation Bar.

Our Court continues to be concerned about the length of trials, the number of experts and the cost of litigation generally, all of which have been noted in numerous studies of the civil justice system. To address this concern, commencing in April 2004, the Court is introducing a pilot project in Edmonton called, "Early Pre-trial Conferences". As with our JDR procedures, this will be totally voluntary; all parties must agree to apply for such a conference.

The premise behind this pilot project is simple. The civil justice system should be "front-end loaded" with the resources focused on resolution since most cases settle and very few go to trial.

The Early Pre-trial Conferences will be directed to:

(1) determining the real issues;
(2) reaching agreement on as many items as possible which are not in dispute;
(3) canvassing whether some or all experts can be jointly retained and failing this, to agree on the experts who are truly required;
(4) agreeing on "will say statements" to either avoid discoveries or reduce their length;

(5) considering appropriate possible settlement, early JDR, private ADR, summary trial or other means to reduce the length and the cost of litigation.

Initially, Justices Agrios, Moreau, Belzil, Slatter and Macklin have agreed to do Early Pre-trial Conferences commencing April 1, 2004, either during their JDR weeks or Pre-trial weeks. We will evaluate the pilot project later in the year and decide if it should be expanded throughout the province. Bookings for Early Pre-trial Conferences may be made through Brent Rosin, the Edmonton Trial Co-ordinator (422-2313), in the same fashion as JDR's, and will usually be for one hour.

December 2, 2003 Allan H. Wachowich
Chief Justice

5. CLASS PROCEEDINGS ACT

The Class Proceedings Act, S.A. 2003, c. C-16.5, has been proclaimed in force effective April 1, 2004.

Section 15 of the Act contemplates that all class proceedings will be subject to case management. Accordingly, counsel in any proposed class proceeding should apply as soon as possible to the Chief Justice or the Associate Chief Justice for the appointment of a case management judge.

Until further notice, Civil Practice Note No. 1 on "Case Management" will apply to all class proceedings.

March 1, 2004 Allan H. Wachowich
Chief Justice
Court of Queen's Bench of Alberta

6. POLICE ENFORCEMENT/ASSISTANCE CLAUSES (see D "FAMILY", item 5)

B. COMMERCIAL

1. SCHEDULING OF BANKRUPTCY APPLICATIONS

I give notice of a change in the Court's procedure regarding the scheduling of applications in bankruptcy.

Our practice has been to assign a judge to hear bankruptcy applications for 3 days about every 6 weeks in both Edmonton and Calgary. The applications have been scheduled for the Monday, Tuesday and Wednesday of the "bankruptcy week". The judge has been assigned to other matters on the Thursday and Friday.

Frequently bankruptcy applications do not proceed. However by the time it is known that they will not proceed, it is too late to assign

the judge to other matters on the days originally scheduled for bankruptcy matters.

Further the court's experience is that it would be more useful to have the judge free for other assignments at the beginning of the week than at the end of the week.

Therefore the following procedures will apply to bankruptcy applications beginning September 1, 2003:

1. Bankruptcy applications will be scheduled for the last three days of the "bankruptcy week" – Wednesday, Thursday and Friday.

2. The clerk's office will be instructed to book applications starting with the Friday – so that no applications will be scheduled for Thursday until Friday is fully booked and none will be scheduled for Wednesday until Thursday is fully booked. A half day will be considered fully booked when applications estimated to occupy between 2.5 and 3 hours in total have been booked into it. Exceptions will be made only with the leave of the judge assigned to the bankruptcy week.

3. No new bookings will be made later than the Monday of the week preceding the bankruptcy week. Again exceptions will be made only with the leave of the assigned judge.

I invite comments on these new procedures from members of the profession either now or after we have had some experience with them.

July 9, 2003

Allan H. Wachowich
Chief Justice
Court of Queen's Bench of Alberta

C. CRIMINAL

1. REVIEW OF DETENTION UNDER S. 525 OF THE CRIMINAL CODE

On January 22, 1991, I circulated a directive relating to s. 525 of the Criminal Code. In indicated that in the case of a person charged with an offence and whose bail has been refused, it was necessary, in light of the judgment of the Court of Appeal of Alberta in R. v. Neill, for a review of the continued detention of the accused forthwith on the expiration of the period of time prescribed by the Section, being 90 days for indictable offenses and 30 days for summary conviction offences.

I advised that the Court of Queen's Bench, in cooperation with the Department of Justice and members of the Criminal Bar, will institute a plan to ensure that all persons in custody will be brought

before the Court for a review within the period of time prescribed by s. 525.

The Defence Bar were also advised at that time that when the Court of Queen's Bench received an Application from the Director within whose custody the accused resides, the Trial Co-ordinator of the Court of Queen's Bench will contact defence counsel to arrange for an early review date.

On reviewing s. 525(1), I propose the following directive:

> When the Court of Queen's Bench receives an application under s. 525(1) from the Director within whose custody the accused resides, the Trial Co-ordinator of the Court of Queen's Bench shall place the application before a judge of the Court of Queen's Bench, who under s. 525(2), shall direct, by way of a Court Order, the date for the hearing, where the hearing shall take place, that the accused shall be present, who shall be served, including the accused, the prosecutor and the defence counsel, if one appears on the record.

A copy of the above directive has been forwarded to the Criminal Law Clerks throughout Alberta.

The Court of Queen's Bench, together with the Department of Justice will very much appreciate the co-operation of all of the members of the Bar in ensuring that all persons in custody have their bail review within the period of time prescribed under s. 525 of the Criminal Code.

(Undated - post January 22, 1991)

W.K. Moore
Chief Justice of the
Court of Queen's Bench

2. BAIL APPLICATIONS - INVOLVING SPOUSAL ASSAULTS

At a recent meeting of the Criminal Practice & Procedure Committee of the Court of Queen's Bench, it was proposed that at all bail applications involving spousal assaults that the Crown should provide more information to the court including:

i) What is the current status of the relationship? Is there a history of separation in this relationship? During the past separations has the offender stalked or harassed the victim?

ii) What is the history of violence or abuse in the relationship? Include physical, sexual, verbal, financial and emotional abuse. Has the abuse

escalated during the last twelve months? Has the abuse ever required medical attention?

iii) Has the offender ever hurt, injured pr threatened to use weapons, own a firearm or have plans of purchasing a firearm?

iv) Has the offender ever used weapons, threatened to use weapons, own a firearm or have plans of purchasing a firearm?

v) Are there any children under the age of 18 who have witnessed the abuse or who have been abused by the offender? Is Child Welfare presently involved with the family? Has Child Welfare been involved?

vi) Has the offender abducted or threatened to abduct the children?

vii) Is the offender currently employed? Has the offender's employment history changed during the previous twelve months, become less stable?

viii) What is the offender's current status with the legal system? Has he ever violated a court order, including a no-contact order and/or peace bond?

ix) Have drugs or alcohol ever been a problem for the offender? Does the offender have a history of mental illness including threats of suicide?

x) How does the victim feel about the offender being released?

It is not intended that a judge should have to ask all the questions listed above, but the Committee feels each of you should be aware of the kind of information that the Crown should disclose at a bail hearing.

Thank you.

December 9, 1999 W.K. Moore

3. ARRAIGNMENTS (CALGARY)

A number of changes will be made in the next few months to the arraignment procedures in the Judicial District of Calgary. They are intended to allow counsel greater opportunity to control their own schedules within reasonable limits. Where the opportunity afforded counsel is not taken, trial scheduling will be determined solely by the availability of court time.

The changes, which depart from Criminal Practice Note 1, are made possible by the recent addition to the Criminal Code of s. 650.01 (Designated Counsel).

The changes are as follows:

Pre-booking - Commencing immediately, (1) all criminal trials, including judge and jury, may be pre-booked through the trial co-ordinator by counsel who has filed a designation under s. 650.01. (2) All trials may be pre-booked up to eight months in advance, with the consent of the Crown. Beyond the eight month period trials maybe pre-booked only with leave of the Chief Justice or Associate Chief Justice, otherwise they will require appearance at arraignments.

Committal-Arraignment Interval - Commencing January 1, 2003 the interval between the committal for trial and the arraignment date will be lengthened by one month, i.e. to the second arraignment day following committal for trial. The additional time is intended to enable Crown and defence to complete discussions concerning disposition or resolution of the case and to pre-book the trial, as well as to permit perfection of retainers, receipt of transcripts, and other steps which previously necessitated an adjournment to a succeeding arraignment day.

Arraignment Day - Commencing March 12, 2003 arraignments will take place on the second Wednesday of each month, but at 1:30 p.m., a time reported to be more convenient to the bar than before noon. It is expected that with the greater opportunity to pre-book few if any counsel will find need to appear at arraignments. However, when a matter has not been pre-booked for trial before the appointment arraignment date, counsel of record will be required to appear in person and not by agent. If defence counsel intends to allege at arraignment that the failure to pre-book results from any default by the Crown, notice of that allegation must be given to the Crown counsel concerned who will also be required to appear in person at the arraignment date or as otherwise scheduled.

Public Notices - In order to ensure that the public may continue to be informed of the date when any given case is scheduled for trial, a list of all cases pre-booked since the preceding arraignment day will be available at each arraignment day.

December 3, 2002 Associate Chief Justice A.B. Sulatycky

4. JURY SELECTION (CALGARY)

Commencing March 1, 2003 a number of changes will be made to the jury selection procedures in the Judicial District of Calgary. These are intended to maintain respect for the justice system by considering the convenience of counsel and members of the public who are called for jury duty.

The Court of Queen's Bench recognizes the high level of co-operation between the Crown and defence bar which allows for re-election from judge and jury to judge alone. This results in very few judge and jury trials proceeding in Calgary. That co-operation is to be encouraged and fostered. However that co-operation has the unavoidable consequence of often eliminating the need for a jury panel. When large numbers of citizens respond to a jury summons only to be told they are not required they tend to lose respect for the system. The judge who must attempt to give an explanation to the panel bears the brunt of the disrespect.

To ensure that persons who are summonsed for jury duty do not attend unnecessarily the Court several months ago installed a telephone line which those persons are advised to call before coming to court. If as a result of re-elections there are no juries to be selected a recorded message advises callers that they need not attend. This system has been very effective in dramatically reducing the number of people who respond to a jury summons when no juries are to be selected. But it only works when counsel re-elect in a timely way. The changes are intended to facilitate that.

The changes will provide counsel with a period of no less than 24 hours in which to decide whether to re-elect or not. They will also permit court administration 24 hours to call off the jury panel. Late re-election which results in empaneled citizens attending unnecessarily may result in any one of the sanctions within the range available for disrespect to the Court and the administration of justice.

The changes are as follows:

1. Jury selection will take place at 10:00 a.m. on the Friday (or the last juridical day) of the week preceding the commencement of the trial.

2. Counsel will be advised as early as possible, but in no event later than noon on the Wednesday preceding jury selection of the judge assigned to the trial.

3. Any re-election to judge alone is to be communicated to the Trial Co-ordinator prior to noon on the Thursday preceding jury selection.

4. In those cases where a trial date is already set and jury selection is scheduled for 2:00 p.m. of the Thursday preceding the commencement of trial the jury selection is adjourned to the following day (Friday) at 10:00 a.m.

December 3, 2003 Associate Chief Justice A.B. Sulatycky

5. NOTICE TO THE EDMONTON CRIMINAL LAW BAR PRACTICE DIRECTIVE - CRIMINAL ARRAIGNMENTS

I am writing to advise you that effective September 1st, 2004, a new procedure for criminal arraignments will be implemented in Edmonton. A similar procedure has been implemented in Calgary and has been found to be very successful in reducing the criminal arraignment lists. A Practice Directive outlining this procedure is attached, as well as a list of the amended cut-off dates for 2004.

Thank you for your cooperation in the implementation of this new procedure.

June 8, 2004 Allan H. Wachowich

6. PUBLICATION BANS (see Criminal Practice Note No. 4 and E. GENERAL, items 4 and 5)

D. FAMILY (see also "CIVIL", item 7)

1. RUSH DIVORCES[6]

As you know, all desk divorces must go through the Clerk's Office in the usual manner. The wait time to obtain a divorce judgment is now approximately six weeks simply because our Clerk's Office in the divorce area is incredibly understaffed. As a result what happens is that lawyers come into Chambers and tell a Judge that everything is in order and asks that the divorce judgment be signed. This is inappropriate as often the documents are not in order and sometimes the matter is not an emergency.

After discussions with [the Supervisor, Divorce] it was decided that the best way to handle any applications by lawyers in Chambers for an expedited disk divorce judgment is as follows:

1. First of all, the Judge determines whether or not the matter is truly an emergency and must be expedited or can it wait its turn in the normal course.

2. If counsel is successful in convincing you that the matter is of sufficient urgency that it should be dealt with forthwith, then the Clerk in Chambers has a form with her called a Rush Divorce Checklist (attached). The Judge will initial the Checklist which is the confirmation to the Clerks that you have granted leave.

3. Counsel complete the Rush Divorce Checklist, confirming that all major matters which the Clerks would normally check have been checked by the

[6] The practice in this Notice, except as permitted by an individual Justice, has generally been limited in application to Calgary.

lawyer and the lawyer signs the form certifying that such is the case.

4. The lawyer then returns to the Judge who allowed the expedited divorce with all of their divorce documents and the Rush Divorce Checklist fully completed and signed by counsel. At that point the Judge would sign the Divorce Judgment if all was in order after reviewing the documents. Counsel would return the whole package to the Clerk's office for final review and filing.

Therefore, [the Judge's] only responsibility is first of all to be satisfied that the matter is of sufficient urgency to "bump the line" and therefore sign the Checklist and secondly when counsel re-attends before [the Judge] which will presumably be during the same duty week with all of the documents and the completed form, [the Judge] will be able to review and sign the Divorce Judgment if appropriate.

January 18, 1999 W.K. Moore

Counsel must fill out this Form Personally

RUSH DIVORCE CHECKLIST

4801- _____ Date _____

STYLE _____ vs _____

CLAIM
- ❑ Grounds have been met
- ❑ Bars for Divorce are correct
- ❑ Relief requested is accurate
- ❑ Clearance has been received from Ottawa *MANDATORY*

PROOF OF SERVICE
- ❑ Affidavit of Service has been commissioned properly
- ❑ Exhibits have been marked and are attached properly
- ❑ Service admitted by Solicitor (Alberta Bar) *CANNOT NOTE IN DEFAULT WITHOUT LEAVE*

ADDITIONAL PLEADINGS
- ❑ Praecipe to Note in Default *FIAT REQUIRED IF SERVICE WAS ADMITTED*
- ❑ Demand of Notice
- ❑ Statement of Defence and Counterclaim
- ❑ Answer and/or Counter Petition

REQUEST FOR DESK DIVORCE
- ❑ Request for Divorce
- ❑ With Consent (Affidavit of Execution attached if consented to by an individual)
- ❑ Child Support Centre has reviewed guideline forms *MANDATORY*

EVIDENCE
- ❑ Affidavit of Applicant has been commissioned properly
- ❑ Government issued marriage certificate attached as an exhibit
- ❑ Marriage has been proven in solemn form *APPLIES TO MARRIAGES OUTSIDE CANADA*
- ❑ Affidavit of Adultery has been commissioned properly

WAIVING APPEAL PERIOD YES/NO
- ❑ Special circumstance detailed in Affidavit
- ❑ Undertakings not to appeal by both parties *MANDATORY*
- ❑ Judgment is in the proper format

PARENTING COURSE
- ❑ Certificate or Exemption obtained

I hereby certify to the Court I have reviewed and completed the above personally and that all rules and regulations have been complied with in full.

Dated this _____ day of _____ 19____ Signed _____
Counsel for Applicant

2. MARRIAGE CERTIFICATES AND SERVICE

1. Marriage Certificates

As directed by the Chief Justice, if parties are married in Canada, they must produce a marriage certificate as part of their affidavit evidence in order to obtain a divorce. If parties were married outside of Canada then they must prove the marriage in solemn form in the affidavit. It is helpful, but not necessary, to attach a marriage certificate for marriages outside of Canada, either a religious or government type certificate, if the same happens to be available to the lawyer or their client. One of the reasons as to why this is helpful is that many people do not remember when they were married and it is simply another check to see if that certificate corresponds with the information in solemn form.

2. Service

a) On those occasions where the Affidavit of Service cannot be located and is required for the proceedings, it would be sufficient if either they signed an affidavit or, as part of the client's affidavit for the divorce, indicated under oath what they had done to search for the Affidavit of Service. The affidavit from the respondent's lawyer should confirm that in fact their client is the respondent, and the respondent has given

them instructions throughout the file with respect to pleadings and other matters. In that way the Court will be satisfied that service has actually been made. The Rules of Court do not specify what is to be contained in the Affidavit of Service or who is to be the deponent of an affidavit with respect to the service so there are a number of alternatives available. Rule 564(3) basically says that the proof of service is to be given in a manner that satisfies the Court that the party required to be served has been personally served. Therefore, this can be achieved simply by a note to the justice so that the justice can determine whether or not on the evidence the respondent has been served. The Clerks cannot enter a Note in Default where service is not in order. Therefore, in default situations, the lawyer for the Plaintiff must first attend in Chambers to try and obtain a Fiat deeming service good and sufficient. The documents can then be sent to the Clerk's Office.

b) Where there is an Affidavit of Service but a different means of identifying the respondent has been used, i.e., driver's license, credit card, etc., it will be sent to the justice with a note from the Clerk pointing out the problem. The judge will then determine whether or not they are satisfied with the method of service.

October 12, 1999 Moore, C.J.

3. ORDERS - FAMILY LAW MATTERS[7]

Commencing July 1, 2001, it is requested that orders in family law matters be filed on green paper, pale enough that it can be photocopied. The purpose of having orders on coloured paper is so that they can be easily found on the court files.

Please note that the use of green paper is not mandatory as orders on white paper will still be accepted, but it would be appreciated if parties would voluntarily prepare their orders on green paper.

June 5, 2001 The Honourable Madam Justice Trussler, for the Court

4. NOTICE TO THE EDMONTON FAMILY LAW BAR CHILD SUPPORT RESOLUTION PROJECT

I am writing to advise you that effective September 1st, 2002, a Child Support Resolution Project, somewhat like the Dispute Resolution Officer ("DRO") Project in Calgary, will be implemented in Edmonton. The project will be restricted to matters where applicants are self-represented. Prior to a court hearing, the applicant and respondent will be required to attend in front of a Child Support

[7] This request was not formally issued as a Notice to the Profession but rather expressed in the form of letters to chairs of Bar committees and the judiciary. What follows is an edited summary of the salient elements of this request.

Resolution Officer, who are counsel in the Family Law Information Centre, in an attempt to resolve the application by consent. At times a respondent may be represented by counsel. Counsel may either send their clients by themselves to appear before the Child Support Resolution Officer or counsel may also attend with their clients. The parties will be required to bring all of their financial information to the meeting.

Thank you for your cooperation in the implementation of this new project.

August 30, 2002 Allan H. Wachowich

5. SUMMARY OF CHILD SUPPORT GUIDELINE

1. Summary of Child Support Guideline Calculations (one page)
2. Undue Hardship Claims Only - Standards of Living Test (two pages)

These forms are designated as the required "information and data sheets" pursuant to the Court of Queen's Bench Family Law Practice Note '3', paragraphs A.2 and B.3. These forms replace and simplify the former Child Support Information and Data Sheets. They will be instituted gradually to allow the various software companies to update the child support programs. The Court will not reject child support applications for reason fo submission of old forms for approximately three months time to allow for this transition.

These forms are required for both desk (consent orders and divorce judgments) and contested applications. They replace the former Child Support Information and Data Sheets effective November 1, 2000. However the forms presently being used will be accepted during the transition period of four months.

As the title suggests, the 2 page "Undue Hardship Claims Only" sheet need only be submitted if there is an undue hardship claim.

Please note that the Summary of Child Support Guideline Calculations is to contain a calculation of child support in accordance with the Federal Child Support Guidelines and will not necessarily be the same as the amount requested in a consent child support order or by reason of special circumstances. If asking the Court for a different amount, you must indicate so at the bottom of the form, providing both the different amount and the reasons for departing.

These forms are available on the Alberta Courts Web Page at:

http://www.albertacourts.ab.ca/

and at the Family Law Information Centre in Edmonton and Calgary (formerly the Queen's Bench Child Support Centre).

November 27, 2002 Trussler, J., for
Chief Justice W.K. Moore

6. POLICE ENFORCEMENT/ASSISTANCE CLAUSE[8]

After consultation with the Police Services in both Edmonton and Calgary, the Court of Queen's Bench has developed a standard form police enforcement clause that may be used in family law matters other than restraining orders. The clause presently mandated for restraining orders will remain the same but the following clause will be used in other matters:

If either of the parties or any other person on their behalf, breaches any of the terms of this Order, then a Peace Officer shall provide assistance to ensure that the offending party complies with its terms. Before enforcing the terms of this Order, a Peace Officer must first ensure that the party has been served with a copy of this Order. If not served, the party must be shown a copy of the Order by the Peace Officer and be given a reasonable time to comply with its terms. If the party fails or refuses to comply with this Order, the Peace Officer shall do such lawful acts as may be necessary to give effect to its terms including, if necessary, arrest, detain and bring the party at the earliest possible time before a Justice of the Court of Queen's Bench to show cause why the party should not be cited for civil contempt.

June 19, 2003 A.H. Wachowich

7. SPOUSAL SUPPORT WAIVERS

As a result of the ***Miglin*** case, the Court has developed a policy with respect to agreements to waive spousal support:

There shall be no reference in the body of a Consent Divorce Judgment to a party waiver of spousal support, whether that waiver be mutual, one sided or at a future time. Nor shall any relinquishment of the right to apply for spousal support appear in the body of the Consent Divorce Judgment. Rather, an agreement to waive or relinquish rights may only be contained in the Recitals to the Consent Divorce Judgment.

Time limited spousal support shall appear in the body of the Judgment. The right to apply before a certain time shall also appear in the body of the Judgment. However, an agreement to waive or relinquish which takes effect after the conclusion of a payment stream or before a certain date shall appear in the Recitals.

[8] This Notice replaces the Notice on the same subject dated June 21, 2002. Notwithstanding its wording, it is used for both restraining orders and other family orders. While this Notice may apply to other cases, it is primarily seen in Family Law cases and therefore the reason for inclusion here.

The following are acceptable Recitals to a Consent Divorce Judgment:

And Whereas the parties hereto have agreed to the following _____ (waiver/relinquishment of rights) in relation to Spousal Support:

"Quote the paragraph from the agreement"

(If applicable)
And Whereas the parties each received independent Legal Advice in relation to their agreement on Spousal Support.

June 19, 2003 A.H. Wachowich

8. FAMILY LAW PRACTICE NOTES OF THE COURT OF QUEEN'S BENCH OF ALBERTA

The Family Law Bar is reminded that it is expected to comply with all Family Law Practice Notes of the Court of Queen's Bench of Alberta. It was noted recently by a number of judges that there is a substantial noncompliance, particularly with respect to Practice Note 3. All members of the Family Law Bar should have the detailed knowledge of the practice notes.

The clerk in each judicial district has been requested to ensure that all requirements of the practice notes are met. Practitioners should be aware that costs pursuant to Rule 599.1 may be imposed against them personally for lack of compliance.

The Family Law Bar is also reminded that the Court is requesting that all interim orders and divorce judgments be filed on green paper.

June 19, 2003 A.H. Wachowich

9. PILOT PROJECT - CALGARY UNCONTESTED DIVORCE PROCEDURES

As you are undoubtedly aware, the time that it is taking to process uncontested divorces through the Divorce Clerk's Office and the Family Law Information Centre in Calgary continues to be a problem. The Court has made what changes it can but the delay is still excessive. This delay is compounded when documents are returned for correction as they are processed in the same fashion as documents coming in for filing for the first time. Over the last one to two years, the delay has been anywhere from 4 weeks to 9 weeks.

As a result, Chief Justice Wachowich and Associate Chief Justice Sulatycky have authorized a pilot project to deal with uncontested divorces in Calgary starting in September of 2004. This will provide a more expeditious process for those cases which simply

cannot await the delays which we have been experiencing with uncontested divorces.

This process is not intended to replace the desk procedure currently in place but, rather, to augment it; in particular, to deal with emergent matters or matters which may require correction or additional information. The process will commence Monday, September 13th, 2004 and continue on the second Monday of each month thereafter.

These matters will be set on the Uncontested Divorce Docket which is scheduled for the second Monday of each month commencing at 2 p.m. If it is a long weekend, the matters will be scheduled on the Tuesday following the Monday holiday.

The process for setting the matter down will be by Notice of Motion. All of the same documents required for desk divorces (except for the Request for Divorce) must be filed with the Motion. The affidavit will be the Affidavit of Applicant as currently required. All documents are to be filed and served at least seven (7) days before the hearing date. There will be no *viva voce* evidence unless requested in the Notice of Motion.

This will allow the Justice to deal with any and all issues right then and there. If satisfactory, the Justice will sign the Judgment at the hearing.

We thank you for your patience in getting this pilot project up and running and we hope that it will assist in dealing with the backlog and delay we are currently experiencing. The effectiveness of the project will be reviewed in the new year.

August 5, 2004 The Honourable Madam Justice Kenny, for the Court

E. GENERAL

1. GUIDELINES FOR JUDICIAL DISPUTE RESOLUTION

1. The purpose of judicial dispute resolution is to reach a settlement on all issues, or to resolve as many issues as possible, with the assistance of a Justice of the Court of Queen's Bench.

2. Generally all counsel and partes must agree to judicial dispute resolution, although exceptions may be made in special circumstances.

3. Most frequently the process will be initiated when a matter has been or is ready to be set down for trial. However, the Chief Justice may approve judicial dispute resolution at an earlier stage, where appropriate.

4. To arrange judicial dispute resolution, counsel should contact the Trial Co-ordinator to select a judge and date, which must be confirmed in writing to the Trial Co-ordinator.

5. Counsel should meet with the named judge to discuss and agree upon the materials and procedures required for the judicial dispute resolution process, Counsel may request and with the consent of all parties the judge may agree to give an opinion or make a decision, in the event that a settlement is not reached.

6. Parties with authority to make settlement decisions must be present and participate in the process.

7. Judicial dispute resolution is normally conducted informally in a conference room setting. Gowning is not required.

8. The process in confidential. Statements made by counsel or by the parties are confidential and without prejudice and cannot be used for any purpose or referred to at trial, should the matter proceed to trial. After judicial dispute resolution, all briefs, submissions, notes and papers in the judge's possession will be destroyed.

9. Unless the parties consent, the judge will not hear any applications or the trial of the matter. The judge will not discuss the judicial dispute resolution process with the trial judge, should be matter proceed to trial.

10. In the course of judicial dispute resolution, parties and their counsel may meet privately, with or without the judge. If the judge meets privately, anything said by a party or counsel to the judge in confidence will remain confidential and will not be disclosed to the other parties unless the confidentiality of the communication has been waived.

11. The only document which will survive a successful judicial dispute resolution process will be a Memorandum of Agreement. Various terms of the Agreement may require Consent Orders, Discontinuances, Releases and other documents which will be prepared and filed by counsel.

12. The judge is non-compellable as a witness in any proceedings.

June 14, 1996 (Unsigned)

2. ELECTRONIC CITATIONS OF CASE LAW

I issue the following direction to counsel in response to inquiries received regarding the citation of case authority to electronic data bases and the provision to the court of copies of cases taken from such databases.

1. In any written submissions used in the Court of queen's Bench, counsel may cite case authority to a reliable electronic database.

2. If a citation to a reliable electronic database is used in a written submission, a printout of the case cited should be provided with the submissions.

3. If an alternative citation to a conventional report series is easily obtainable, it should also be provided.

4. When presenting copies of case authority to the court counsel may provide either copies of cases printed from the reliable electronic database, or copies of cases taken from conventional hard-copy reports, as counsel may choose.

5. "Electronic database" is intended to include proprietary online databases, CD-ROM databases and internet databases. The following data bases will be considered reliable for the purposes of this direction:

    a. Any database maintained by or on behalf of a Canadian court,
    b. Any QuickLaw case database
    c. Any eCarswell case database
    d. Any Maritime Law Book database
    e. Any Canada Law Book case database
    f. Any CCH Canadian case database
    g. Any Butterworths case database
    h. Any Lexis-Nexis case database
    i. Any Westlaw case database

Other databases may be added to this list when the court is satisfied they also are reliable.

February 1, 2002

Allan H. Wachowich
Chief Justice
Court of Queen's Bench of Alberta

3. COURT HOUSE FILE ROOM - CALGARY

You are no doubt aware that a species of mould which may be harmful to humans has been found in the file storage room of the Court of Queen's Bench Building in Calgary. All files in actions commenced more than two years ago, including documents filed until recently but not hereafter, are in that room. We are not yet certain how extensive

the mould contamination is and further testing is being done to ascertain that. In the meantime access to the file storage room is limited and files which may be required in chambers or for trial may not be available when needed. Therefore, it would be prudent for all counsel appearing before the court in any matter to have copies available of all filed materials to which the judge may be referred as necessary.

In those cases where a file, or document, for any reason must be retrieved from the file storage room, it will be scanned and thereafter reproduced in a clean environment. The product of the scanning process will replace the original for all purposes and the replacement documents will thereafter be stored in clean premises.

Since the scanning process cannot produce more than two or three pages per minute obtaining documents in that way will almost certainly result in delaying matters before the court. You can ensure that your matter will not be delayed if you bring copies from you file of all relevant material for presentation to the court whenever you appear in Queen's Bench

Your co-operation will be greatly appreciated.

March 21, 2002 A.B. Sulatycky
Associate Chief Justice

4. NOTICE TO MEDIA OF PUBLICATION BANS AND SIMILAR ORDERS

In an effort to ensure compliance by the media with Publication Bans and other orders made by Judges of the Court of Queen's Bench, effective January 1, 2002, applications for Publication Bans and similar orders shall be accompanied by a written Notification to Media using the attached form. Once the order is granted, the document will be signed by the Judge and placed on the Clerk's file. Throughout the course of the trial or other proceeding, the journalists will be given access to the Notification to ensure that the nature and extent of the order is understood.

Counsel are reminded of the requirements of Criminal Practice Note No. 4 when applying for publication bans made pursuant to a Judge's common law or legislated discretionary authority.

November 8, 2001/Revised June 21, 2002 Allan H. Wachowich
Chief Justice

5. NOTIFICATION TO MEDIA - PUBLICATION BANS - REVISED FORM

After consultation with members of the media, the bar and comments from some of the judges, we have re-drafted the "Notification to Media - Publication Bans". Attached is a re-drafted form.

The changes are intended to emphasize the fact that you as a judge will only be identifying publication bans which you order.

June 21, 2002 A.H. Wachowich

NOTIFICATION TO MEDIA
PUBLICATION BANS

Courts of Queen's Bench of Alberta

Action No. _____

Location: _____

Style of Cause: _____

1. This Notice addresses only those bans for which an application must be made to a judge. There are publication bans which by statute are in place in some proceedings. The media are responsible for ensuring that they comply with any such statutory bans.

2. This Notice addresses only those bans issued by this judge in this proceeding.

3. Bans issued pursuant to sections of the *Criminal Code*:
   - ❑ 517 (Bail Hearing)
   - ❑ 486(3)(4) (Identity of Complainant/Witness)
   - ❑ The court ordered ban will expire on _____ (specify date)
   - ❑ Other: _____ (specify)

4. Discretionary Publication Bans
   - ❑ The file has been sealed
   - ❑ File is sealed permanently
   - ❑ File temporarily sealed - expiry date _____(specify date)
   - ❑ Other _____
     (Please specify particulars of order)

Dated this _____ day of _____, 200 _____
at the _____ of _____ in the
Province of Alberta

_____
J.C.Q.B.A.

NOTE: Counsel are reminded of the requirements of Criminal Practice Note 4.

F. SURROGATE

1. DEPENDENT ADULTS ACT - PERFECT SERVICE OF DOCUMENTS

You will recall that I circulated amongst all the members of our Court a memorandum dated June 6, 2002 which updated a directive of 1998 as to the manner in which service is to be completed upon interested parties in any dependent adult application.

With the assistance of the CBA: Wills and Estate Sections of both Edmonton and Calgary comprehensive directions have now been prepared regarding service of all stages of dependent adult applications. My directive of June 6 dealt with only one.

Attached hereto is a directive for the benefit of all members of our Court which you might refer to when dealing with these applications and this further clarifies the directive of June 6.

July 5, 2002 Allan H. Wachowich

SERVICE OF DOCUMENTS
DEPENDENT ADULT APPLICATIONS (DESK)

The *Dependent Adults Act* does not prescribe any particular form of service of either an original application or a review application, nor on a passing of accounts.

The Act gives discretion to the court to direct the manner of service or approve a manner of service that has been effected. See:

Section 3(8)(b)	initial application to appoint guardian
Section 23(8)(b)	review of guardianship order
Section 31(8)(b)	initial application to appoint trustee
Section 49(8)(b)	review of trusteeship order

The following manner and proof of service are to be used.

INITIAL APPLICATION TO APPOINT A GUARDIAN AND/OR A TRUSTEE

Service of documents on an initial application to appoint a guardian and/or a trustee must be served:

a. Personally (Rule 14).

Personal service includes an acknowledgment of service by the party (whether on the document itself or in a separate letter signed by the party), and a form of Consent signed by the party.

or

b. By registered mail (Rule 22)

or

c. By any manner of service requested by the applicant in the initial application and approved by the judge. If the judge does not approve the manner of service requested, the applicant must serve the application again on the necessary parties.

The court may approve another manner of service under sections 3(8)(b), 23(8)(b), 31 (8)(b), and 49(8)(b) of the Act.

Proof of Service

Proof of service must be filed in Form DAD 24 Affidavit of Service. This must indicate the manner of service by one of the following:

a. Personal service:

(i) By personal service on the party.
(ii) By acknowledgment of service.
Attach the form of acknowledgment signed by the party as an exhibit to the affidavit;
(iii) By consent.
Attach the form of Consent signed by the party as an exhibit to the affidavit.

b. By registered mail.

Attach the Acknowledgment of Receipt and Signature (see attached example) as an exhibit to the affidavit.

Where the party did not sign the Acknowledgment (but someone else did), an affidavit to the effect that the deponent confirmed by telephone with the party that the party received the documents is sufficient proof of service.

c. By any manner of service requested by the applicant in the initial application and approved by the judge.

Provide an Affidavit of Service showing the manner of service used for which approval is sought.

APPLICATION TO REVIEW GUARDIANSHIP AND/OR A TRUSTEESHIP APPOINTMENT

Service of documents on an application to review a guardianship and/or a trusteeship appointment must be served:

a. Personally (Rule 14).

Personal service includes an acknowledgment of service by the party (whether on the document itself or in a separate letter signed by the party), and a form of Consent signed by the party.

or

b. By Registered Mail (Rule 22).

or

c. By the manner of service for review applications (if any) as directed in the initial Order appointing the guardian and/or the trustee.

or

d. By any manner of service requested by the applicant in the review application and approved by the judge. If the judge does not approve the manner of service requested, the applicant must serve the application again on the necessary parties.

The court may approve another manner of service under sections 3(8)(b), 23(8)(b), 31(8)(b), and 49(8)(b) of the Act.

Proof of Service

Proof of service must be filed in Form DAD 24 Affidavit of Service. This must indicate the manner of service by one of the following:

a. Personal service:

(i) By personal service on the party.

(ii) By acknowledgment of service.

Attach the form of acknowledgment signed by the party as an exhibit to the affidavit.

(iii) By consent.

Attach the form of Consent signed by the party as an exhibit to the affidavit.

b. By registered mail.

Attach the Acknowledgment of Receipt and Signature (see attached example) as an exhibit to the affidavit.

Where the party did not sign the Acknowledgment (but someone else did), an affidavit to the effect that the deponent

confirmed by telephone with the party that the party received the documents is sufficient proof of service.

c. As directed by previous court order.

Attach a copy of the previous court order as an exhibit to the affidavit.

d. By any manner of service requested by the applicant in the review application and approved by the judge.

Provide an Affidavit of Service showing the manner of service used for which approval is sought.

APPLICATION TO PASS ACCOUNTS

Service of documents on an application to pass accounts must be served.

a. Personally (Rule 14).

Personal service includes an acknowledgment of service by the party (whether on the document itself or in a separate letter signed by the party), and a form of Consent signed by the party.

or

b. By registered mail (Rule 22).

or

c. By the manner of service for passing of accounts applications (if any) as directed in a previous Order appointing the guardian and/or the trustee or in any other order passing accounts which provides for it.

or

d. By any manner of service requested by the applicant in the passing of accounts application and approved by the judge. If the judge does not approve the manner of service requested, the applicant must serve the application again on the necessary parties.

The court may approve another manner of service under sections 3(8)(b), 23(8)(b), 31(8)(b), an d 49(8)(b) of the Act.

Proof of Service

Proof of service must be filed in Form DAD 24 Affidavit of Service. This must indicate the manner of service by one of the following:

a. Personal service:

(i) By personal service on the party.

(ii) By acknowledgment of service.

Attach the form of acknowledgment signed by the party as an exhibit to the affidavit.

(iii) By consent.

Attach the form of Consent signed by the party as an exhibit to the affidavit.

b. By registered mail.

Attach the Acknowledgment of Receipt and Signature (see attached example) as an exhibit to the affidavit.

Where the party did not sign the Acknowledgment (but someone else did), an affidavit to the effect that the deponent confirmed by telephone with the party that the party received the documents is sufficient proof of service.

c. As directed by previous court order.

Attach a copy of the previous court order as an exhibit to the affidavit.

d. By any manner of service requested by the applicant in the passing of accounts application and approved by the judge.

Provide an Affidavit of Service showing the manner of service used for which approval is sought.

2. FIAT AND DIRECTIVE RE DEPENDENT ADULT DESK APPLICATIONS (SERVICE)

Rule 22 of the *Alberta Rules of Court* provides for service by mail.

Enclosed is a copy of a fiat which I have today issued, as an interim measure, to cover the problem caused by service deficiencies on an addressee when the desk application includes an acknowledgment or consent from the addressee.

"Where service is:

a) authorized by registered mail by any enactment or an Order of the Court, and

b) there is an acknowledgment of service or a consent signed by the addressee

the enclosure of the acknowledgment or the consent shall be deemed good and sufficient service on the addressee."

October 22, 2002

Allan H. Wachowich
Chief Justice
Court of Queen's Bench of Alberta

G. REPEALED NOTICES TO THE PROFESSION

The following Notices to the Profession of the Court are repealed:

1.	Caseflow Management Pilot Project	October 10, 1997

September 15, 2004

Honourable A.H. Wachowich
Chief Justice
Honourable A.B. Sulatycky
Associate Chief Justice

Notice to the Profession

December 14, 2004

Commercial Practice Committee

The Court of Queen's Bench of Alberta has established a Commercial Practice Committee made up of justices of the Court who have a particular interest and experience in dealing with commercial matters, an extension of an long-standing informal practice of the Court. We will continue to schedule bankruptcy, insolvency and other commercial matters before members of the Commercial Practice Committee on a regular basis. While this in no way precludes other judges from hearing these types of applications it is anticipated that the majority of them will be brought on before members of the Committee.

We recognize that insolvency applications often arise on short notice, with the accompanying need for a judge to be available to hear them on an emergent basis. Members of the Bar may arrange for such hearing by contacting the judicial assistant of any one of the members of the Commercial Practice Committee. Alternatively, counsel may choose to contact the trial co-ordinators' office which will provide a judge to hear the matter, normally outside of regular court hours. We will attempt to ensure that one or more members of the Committee are available on all sitting days to hear emergent applications in each of Edmonton and Calgary.

Membership in the Commercial Practice Committee will change from time to time. At the moment it is composed of the following judges:

Edmonton	Calgary
Bielby, J. - Co-Chair	LoVecchio - Co-Chair
Wachowich, C.J.	
Agrios, J.	Cairns, J.
Veit, J.	Rooke, J.
Wilson, J.	Hart, J.
Burrows, J.	Wilkins, J.
Slatter, J.	Kent, J.
Topolinski, J.	Hawco, J.
	Romaine, J.
	Park, J.
	Horner, J.

Allan H. Wachowich
Chief Justice
Court of Queen's Bench of Alberta

Notice to the Profession

November 9, 2007

Court of Queen's Bench Judicial Dispute Resolution

The Judicial Dispute Resolution [JDR] schedule for Spring 2008 is now available online at www.albertacourts.ab.ca under "Court of Queen's Bench – Announcements."

The schedules of the Court of Queen's Bench justices sitting in Edmonton are listed under "Spring 2008 – Edmonton JDR Assignments" and for Calgary justices, at "Spring 2008 – Calgary JDR Assignments."

The notations in the schedule indicate the following:

- ● = JDR booked

X = date not available, i.e. non-sitting day

The yellow highlighting denotes justices who conduct binding JDRs.

Once counsel have viewed the schedule and selected their JDR date, this date can be booked by contacting Brent Rosin, Edmonton JDR Coordinator, at (780)422-2313 or Pat Gordon, Calgary JDR Coordinator, at (403)297-7499. Where internet access is not available, a faxed version of the schedule may be obtained from the JDR Coordinators.

Please note that availability of JDR dates is subject to change due to bookings by other counsel or if a matter scheduled for JDR settles in advance of the selected date. Therefore the latest version of the online schedule should be consulted prior to contacting the JDR coordinators. The schedules will be updated and posted on a daily basis.

A.H. Wachowich
Chief Justice

N.C. Wittmann
Associate Chief Justice

Notice to the Profession

Calgary Chambers Adjournments

Please be advised that a new online procedure is available in Calgary for consent adjournments and adjournments required where service has not been effected, for all morning Justice and/or Masters Chambers applications. The new procedure is effective January 1, 2008.

Online adjournments are <u>not</u> available for special applications.

The online adjournments are accessed through the Alberta Courts website at www.albertacourts.ab.ca

1. Locate the Queen's Bench drop down menu.
2. Left click on publications and forms.
3. On the left side of the screen, left click on adjournment confirmation.
4. Choose the appropriate location.
5. Complete the online adjournment confirmation form and submit.

The **deadline** for receiving all adjournments is 9:30 a.m., on the date that the hearing is scheduled.

Adjournments submitted by Fax and telephone are still acceptable until further notice.

Please contact Len Willmott at 297-7405 if you have any questions or concerns in this regard.

Neil C. Wittmann
Associate Chief Justice
Court of Queen's Bench of Alberta

Notice to the Profession

Re: Appeals from the Decisions of Masters in Chambers

August 24, 2009

Presently, Court of Queen's Bench Civil Practice Note 6 indicates that any appeal from the decision of a Master should be heard in Special Chambers. Many of the appeals from Masters that come before the Court take less than 20 minutes to hear and would more appropriately be heard in ordinary Chambers.

Consequently, Part A of Civil Practice Note 6 is amended, effective immediately, to repeal the words, "It includes any appeal from the decision of a Master." from paragraph 1.(b).

A.H.J. Wachowich
Chief Justice

N.C. Wittmann
Associate Chief Justice

Notice to the Profession

October 10, 2009

Several years ago the Court of Queen's Bench of Alberta established a Commercial Practice Committee made up of justices of the Court who have a particular interest and experience in dealing with commercial matters. The Court typically schedules bankruptcy, insolvency and other commercial matters before members of this Committee. While this in no way precludes other judges from hearing these applications the majority of them are in fact dealt with by Committee members. Our goal remains ready access, consistency of result and seasoned adjudication.

We recognize that insolvency applications often arise on short notice, with the result that members of the Commercial Practice Committee must be made available to hear them on an emergent basis. To that end, any lawyer wishing to make an application on short notice in a bankruptcy or insolvency matter may contact one of the Committee members directly. Alternately the trial coordinators' office in Edmonton or Calgary may be contacted. It will provide counsel with the name of an available Commercial Practice Committee member. Counsel may then call that Judge's judicial assistant to make scheduling arrangements. Emergent applications will normally be scheduled to be heard outside of normal court hours. While matters may still be set down on the regular Chambers list counsel are requested to consider using one of these alternate approaches if possible.

Commercial and insolvency matters will normally be heard in Calgary or Edmonton only. Any lawyer practicing outside those cities may arrange to have a committee member hear an application by telephone or courthouse video conference by contacting the office of the Chief Justice or Associate Chief Justice in Calgary or Edmonton.

Membership in the Commercial Practice Committee will change from time to time. At the moment it is composed of the following judges:

Edmonton	**Calgary**
Bielby, J. (Co-Chair)	LoVecchio, J. (Co-Chair)
Wachowich, J.	Wittmann, A.C.J.
Veit, J.	Rooke, J.
Belzil, J.	McMahon, J.
Burrows, J.	Kent, J.
Topolniski, J.	Hawco, J.
Gill, J.	Romaine, J.
Thomas, J.	Horner, J.
Yamauchi, J.	Eidsvik, J.
	Strekaf, J.

Neil C. Wittmann
Associate Chief Justice

Notice to the Profession

#2009-101
November 25, 2009

Take notice that with the retirement of Chief Justice Wachowich as Chief Justice and appointments of Chief Justice Wittmann and Associate Chief Justice Rooke respectively, communications that are not of an emergency nature with respect to matters pertaining to Edmonton should be directed to Associate Chief Justice Rooke. Communications with respect to Calgary should be directed to Chief Justice Wittmann.

Communications in other judicial centres should be directed to the Supervising Justice of that Judicial Centre or, if the Supervising Justice is unavailable, to Chief Justice Wittmann.

In the event of emergency communications, an attempt should be made to contact Chief Justice Wittmann with respect to matters pertaining to Calgary or any judicial centre other than Edmonton, and with respect to Edmonton, to Associate Chief Justice Rooke.

In the event either one is unavailable, the other should be contacted and in the event neither the Chief Justice nor the Associate Chief Justice is available, the senior judge present and available in Edmonton or Calgary should be contacted.

Should any questions arise with respect to the foregoing, please feel free to contact the Chief Justice or Associate Chief Justice.

Chief Justice Neil C. Wittmann

Associate Chief Justice J.D. Rooke

Notice to the Profession

#2009-102
December 15, 2009

Fiat and Directive
Surrogate Estate Form NC8 - Affidavit of Execution to a Will
(Order in Council 550/2009 - Alberta Regulation 306/2009)

Pursuant to the above Order in Council, effective November 4, 2009, the content of form NC8, Affidavit of Execution to a Will, has changed.

To facilitate the transition of this amendment, the previous format of the NC8 will be acceptable if the affidavit is executed and sworn within six months after the Order in Council comes into force (sworn prior to May 4, 2010).

Neil C. Wittmann
Chief Justice
Court of Queen's Bench of Alberta

John D. Rooke
Associate Chief Justice
Court of Queen's Bench of Alberta

Notice to the Profession

#2010-01
January 27, 2010

Several years ago the Court of Queen's Bench of Alberta established a Commercial Practice Committee made up of justices of the Court who have a particular interest and experience in dealing with commercial matters. The Court typically schedules bankruptcy, insolvency and other commercial matters before members of this Committee. While this in no way precludes other judges from hearing these applications the majority of them are in fact dealt with by Committee members. Our goal remains ready access, consistency of result and seasoned adjudication.

We recognize that insolvency applications often arise on short notice, with the result that members of the Commercial Practice Committee must be made available to hear them on an emergent basis. To that end, any lawyer wishing to make an application on short notice in a bankruptcy or insolvency matter may contact one of the Committee members directly. Alternately the trial coordinators' office in Edmonton or Calgary may be contacted. It will provide counsel with the name of an available Commercial Practice Committee member. Counsel may then call that Judge's judicial assistant to make scheduling arrangements. Emergent applications will normally be scheduled to be heard outside of normal court hours. While matters may still be set down on the regular Chambers list counsel are requested to consider using one of these alternate approaches if possible.

Commercial and insolvency matters will normally be heard in Calgary or Edmonton only. Any lawyer practicing outside those cities may arrange to have a committee member hear an application by telephone or courthouse video conference by contacting the office of the Chief Justice or Associate Chief Justice in Calgary or Edmonton.

Membership in the Commercial Practice Committee will change from time to time. At the moment it is composed of the following judges:

Edmonton	**Calgary**
Bielby, J. (Co-Chair)	LoVecchio, J. (Co-Chair)
Rooke, A.C.J.	Wittmann, C.J.
Wachowich J.	McMahon, J.
Veit, J.	Kent, J.
Belzil, J.	Hawco, J.
Burrows, J.	Romaine, J.
Topolniski, J.	Horner, J.
Gill, J.	Eidsvik, J.
Thomas, J.	Strekaf, J.
Yamauchi, J.	Stevens, J.

Neil C. Wittmann, Chief Justice

John D. Rooke, Associate Chief Justice

Court of Queen's Bench Civil Practice Notes

Table of Contents

** Use Practice Note No. 7 for actions commenced before September 1, 2001.*

*** Use Practice Note No. 1 for actions commenced on or after September 1, 2001*

Family Law Practice Notes – see page 1.8.1

COURT OF QUEEN'S BENCH OF ALBERTA

Q.B. CIVIL PRACTICE NOTE "1"

CASE MANAGEMENT PRACTICE NOTE

EFFECTIVE SEPTEMBER 1, 2001

Note: This Practice Note replaces Guidelines for Case Management (April, 2001) and Practice Note 7 - Very Long Trial. This Practice Note applies to all case management ordered after September 1, 2001 and, by the amendment, after November 19, 2004, (including case management in very long trials), and to any case management in place before that date where ordered by the case management judge. See sections 57 and 58.

Definitions:

1. In this Practice Note

   a. "case management judge" means any judge assigned to the pre-trial management of any action as provided in this Practice Note.

   b. "case timetable" means a schedule for the completion of any steps required to advance toward the efficient resolution of the action.

   c. "Chief Justice" means the Chief Justice of the Court of Queen's Bench of Alberta or an Associate Chief Justice of the Court of Queen's Bench of Alberta or a judge of the Court of Queen's Bench of Alberta designated by either the Chief Justice or an Associate Chief Justice to perform the functions of the Chief Justice under this Practice Note.

   d. "efficient resolution of the action" means the resolution of the action in a reasonable time, at a reasonable cost to the parties, making reasonable use of court resources, and without any compromise of justice.

   e. "open chambers", means a court room, open to the public, with a clerk present and where the proceedings are recorded.

   f. "trial coordinator", means the civil trial coordinator for the judicial district in which the trial of an action subject to this Practice Note is to be held.

   g. "very long trial action", means an action which will or is likely to require more than 25 trial days.

Appointment of Case Management Judge

2. The parties, or any part, shall apply for the appointment of a case management judge for any action:

   a. that has been ordered to be tried by a civil jury,

b. that appears to be a very long trial action,

c. commenced or continued under the Class Proceedings Act, S.A. 2003, c. C-16.5,

d. when directed to do so by the Court.

3. Any party may apply for, or a judge on his or her own initiative may recommend to the Chief Justice, case management of any other type of action where that would promote the efficient resolution of the action.

4. An application for case management may be made on notice by Notice of Motion returnable before, or letter addressed to the Chief Justice.

5. Where an application is made for case management, the Chief Justice may decline to order that the action be subject to this Practice Note and direct that a pretrial conference pursuant to Rule 219 be held.

6. An order made under this Practice Note may be varied or rescinded at any time o application or on the Court's own initiative.

7. (Repealed November 19, 2004.)

8. (Repealed November 19, 2004.)

9. (Repealed November 19, 2004.)

10. (Repealed November 19, 2004.)

11. (Repealed November 19, 2004.)

Function of the Case Management Judge

12. Subject to section 13, the case management judge may, on application of any party to the action, or on his or her own initiative, make any order which the case management judge determines will likely promote the efficient resolution of the action.

13. The case management judge may encourage the parties to participate in mediation or other alternative dispute resolution processes, including judicial dispute resolution, but shall not order the parties to do so unless all parties consent to participate.

14. Without limiting the generality of section 12, the case management judge may:

a. order steps be taken by the parties to identify or clarify the issues in the action,

b. establish a case timetable and order the parties conform to it,

c. make directions to facilitate any interlocutory application, discovery, or other pre-trial step,

d. make directions to promote the efficient resolution of the action by trial,

e. facilitate efforts the parties may be willing to take towards the efficient resolution of the action or any issue in the action through settlement.

15. A party who determines that they may or will be unable to comply with an order or direction made pursuant to s. 14 shall make application to the case management judge, on notice or by consent, for an amendment to the order or direction before the party is in default of the order or direction.

16. The case management judge shall determine all interlocutory motions in the action except:

a. when the case management judge or the Chief Justice deems it appropriate for any reason that any application be heard by some other judge or by a master,

b. when the applicant establishes to the satisfaction of a judge other than the case management judge that there is an emergency which justifies bringing the application before a judge other than the case management judge,

c. as otherwise provided in Rule 387.1 in respect of an application under that Rule,

d. when s. 19 or s. 20 applies.

17. A party seeking to make an interlocutory motion in an action subject to this Practice Note may request the case management judge or the Trial coordinator to set a date for the hearing of the application by the case management judge.

18. Subject to s. 19, unless otherwise agreed by the party seeking to make the application, a date shall be set under s. 17 shall be within 30 days of the request made under s. 17.

19. Where it is not possible to comply with s. 18 the case management judge or the trial coordinator shall so certify and the party seeking to make the application may then make the application to any judge according to the procedure that would apply if the action were not subject to this practice note.

20. An application for a order that an action subject to this Practice Note be tried by a jury shall be made to the Chief Justice, unless the case management judge has been designated by the Chief Justice to hear such an application.

Case Management Conferences

21. The case management judge, on his or her own initiative, or on the request of any party to the action, may convene a case management conference at any time prior to the commencement of the trial of the action.

22. The case management judge may, on the request of the trial judge, at any time, convene a case management meeting for any purpose that the trial judge may specify.

23. The case management judge shall ensure that the first case management conference is held within 60 days of the appointment of the judge as the case management judge under section 9.

24. A request by any party to an action to the case management judge to convene a case management conference shall be made by letter, copied to all the other parties, stating the reason for the proposed conference.

25. The case management judge may direct any party to the action to give notice to all parties of the date and time of any case management conference the case management judge convenes, or may cause notice of the conference to be given to all parties by some other means.

26. The case management judge, when convening a case management conference, or at any other time, may direct any or all parties to file and serve on all other parties a letter briefly setting out any or all of the following information:

    a. a summary of the facts giving rise to the action, the causes of action raised, and the relief claimed,

    b. the issues in the action,

    c. the steps required to be taken before the action can be set for trial,

    d. the matters which the party believes should be addressed at a case management conference.

27. A party may, with leave of the case management judge, make an interlocutory motion in the action at a case management conference.

28. A case management conference may be held in the case management judge's private chambers except:

    a. when any of the parties to the action is not represented by counsel,

    b. when any of the parties requests otherwise,

    c. when the case management judge directs otherwise,

    in all of which cases the case management conference shall be held in open chambers.

29. The case management judge may permit any party to attend the case management conference by telephone or video-conference.

30. The case management judge shall ensure that a party, the clerk or some other person is directed to prepare:

a. minutes of the discussion and decisions made at a case management meetings,

b. a formal order setting out the decisions or directions made at a case management conference, or

c. both,

and to cause such record to be circulated to all parties for comment as to its accuracy.

31. In addition to the requirements of Part 23 of the Rules and Practice Note 4 regarding entry for trial, an action subject to this Practice Note shall not be entered for trial until the case management judge, after holding a Pre-Trial Conference, so directs.

32. The case management judge may give a direction under section 31, when reasonably satisfied that:

a. the matter is ready for trial,

b. any step required to be completed before trial will be completed before trial, or

c. it will be possible to monitor the readiness of the action for trial and, if it appears the action will not be ready for trial on the assigned date, to cancel the assigned trial date sufficiently far in advance of the trial date that no significant inconvenience will have been caused to any party or the court,

and where a direction under section 31 is given in the circumstances described in paragraphs b. or c., the case management judge shall, direct the parties to prepare and file a Conditional Certificate of Readiness under Practice Note 4 in which the steps required to be completed before trial and a schedule for their completion are set out.

The Trial

33. The case management judge shall prepare a Pre-Trial Conference Report for the trial judge but the report shall not be given to the trial judge before all parties have been given the opportunity to review it and to object to any of its contents and the case management judge has ruled on any such objection.

34. The case management judge shall not preside at the trial of the action unless all parties and the case management judge consent in writing.

35. No information concerning the discussions or decision at a case management conference, other than the Pre-Trial Conference Report prepared pursuant to section 33, and in particular, no minutes or orders created pursuant to section 30, shall be provided or otherwise communicated to the trial judge without the consent of all parties to the action.

36. The case management judge may direct that the record of any case management conference or any portion of such record be sealed by the clerk of the court.

37. Unless otherwise ordered, where a sealing of the record of a case management conference is directed pursuant to section 36, the clerk shall provide access to the sealed materials to counsel for a party to the action on request, according to the ordinary procedures of the clerk, despite the sealing direction, without further order.

38. The case management judge is not a compellable or competent witness at the trial.

39. Any order or direction made by the case management judge affecting the procedure at trial may be modified by the trial judge if the trial judge considers it necessary to do so to prevent injustice.

Very Long Trial Actions

40. Sections 41 to 51, shall be applied in the case management of a very long trial action but may be applied in, or adapted for, the management of any action subject to this Practice Note if the case management judge considers it appropriate in the circumstances.

41. The case management judge appointed for a very long trial action shall convene two case management conferences:

    a. the scheduling conference, and

    b. the duration conference,

    in addition to any other case management conferences required in the action.

The Scheduling Conference

42. The scheduling conference shall be held within 60 days of the appointment of the case management judge for the purpose of addressing the efficient resolution of the action and establishing a case timetable.

43. The following matters shall be addressed at the scheduling conference:

    a. the state of the pleadings and the need for amendments to them,

    b. the possibility of the addition of other parties,

    c. the identification and simplification of the issues,

    d. the state of the pre-trial discovery process and the schedule for its completion,

    e. the requirement for interlocutory motions and their scheduling,

    f. the parties' intentions regarding expert evidence at trial,

g. compliance with the requirements of Part 15.1 of the Rules of Court, Very Long Trial Actions, and any applications contemplated under that Part,

h. the date upon which the action could reasonably be ready for trial,

i. the estimated duration of the trial,

j. the state of settlement discussions and steps that might be taken to facilitate them,

k. the purpose and scheduling of subsequent case management conferences.

44. No later than 10 days before the scheduling conference, counsel for the Plaintiff shall prepare, file with the case management judge and serve on all other parties, a draft case timetable.

45. At or after the scheduling conference, the case management judge shall, by order, establish a case timetable scheduling all steps in the action that the case management judge determines should be expressly scheduled, and, in any event, including:

a. the date of the duration conference,

b. the date for the deliver by each party of an Experts Document as required by Rule 218.6 (1), which shall be at least 90 days before the date of the duration conference,

c. the date for the deliver by each party of a Reply to Experts Document as required by Rule 218.6 (3) which shall be within 60 days of the date established under paragraph b.

d. a date for the commencement of the trial which date:

i. shall be at least 9 months after the duration conference, and

ii. shall be established in consultation with the trial coordinator.

The Duration Conference

46. The purpose of the duration conference shall be to determine the number of trial days required for the trial of the action.

47. At least 30 days prior to the duration conference, each party shall file a Duration Conference Memorandum in the Form A, and serve each other party to the action.

48. Each party shall file the party's Experts Document and Reply to Experts Document, previously served pursuant to Rule 218.6, with the Duration Conference Memorandum.

49. Within 10 days of being served with a Duration Conference Memorandum, each party shall file a Reply to Duration Conference Memorandum in Form B and serve each other party to the action.

50. At or after the conclusion of the duration conference, the case management judge shall complete a Duration Report in Form C and shall cause a copy to be provided to the trial coordinator and each party.

51. Upon the filing of the Duration Report, the action shall be entered for trial for the number of days stated in the Duration Report commencing on the date for trial set out in the case timetable.

Time

52. The computation of all time periods referred to in this Practice Note excludes Saturdays, Sundays, and holidays, but includes the long vacation and the Christmas vacation.

53. Where the deadline for holding the first case management meeting established under sections 23 or 42, falls during the long vacation or the Christmas vacation, the deadline shall be extended to expire on the 10th day of the sittings commencing at the end of the vacation.

54. The case management judge may enlarge or abridge the time appointed by this Practice Note for doing any act required by this Practice Note.

Sanctions

55. When satisfied that a party or a party's counsel:

    a. has used case management to cause delay in the progress of the action;

    b. has made unreasonable or unnecessary applications in the case management;

    c. has failed to comply with the requirements of this Practice Note;

    d. has failed to obey an order or direction of a case management judge;

    e. has failed to appear at a case management conference;

    f. has been substantially unprepared to participate in the case management conference;

    g. has acted in bad faith;

    h. has otherwise abused the case management process; or

    i. has caused a trial to exceed 25 days in length, (whether or not it is set to take less than this time), though no request was made for the appointment of a case management judge pursuant section 4,

    the case management judge, the trial judge or any other judge, upon application or on his or her own initiative, may:

j. make any of the orders provided in Rules 599.1 or 704(1)(d),

k. require the party or counsel representing the party or both to pay the reasonable expenses incurred because of any noncompliance with this Practice Note, including counsel's fees,

l. make any other appropriate order.

56. Where, in the opinion of the case management judge, the conduct of one or more of the parties prior to trial has significantly and unnecessarily affected the length of time needed for trial, or has created significant avoidable delay between the close of pleadings and the start of the trial, that judge may so advise the parties and trial judge by written memorandum to be read by them only at the conclusion of the trial but prior to the setting of costs.

Transition

57. This Practice Note shall come into force on September 1, 2001, as amended November 19, 2004, and shall replace Practice Note No 7, Practice Note on the Very Long Trial, dated September 1, 1995 and Guidelines for Case Management dated October 7, 1997 and amended April 1, 2001.

58. Notwithstanding s. 57 and the adoption of this Practice Note, an action subject to Practice Note No. 7, Practice Note on the Very Long Trial dated September 1, 1995 shall continue to be governed by that Practice Note unless the case management judge for the action grants an order, on the consent of the parties to the action, on application, or on the initiative of the case management judge, that the action be subject to this Practice Note.

Dated this 19th day of November, 2004

_____	_____
Allan H. J. Wachowich	Allen B. Sulatycky
Chief Justice	Associate Chief Justice

FORM A (Section 47)
DURATION CONFERENCE MEMORANDUM

Style of Cause:

Action Number:

Party Filing this Duration Conference Memorandum:

Counsel Filing this Duration Conference Memorandum:

Trial Time Required by this Party:

Ordinary Witnesses:

The party filing this memorandum expects to call the following witnesses (including rebuttal witnesses but excluding expert witnesses) to give the following evidence:

1. Name of witness:

   General nature of evidence:

   Estimate of Time Required for Examination in Chief of this Witness:

(and so on for each anticipated witness)

Expert Witnesses:

The party filing this memorandum expects to call the following expert witnesses (including expert witnesses which may be called in rebuttal) to give the following evidence:

1. Name of expert witness:

   General nature of evidence:

   Estimate of time required for Examination in Chief of this expert witness:

(and so on for each anticipated expert witness)

The Experts Document and Replies to Experts Documents delivered by any party pursuant to Rule 218.6 in respect of all expert witnesses listed above are attached to this Duration Conference Memorandum.

Summary of Time Requirement:

The amount of time this party anticipates requiring to:

make preliminary application prior to the presentation of its case:	_____
lead its evidence in chief:	_____
lead its rebuttal evidence:	_____
present its argument:	_____
Total time required by this party:	_____

Other matters relevant to the trial time needed, or to the conduct of the trial which have not been covered above are as follows:

Dated: _____
Signature of Counsel

FORM B (Section 49)
REPLY TO DURATION CONFERENCE MEMORANDUM

Style of Cause:

Action Number:

Party Filing this Reply to Duration Conference Memorandum:

Counsel Filing this Reply to Duration Conference Memorandum:

The party filing this Reply to Duration Conference Memorandum estimates the time it will require to cross-examine the witnesses listed in the Duration Conference Memorandum as follows:

1. Witness:

   Party on whose Duration Conference Memorandum the Witness is listed:

   Time Required for cross-examination of this witness:

(and so on for each of the witnesses listed on each of the Duration Conference Memorandum filed)

Dated: _____
Signature of Counsel

FORM C (Section 50)
DURATION REPORT

(to be completed by the Case Management Judge)

Style of Cause:

Action Number:

Description of Action: *(cause of action, issues, relief claimed)*

The Case Management Judge's estimate of the total time needed to examine and cross-examine each anticipated witness is as follows:

1. Party:

Ordinary Witnesses

a. Witness:
Time required for:
Evidence in Chief
Cross Examination

(and so on for each ordinary witness anticipated by the party)

Expert Witnesses

a. Expert Witness:
Time required for:
Evidence in Chief
Cross Examination

(and so on for each expert witness anticipated by the party)

Argument

Time required for submissions in argument:

(and so on for each party to the action)

The Case Management Judge's estimate of time required for any other aspects of the trial not included in the above estimates (including preliminary applications):

*[**Note:** These time estimates are to be determined by the Case Management Judge after review of the Experts Documents filed, taking into account Counsel's estimates of time.]*

Other matters relevant to the trial time needed, or to the conduct of the trial which have not been covered above are as follows:

Total Estimated Time Required for Trial:

Dated:

_____
Signature of Case Management Judge

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "2"

CIVIL JURY PRACTICE NOTE

April 1, 1995

This Practice Note supplements Rules 234 to 241 (inclusive).

A. The Application

1. The entitlement of a party to have an action tried by a jury is governed by the Jury Act, S.A. 1982, c. J-2.1, as amended. For the purposes hereof section 16 is significant and a copy of that section is appended to this practice note as Schedule "A".

2. The affidavit in support of an application for a civil jury shall address the issues raised by section 16 of the Jury Act and should also address the following issues:

   (a) Will expert evidence be called?
   (b) How many experts are expected to be called?
   (c) On which areas of knowledge or experience will the experts be called?
   (d) Will interpreters be required?
   (e) How many court days will be required for the trial if a jury is ordered?

3. Applications for trial by jury shall be heard by the Chief Justice, the Associate Chief Justice or a Judge assigned by either to hear the application. On request the Chief Justice, the Associate Chief Justice or the assigned Judge will, in consultation with counsel, fix a time for the hearing of such an application.

4. An application for a civil jury trial shall be brought before the action is entered for trial, in other words, before a Certificate of Readiness is filed or the action is entered for trial by Order of the Court pursuant to Rule 236(3).

B. The Order

5. Upon a trial being directed to be with a jury (Rule 234) and upon payment of the deposit being made (Rule 241) the Clerk shall give notice thereof to the Trial Coordinator. Failure to make deposit within 10 days of the date on which the direction is made (Rule 241(1)) will be strictly enforced and may result in revocation of the direction for a jury trial.

6. The Trial Coordinator shall not assign trial dates until:

   (a) the Clerk gives notice of payment of the deposit; and

   (b) the matter is entered for trial by the filing of a Certificate of Readiness (Rule 236.1) or by Order of the Court (Rule 236.3).

7. Within three months of the direction that an action be tried by civil jury a Pre-trial Conference shall be held. Further Pre-trial Conferences may be held from time to time as deemed necessary by the Pre-trial Conference Judge, the Trial Judge or the Chief Justice.

8. The Order directing that a trial be by civil jury shall set the number of days the Trial Coordinator is to reserve for the trial, which may be amended, if necessary, from time to time by a Pre-trial Conference Judge.

C. Pre-trial Functions

9. (a) In addition to the normal duties and obligations of the Pre-trial Conference Judge in an action in which a trial with a jury is directed, the Pre-trial Conference Judge will discuss with counsel the following and such other matters as appear required or useful and will make such recommendations, directions and orders as the circumstances warrant, namely:

   (i) The possibility of challenges with respect to jury selection under section 11(2) of the Jury Act.

   (ii) Applications under Rule 252 or Rule 253 (for inspection of property).

   (iii) Whether and for what period of time sequestration of the jury may be requested.

   (iv) The areas of agreement and disagreement as to trial procedure, e.g., the use of discoveries, affidavits, amendment of pleadings, etc.

   (v) The factual and legal issues to be resolved by the trial.

   (vi) The matters and issues to be put to the jury for resolution. Are briefs of law required? Included would be legal issues generally, issues of damages, discount rates, and income tax ramifications.

(vii) The need of counsel assistance in preparing questions for the jury and the general form of the jury charge including briefs of law where required.

(viii) Amendments to pleadings or other Court direction needed to conform or deal with actions or remedies contained in the pleadings but not appropriate for trial by jury such as corporate issues, equitable causes of action and relief, etc.

(ix) Issues of costs which may arise during trial caused by extended sittings, the need to take a view, payment in or offers of settlement, retrials, etc.

(x) Other matters that the Pre-trial Conference Judge or counsel may consider appropriate to assist in the expeditious conduct of the trial.

(b) Throughout the pre-trial process counsel and the Pre-trial Conference Judge will continue to monitor the proceeding in the light of section 16 of the Jury Act and will from time to time consider whether the mode of trial as trial by jury continues to be appropriate. If the Pre-trial Conference Judge is of the opinion that the trial is no longer appropriate for trial by jury then the Pre-trial Conference Judge may direct that the action be tried without a jury.

10. Counsel will meet with the assigned Trial Judge as directed by the Pre-trial Conference Judge or in any event not later than 6 weeks before the trial to discuss arrangements for the orderly proceeding of the trial. The Trial Judge will consider with counsel the various matters considered under paragraph 9 hereof and give such directions and make such orders as the circumstances warrant.

D. Fees and Charges

11. (a) At the present time, the deposit required by the Clerk is as follows:

(i) A fee of $1500 will be charged to cover the cost of convening a panel for jury selection and

(ii) A fee of $150 per day of scheduled trial time will be charged to cover the cost of babysitting and child care, transportation services and incidental juror expense and

(iii) A fee of $50 per juror per day of scheduled trial time

will be charged as juror fees for the first week of trial and $75 per juror per day thereafter.

(b) If the deposit paid is or becomes insufficient to meet the fees referred to in subparagraph (a) hereof or if other payments required by Trial Judge or the Clerk to be made are not made, the Trial Judge may discharge the jury and may continue the trial as a non-jury trial.

SCHEDULE "A"

16(1)Subject to subsection (2), on application by a party to the proceeding, the following shall be tried by a jury:

(a) an action for defamation, false imprisonment, malicious prosecution, seduction or breach of promise for marriage,

(b) an action founded on any tort or contract in which the amount claimed exceeds $10,000, or

(c) an action for the recovery of property the value of which exceeds $10,000.

(2) If on a motion for directions or on a subsequent application it appears that the trial might involve

(a) a prolonged examination of documents or accounts, or

(b) a scientific or long investigation,

that in the opinion of a judge cannot conveniently be made by a jury, the judge may, notwithstanding that the proceeding has been directed to be tried by a jury, direct that the proceeding by tried without a jury.

(3) In this section, "proceeding" includes a counterclaim.

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "3"

PRETRIAL CONFERENCES

Effective April 1, 1998

INTRODUCTION

The Civil Practice Steering Committee, consisting of representatives of the Alberta Bench, Bar and Law Reform Institute has recommended an expansion of Rule 219 of the Rules of Court. A revised Rule was prepared which has been approved by the Council of the Court of Queen's Bench. Rather than amending the Rules of Court at this time it has been decided to implement the proposed Rule for a period of time through the use of this Practice Note so that the effect of the proposed Rule may be monitored.

A Pretrial Conference, described in the current Rule 219, is to be held for any trial set for 3 days or longer duration, for all matters to be tried by civil jury or if directed by the Rules of Court or Order of the Court. Compliance with these directions shall be necessary to obtain or retain scheduled trial dates.

PRACTICE NOTE

1. In any action, cause or matter, the Court, on application of a party, or on its own motion, at any stage of the proceeding, may in its discretion, direct the solicitors for the parties and any unrepresented parties to appear before it for a Pretrial Conference or Conferences before trial for such purposes as

   (a) expediting the disposition of the action;

   (b) establishing early and continuing control so that the case will not be protracted because of lack of management;

   (c) discouraging wasteful pretrial activities;

   (d) improving the conduct of the trial through more thorough preparation, and;

   (e) facilitating the settlement of the case.

2. The Pretrial Conference Judge shall consider and discuss with the parties, and may urge the parties with respect to

(a) the possibility of settlement of any or all of the issues in the proceeding,

(b) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, agreements regarding the authenticity of documents, and advance rulings from the Court on the admissibility of evidence,

(c) the possibility of using extrajudicial procedures to resolve the dispute,

(d) the question of liability,

(e) the amount of damages, where damages are claimed, and

(f) any other matters that may aid in the disposition of the action.

3. The Pretrial Conference Judge shall consider and discuss with the parties:

(a) the formulation and simplification of the issues,

(b) the necessity or desirability of amendments to pleadings,

(c) the disposition of pending motions,

(d) the need for adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems,

(e) the advisability of directing a reference,

(f) the advisability of directing the trial of an issue,

(g) the advisability of having the Court appoint an expert, and

(h) the date for trial,

and may make an Order or Orders with respect thereto.

4. The Pretrial Conference Judge may

(a) adjourn the Conference from time to time,

(b) set a plan and schedule for the completion of any steps to be

completed by a party or parties in preparation for trial, which plan may set limitations on discovery procedures,

(c) require that any party, or if the party is a corporation, the party's representative, attend all or part of the Conference together with their solicitors,

(d) subject to paragraph 8(c) hereof, request that any other person, whose attendance may be of assistance, be present at all or part of the Conference,

(e) direct that, subject to the consent of the parties, experts who have been retained by the parties and who are expected to testify at trial, confer on a without prejudice basis to determine those matters on which they agree and to identify those matters on which they do not agree,

(f) direct that all interlocutory applications be brought before him or her, and

(g) make any other Order giving directions as may seem necessary or advisable with respect to the conduct of the proceeding.

5. The Court, prior to the Conference, or the Pretrial Conference Judge may order that the parties file and exchange written briefs on or before the date fixed by the Order, for the use of the Pretrial Conference Judge and the Order may specify the nature and length of the written briefs. Any Pretrial Conference must be scheduled by a letter from one party to the trial coordinator, copied to all other parties, in which the following are succinctly described: the relevant facts, all live issues, any steps yet to be taken to ready the matter for trial, the reason for requesting the Pretrial Conference and any ongoing procedural obstacles or difficulties; Form 'A' to this Practice Note must also be completed and attached; other parties may augment any of this information by letter to the trial coordinator to be received well in advance of the date set for the Pretrial Conference.

6. Unless otherwise ordered, the solicitor representing a party at the Conference shall be the counsel who will be representing that party at the trial. That solicitor shall have obtained clear and definite instructions from the party regarding the solicitor's authority to deal with all matters that the participants may reasonably anticipate may be discussed at the Conference.

7. An Order shall be entered or a memorandum be filed by the Pretrial Conference Judge, reciting action taken or ordered to be taken and

issues resolved at the Conference, and such Order shall control the subsequent course of the action unless modified by a subsequent Order. Any Order made by the Pretrial Conference Judge may be modified at the trial or hearing to prevent injustice.

8. (a) No communication shall be made to the Trial Judge by anyone participating in a Pretrial Conference except

   (i) as disclosed in the Order or Orders of the Pretrial Conference Judge, or

   (ii) as agreed by all parties or their counsel, or

   (iii) as required by any standard form of memorandum adopted by the Court of Queen's Bench.

   (b) The Pretrial Conference Judge is not a compellable or competent witness.

   (c) No non-party may attend the Conference except with the consent of all parties.

9. The Pretrial Conference Judge may make an Order for costs but, in the absence of such an Order, the costs of the Conference shall be in the discretion of the Court.

10. If a party or party's solicitor fails to obey a Conference Order, or if no appearance is made on behalf of a party at a Conference, or if a party or party's solicitor is substantially unprepared to participate in the Conference, or if a party or party's solicitor acts in bad faith, the Pretrial Conference Judge, upon application or on his or her own initiative, may make such Orders with regard thereto as are just, including any of the Orders provided in Rule 704(1)(d). In lieu of or in addition to any other Order, the Pretrial Conference Judge may require the party or the solicitor representing the party or both to pay the reasonable expenses incurred because of any non-compliance with this paragraph, including legal fees on a solicitor and client basis.

11. The Pretrial Conference Judge shall not preside at the trial unless all parties and the Pretrial Conference Judge consent in writing. This subrule shall not prevent or disqualify the Trial Judge from holding further meetings subsequent to the conference, before or during trial, to consider any matter that may assist in the disposition of the proceeding.

12. The Court may direct that all or part of a conference be held by telephone.

13. In this Rule, “trial” includes part of a trial, a reference or an assessment.

14. In this Rule, a “Pretrial Conference Judge” includes a Master who has been expressly empowered by a Judge to conduct part of a conference under this Rule.

15 Nothing in this Rule limits the jurisdiction which a Master has apart from this Rule.

PRACTICE NOTE "3" – FORM 'A'

MEMORANDUM OF CIVIL PRETRIAL CONFERENCE

Style of Cause:

Action No.
Date of Conference:
Scheduled Trial Date: _____ Length of Trial: _____Days
Plaintiff's Counsel:
Defendant's Counsel:
Other Counsel:

1. Causes of Action – Issues in Dispute

2. Are all pleadings, motions, discoveries complete?

3. Agreed Statement of Facts possible? Agreement on Damages possible?

4. Agreed Exhibit Book? Admitted for truth of contents?

5. Witnesses:

   Experts:

   Scheduling problems? Report exchange? R. 218.1 compliance?

6. Any Judges who should not hear this trial?

7. Matters of significance to be communicated to Trial Judge?

8. Are there special needs for technical equipment or witness accommodation?

9. Would this case be suitable for some form of JDR?

10. Has this case been bumped before? Will loss of trial date cause unusual hardship?

11. SPECIAL NOTES: Jury, delayed filing of Certificate of Readiness, case management. Orders

12. Further pretrial(s) ordered?

13. Memorandum to Trial Judge attached? Yes _____ No _____

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "4"

SETTING DOWN FOR TRIAL

April 1, 1995

Procedure to be followed in civil cases for the setting down of trials: See also part 23 of the Rules of Court – Entry for Trial Rules 236(2) – 242.

1. The Court of Queen's Bench approves Schedule "A" hereto as the form of the Certificate of Readiness referred to in Rule 236.

2. (a) When a case is ready for trial a Certificate of Readiness signed by all counsel shall be filed with the Clerk of the Court.

   (b) Upon receipt of the Certificate of Readiness the Clerk through the Trial Coordinator, shall assign the action to a trial list for the dates and times available and notify counsel accordingly.

3. (a) Counsel may pre-book a tentative trial date with the Trial Coordinator prior to filing a Certificate of Readiness.

   (b) Unless otherwise authorized by a Judge, a Certificate of Readiness shall be filed within 15 days of such pre-booking. Each counsel shall certify in this Certificate that each counsel is and all witnesses will be available for trial on the tentative trial date.

   (c) A trial date pre-booked pursuant to this section shall, unless otherwise ordered, be cancelled automatically if there is a noncompliance with subparagraph (b) hereof.

2. Where the parties do not agree to the filing of a Certificate of Readiness counsel are reminded that the issue may be resolved by an application under Rule 236(3). Under this Rule a party may apply for an Order that the action be assigned to a trial list even though another party to the action has not signed the Certificate of Readiness. On the hearing of the motion the Applicant shall present a Certificate of Readiness signed by the Applicant. A copy of the authorizing Order, if granted, together with the Certificate of Readiness signed by the Applicant shall be filed forthwith and delivered to the Trial Coordinator.

5. (a) Notwithstanding paragraphs 2 and 3 here of a Pre-trial Conference shall be held before a Certificate of Readiness may be filed in respect of trials of the following kinds:

   (1) trials expected to require more than 5 trial days (a long trial),

   (2) trials to be heard with a civil jury, and

   (3) family law trials other than uncontested divorces; provided that a family law trial may be booked prior to a Pre-trial Conference in urgent cases if the Certificate of Readiness contains the scheduled date of the Pre-trial Conference.

   (b) Subject to subparagraph (a) hereof, in the case of trials expected to last from 3 to 5 days the Clerk in consultation with counsel shall fix a Pre-trial Conference date at the time the Clerk assigns a trial date.

6. At judicial centres other than Edmonton and Calgary trial time will be available for pre-booking starting from the first day of each calendar week of each sitting.

7. Special applications of more than 1/2 day (which may, with leave of the Court, involve the taking of *viva voce* evidence) shall be booked on the trial list in compliance with these provisions varied as the circumstances require.

8. As a condition of the booking of a trial date being continued, further and continued assurance of readiness may be ordered. This may take the form of a Pre-trial Conference or an Order for case management or reports to a Trial Co-ordinator or the Chief Justice or to another person designated by him.

9. Uncontested divorces will continue to be set for trial as in the past under Rule 236(5) and small claim appeals will be set in accordance with the practice of the Court from time to time.

10. (a) With leave of the Pre-trial Conference Judge, Conditional Certificates of Readiness may be filed in respect of long trials and conditional trial dates may then be assigned. A Conditional Certificate of Readiness shall bear the fiat of the Pre-trial Conference Judge and set out in detail the condition or conditions upon which it is filed and the date or dates by which such conditions are to be performed.

(b) Unless the conditions are performed and advice is given by counsel to the Trial Coordinator by letter that such condition or conditions have been performed (or extensions of time have been granted by the Pre-trial Conference Judge) prior to the date by which all conditions are required to be performed, the Conditional Certificate of Readiness will be cancelled automatically as will any trial date given with respect thereto.

Schedule "A"

CERTIFICATE OF READINESS

No.

Plaintiff,

Defendant(s).

We the solicitors for the parties each certify that –

1. (a) All pleadings, discoveries, interlocutory proceedings, and expert examinations that each of us intends to do or have done have been completed.

   (b) Notices to admit and statements in response thereto if made and notices to produce and affidavits of documents in response thereto if demanded have been filed and served or the failure of any party with respect thereto has been authorized by leave of the Pre-trial Conference Judge.

2. All undertakings to each other have been performed.

3. All of us and our clients are ready to proceed to trial.

4. No one of us will hereafter initiate any pleadings, discoveries or interlocutory proceedings without leave of the Court.

We each state as follows -

1. Nature of the Action -

2. Relief Claimed by Plaintiff -

3. There is/is not a counterclaim for -

4. There are/are not other parties as follows -

5. We have considered together the possibility of admitting facts and -

   (a) No admission is possible, or

   (b) Admissions have been made and filed with the Clerk.

*6. (a) Expert Reports have been obtained? Yes _____ No _____

Expert Reports will be obtained? Yes _____ No _____

(b) If yes numbers?

(c) By whom?

(d) Concerning?

(e) Copies given to other party? Yes _____ No _____

(f) Copies filed for Court's use? Yes _____ No _____

7. Issues in Dispute are -

(a)

(b)

(c)

8. (a) We expect to call witnesses as follows and the duration of the calling of evidence will be -

WITNESSES	ORDINARY	EXPERT
Plaintiff		Plaintiff's case ____ days
Defendant		Defendant's case ____ days
Others		____ days

* Note Section 10 of the Alberta Evidence Act. It addresses the issue of the number of expert witnesses who may be called at any trial.

8. (b) We expect to argue as follows and that the duration of argument will be:

Plaintiff's case _____ hours

Defendant's case _____ hours

Others _____ hours

8. (c) We expect the total trial time to be _____ days.

9. (a) In family law cases (except undefended divorces), trials expected to last more than 5 days and civil jury trials, a pre-trial was held before Justice _____ on _____
OR

(b) This trial is expected to last for 3, 4 or 5 days and is not covered by paragraph 9(a) hereof. The following date has been set by the Trial Coordinator after discussion with counsel for the Pre-trial Conference in this case.
Date: _____

10. (a) In the event that, following consultation with the Clerk or Trial Co-ordinator, counsel expect the trial to be scheduled within the next 6 months, the following days in the next 6 months or other period in which the trial is likely to be scheduled would not be suitable for trial

Plaintiff -

Defendant -

Other -

OR

(b) This matter has been pre-booked for trial to commence the _____ day of _____ 19_____.

11. Counsel for each of the parties will be -

	NAME	ADDRESS	PHONE
Plaintiff			
Defendant			
(a)			
(b)			
(c)			
Third and other parties			

12. (In the case of a Civil Jury Trial)

By an Order dated the _____ day of _____ 19_____

this matter is to be tried by Judge and Jury.

Dated at _____ the Province of Alberta

this _____ day of _____ 19_____.

Solicitor for Plaintiff _____

Solicitor for Defendant _____

Other Defendants _____

CONDITIONAL CERTIFICATE OF READINESS

This Certificate of Readiness is a Conditional Certificate of Readiness authorized for filing with the Clerk of the Court by leave of the Pretrial Conference Judge whose fiat is endorsed hereon. The conditions and performance dates are as follows:

CONDITION	TO BE PERFORMED ON OR BEFORE
1.	
2	
3.	
4.	

_____

Let this Conditional Certificate of Readiness be filed.

_____

J.

Date:

_____

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "5"

APPLICATIONS WITHOUT PERSONAL APPEARANCE

April 1, 1995

A. Ex Parte and Consent Applications

Counsel may apply for ex parte or Consent Orders without personal appearance. Applications so made will be placed before a Judge by the Clerk and returned by the Clerk to counsel with the Order signed and entered or a note setting forth the grounds for rejection. The following practice rules will apply to such applications:

1. Counsel will file the appropriate material in support with the Clerk.

2. Counsel will complete an application in the form attached.

3. (a) Counsel will supply to the appropriate Chambers Clerk the usual material in support of the application together with the application form and any other material that counsel wishes to put before a Judge. The materials should be securely bound together.

   (b) The Chambers Clerk is the Chambers Clerk for the Judicial District in which the application ought to be made.

4. When the application is made at a centre at which a Judge is not then sitting, the Clerk will on request by counsel forward the material to a Duty Judge.

B. Contested Telephone Applications

[This part of the Practice Note is supplemental to Rule 385.1.]

Counsel may apply to a Duty Judge on notice for Orders by telephone.

The following practice will apply:

1. The appropriate Judicial District for these applications is the Judicial District in which the application should be made according to the Rules.

2. This procedure may not be employed where all solicitors practice in the same city as one another and where there are resident Queen's

Bench Justices in that city.

3. Each party to the application must consent to a telephone application and the Clerk of the Judicial District in which the proceedings are being carried on will, on request of counsel, arrange a time for the telephone call.

4. The counsel for each party to the application and the Clerk shall participate in the telephone application to the hearing Judge.

5. All material normally filed in respect of an application shall be filed in the usual way. Material filed will, unless otherwise directed by the hearing Judge, be faxed by the Clerk to the Judge to be available for the hearing.

6. The Clerk assigned for this purpose will have before him all the material.

7. Any solicitor involved in the application who practises in a judicial centre in which the application is being made shall attend at the office of the Clerk in the judicial centre to make the application.

8. The Clerk shall originate the telephone call at the appointed time.

9. The Court may designate the time at which an application shall be made.

C. Emergencies

10. Where emergency conditions exist a Judge may dispense with meeting any of the requirements of these directions, save the direction that a Clerk must be a party to the telephone call.

D. Jurisdiction

Where in this Practice Note reference is made to a Judge, such reference includes a Master with respect to any matter that is within his jurisdiction.

EX PARTE APPLICATION

1. Q.B. No: _____ Date:_____

2. Style of Cause: _____

v.

_____

3. Applying for: OR Order for:

Fiat for:

4. Name of Solicitor: _____
(Please Print)

5. Name of Firm: _____

_____

6. Applicant's submission shall be made on reverse.

FOR CLERK'S USE

Signed: _____

Granted: _____ Comments:

Not Granted: _____

Judge: _____

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "6"

SPECIAL CHAMBERS APPLICATIONS

Effective April 1, 1998
Amended August 24, 2009

A. General – Applying to all Chambers Applications

1. (a) References in this Practice Note to the Chambers Clerk means

   (i) in Calgary, the Judges' Chambers Clerk with respect to matters to be heard in Special Chambers applications and the Trial Coordinator with respect to matters to be heard on the Civil Trial List;

   (ii) in Edmonton, Red Deer and Lethbridge, the Trial Coordinator;

   (iii) elsewhere, such court official as the Clerk of the Court shall designate.

   (b) A Special Chambers application is a contested Chambers application other than a family law matter likely to take longer than 20 minutes to argue but not longer than a half day. Matters likely to require more than a half day for argument shall be placed on the Civil Trial List.

2. *Viva voce* evidence may be adduced on the hearing of a Chambers application only with the prior leave of the hearing Judge on notice if appropriate to the other parties involved.

3. Hearing times for Special Chambers applications will be assigned on request by the Chambers Clerk.

4. When filing a Notice of Motion for a Special Chambers application returnable on the assigned date, counsel filing it shall indicate an estimate of the time required for argument. Counsel applying for adjournment of applications from regular Chambers to Special Chambers or to the Civil Trial List should first obtain a hearing date from the Chambers Clerk. Thereafter counsel should apply for the adjournment and advise the Chambers Clerk forthwith on the granting of the adjournment.

5. If an application in respect of which a Notice of Motion has been previously filed and served is adjourned to an assigned date, the Applicant's counsel shall forthwith serve all interested parties with written advice of the fact that the matter has been converted to a Special Chambers application and give the assigned date. If no previous Notice of Motion has been served, the Applicant's counsel shall forthwith file a Notice of Motion and supporting Affidavit

returnable on the assigned date and serve a copy of it on all interested parties.

6. (a) Where briefs are required pursuant to paragraph 8(b) hereof if the Applicant's brief is not filed in time, the application will be struck automatically. The Chambers Clerk may then replace the struck matter with another application which does comply with the filing requirements.

   (b) Where briefs are required pursuant to paragraph 8(b) hereof if a Respondent's brief is not filed in time, the application may proceed and the presiding Judge may order costs against the Respondent, or such other penalty as is deemed appropriate.

   (c) If an Applicant wishes an application reinstated which has been struck because of non-compliance with the filing requirements and no other matter has been scheduled in its place, and in any case in which the Respondent wishes to file a brief late, an application may be made for leave to reinstate or to file late.

B. Special Chambers Applications

7. (a) Except in respect of applications to be made during the long vacation and the Christmas vacation, the Applicant's Notice of Motion, Affidavits, brief, and authorities shall be filed with the Chambers Clerk and served on the Respondent(s) at or before 4:30 p.m. on the third Friday before the week in which the assigned hearing date falls. A Respondent's brief and authorities shall be filed with the Chambers Clerk and served on the Applicant at or before 4:30 p.m. on the second Friday before the week in which the assigned hearing date falls.

   (b) If the Friday on which a brief and authorities are required by this paragraph to be served is a holiday, the filing and service of the brief and authorities shall be done the day before the holiday.

   (c) Filing and service of a brief and authorities in respect of applications to be made during or immediately following the long vacation or the Christmas vacation shall be done at the times and on the days as per subparagraphs (a) and (b) hereof but counting the vacation days (except Statutory holidays) as if they were Court sitting days.

8. (a) Short and concise written briefs by all parties shall be filed with the Chambers Clerk as hereinafter set forth.

   (b) The brief of the Applicant will contain a written summary of the relevant facts involved in the application, the main points of law that will be argued and copies of all authorities relied upon with relevant portions highlighted. The brief of the Respondent will respond in like manner.

9. Applications for adjournment should be made to the Judge assigned to the application or, in the absence of or failing the assignment of that person, to a Duty Judge.

10. Notwithstanding paragraph 9, an adjournment sought more than 3 weeks prior to an assigned hearing date may, with the prior agreement of all parties, be obtained by telephone from the Chambers Clerk.

11. Without leave of the Judge assigned to the application or, in the absence of that person, a Duty Judge, counsel may not rely on briefs filed in respect of previous applications in lieu of new briefs, or file supplemental briefs or other materials after the deadline for filing and service of the party's material set out in paragraph 7.

C. Application to Judges' Chambers Only

1. This Practice Note applies to matters to be heard in Judges' Chambers but does not apply to matters to be heard in Masters' Chambers.

Note: This Practice Note does not apply to actions commenced on or after September 1, 2001.

CIVIL PRACTICE NOTE "7"

VERY LONG TRIAL

September 1, 1995

Purpose

This Practice Note and the accompanying amendments to the Alberta Rules of Court will introduce mandatory case management for trials likely to take more than 25 days of trial time. This new procedure is aimed at ensuring that maximum benefit is gained from each trial day, thereby making more efficient use of Court resources. It also aims at ensuring adequate and accurate amounts of time are reserved for trial.

To achieve these goals it adds to the requirements of regular case management to afford greater disclosure and control.

The central features are:

- parties to very long trial actions will be required to advise the Chief Justice or Associate Chief Justice that such an action has been commenced shortly after the close of pleadings so that the Court may determine when and whether it should be case managed pursuant to this Practice Note;

- each case will be governed by a **timetable** which may only be changed by an order of the case management judge;

- each case is assigned early in the proceedings to a **case management judge** who hears all aspects of the case down to trial; that judge may raise matters on his or her own initiative to facilitate efficient pretrial management and make resulting orders, after hearing from each party;

- a **trial start date** will be established at the initial case management conference but the case will later be entered for trial and the scheduled duration of the trial set by the case management judge, after receiving disclosure of witness's evidence summaries and early disclosure of expert evidence.

Application

1. The following procedure shall apply to all civil actions, including family law matters likely, in the opinion of one or more of the parties, to take 25 trial

days ("the very long trial").

2. A claim, counterclaim, cross-claim, third or subsequent party claim, or any combination thereof becomes subject to this procedure when the combined trial time is likely, in the opinion of one or more of the parties or the Court, to exceed 25 days. Actions consolidated or ordered to be tried together or sequentially become subject to this procedure when the combined trial time is likely to exceed 25 days. Where a party is added to the action after a case management judge has been appointed, that judge shall adapt the provisions of this Practice Note as necessary and appropriate to apply to that new party.

3. For very long trial actions commenced after September 1, 1995, within two weeks from the filing of the first (or only) Statement of Defence, counsel for the Plaintiff shall write to the Chief Justice or Associate Chief Justice of the Court of Queen's Bench to advise that a very long trial action has commenced, and to request that a judge be appointed to manage the action (the "case management judge"). That letter shall be copied to all parties. It may name five possible judges from which the case management judge may be selected, if the parties are in agreement as to these names. If such a list is submitted, every reasonable effort will be made to appoint one of the judges named thereon.

4. Normally the same judge will case manage an action throughout but a substitute or replacement case management judge may be assigned where necessary.

5. Once a case management judge has been appointed under this procedure, the case remains subject to the procedure even where subsequent orders or events reduce the length of the trial to less than 25 days.

6. Where counsel for the Plaintiff fails to apply for the appointment of a case management judge pursuant to this Practice Note yet counsel for one or more of the other parties or any judge believes the action will likely take longer than 25 days to try, that counsel or judge may make the application upon notice to all other parties. In cases of dispute the Chief Justice or Associate Chief Justice shall determine whether or not the action shall be subject to this procedure.

7. If at any time it appears that an action not yet brought within this procedure may take more than 25 days to try, any party or any judge may apply for the appointment of a case management judge as provided in paragraph 3, irrespective of the stage of proceedings as of that date.

8. At any time prior to the appointment of a case management judge, any party may write to the Chief Justice or Associate Chief Justice, sending copies of that correspondence to all other parties, requesting that the action be

exempt from the operation of this Practice Note, either indefinitely or until a stated stage in the action, giving reasons for the request; any other party may make representations in response. The Chief Justice or Associate Chief Justice may accede to this request for any reason which appears proper, and may determine when case management is to commence in the future. Upon such a determination being made, a case management judge will not be appointed until the time or circumstance determined by the Chief Justice or Associate Chief Justice.

9. The Chief Justice or Associate Chief Justice may refuse or delay the assignment of a case management judge to a very long trial action for any reason which appears proper, including limitations on availability of judges to engage in case management; when this occurs the action shall proceed as if it were not a very long trial action until such time as a case management judge is assigned to it.

10. For any action commenced prior to September 1, 1995, which is likely to result in a very long trial, the application referred to in paragraph 3 shall be made on or before January 1, 1996, irrespective of the stage of proceedings as of that date.

11. Where a case management judge is appointed after the action has proceeded beyond these initial stages, the case management judge shall hold a case management conference within 30 days of being assigned during which a determination will be made as to which portions of this Practice Note will apply to the management of that action.

12. The case management judge shall hear all interlocutory applications and shall conduct all pretrial and other conferences with the parties, but shall not hear the trial without the consent of all parties. Even where all parties consent, the case management judge shall not hear the trial where he or she does not believe it appropriate to do so. Where the case management judge determines that the hearing of a particular application may adversely affect his or her ability to hear future applications or manage the action generally, he or she may direct that application be made before another judge. Also, where the case management judge's time availability would result in unacceptable delay, he or she may arrange to have another judge to hear certain matters.

13. A very long trial shall be set to be tried by judge and jury only by order made by the case management judge, who shall be considered to be the designate of the Chief Justice or Associate Chief Justice for this purpose, as directed by Civil Practice Note 2.

Scheduling Conference

14. Within 30 days of a case management judge being assigned, the Plaintiff's counsel will contact that judge and all other counsel to arrange a scheduling conference; the purpose of this conference is to determine a coherent plan to process the action in a timely and reasonable fashion ("the case timetable") and to deal with any matters of a procedural nature which should be addressed at an early stage of the proceedings.

15. The scheduling conference and all subsequent conferences will be held in the case management judge's private chambers unless any non-lawyer is expected to attend, or upon the direction of the judge, whereupon it will be held in a courtroom. The date and time of each will be selected to accommodate the case management judge's availability.

16. Counsel will be expected to have conferred among themselves, prior to the scheduling conference, for the purpose of preparing a case timetable.

17. At least ten days prior to the scheduling conference, counsel for the Plaintiff shall complete, file and serve on all other parties a draft case timetable in the form of Appendix A; any other counsel who takes issue with any information contained in the timetable must file and serve a separate draft case timetable no later than two days prior to the scheduling conference. All draft case timetables shall be copied directly to the case management judge.

18. During the scheduling conference the case management judge will set a case timetable for all future steps which must be complied with unless a time extension or other variation is expressly granted. Once signed and circulated to the parties it becomes an order of the Court. The case timetable shall be set in the discretion of the case management judge and may include directions as to steps and times not specifically requested by counsel. Specifically, it may address:

(a) setting a date for completion of each step in the action;

(b) setting a date for production of documents;

(c) establishing a mechanism for the production or description of documents where their number, nature or location make description in the normal course unduly expensive or cumbersome;

(d) setting a date for the commencement of examinations for discovery and defining the nature and scope of same;

(e) setting a target date for the exchange of the experts documents,

which date shall be in advance of the case conference relating to any application to determine the scheduled duration of the trial, pursuant to paragraph 40 below;

(f) setting a date for the next case management conference;

(g) setting a start date for the commencement of the trial, after consultation with the trial coordinator;

(h) enlarging or abridging any time appointed by the Rules of Court relating to time for doing any act or taking any proceeding, as required to implement the provisions of this Practice Note, pursuant to Rule 548; and

(i) giving directions to deal with any problem that may arise in connection with carrying out the purpose of the Rules and this Practice Note.

19. Where a start date for the commencement of the trial is thus set, barring unusual circumstances the trial will start on that date.

20. At any stage of the proceedings the case management judge may require any counsel to give express information to his or her client about any aspect of the action or may require that counsel to invite his or her client to personally attend any future case management conference.

21. Where a party fails to comply with a timetable or any service requirement or with any requirement of this Practice Note, the case management judge may take any of the following steps, upon his or her own initiative or upon being requested to do so after notice to all parties and after hearing representations from any party who wishes to make same:

(a) convene a case management conference;

(b) amend the timetable and order the party to comply with the amended timetable;

(c) order that the party be precluded from raising certain issues or relying on certain types of evidence at trial;

(d) dismiss the party's action or strike out the party's defence;

(e) order the party or the party's counsel to pay costs, including solicitor and client costs or any other form of costs allowed by the Rules, fixed and payable forthwith;

(f) direct that notice be given to the clients involved in the case; and

(g) make any other order that is just.

22. Unless otherwise ordered, the counsel representing a party at the scheduling conference or any subsequent case management conference shall be the counsel who will be representing that party at the trial or an informed substitute. That counsel shall have obtained clear and definite instructions from the party regarding counsel's authority to deal with all matters that the participants may reasonably anticipate may be discussed at the conference. No non-party may attend any conference except with the consent of all of the parties.

Case Management Conferences

23. The purpose of a case management conference is to monitor the progress of the matter, to canvass settlement or other disposition of all or as many of the issues as possible, and to provide whatever directions as may be necessary or appropriate with respect to the disposition of the matter. Specifically, at any case management conference the case management judge, after hearing from the parties, may take action with respect to any matter which appears appropriate, including but not limited to:

(a) the formulation and simplification of the issues;

(b) the necessity or desirability of amendments to pleadings;

(c) the disposition of pending motions;

(d) the need for adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems;

(e) the advisability of a reference;

(f) the advisability of having the Court appoint an expert;

(g) issues relating to expert evidence as required by paragraph 25; and

(h) the start date for trial.

24. Counsel for the Plaintiff or Petitioner shall arrange a case management conference with the case management judge and all parties within one month

after each party has been examined for discovery once, whether or not that examination was completed that day, or upon such date as set in the case timetable.

25. Expert evidence shall be canvassed at this case management conference. Counsel will advise of the type of expert evidence they will lead, the likely identity of any expert witness to be called and the evidence hoped to be established from that witness. The purpose is disclosure of the nature and type of expert evidence to be led, to allow parties opposite in interest early selection and organization of their own expert evidence and to avoid surprises at the conference to set the scheduled trial duration. The case management judge will finalize the date by which all experts reports are to be exchanged (the target date will have been set at the initial scheduling case management conference), which shall be at least 90 days in advance of the case management conference to set the scheduled duration of the trial, required in paragraph 40.

26. At this or any other case conference, the case management judge may hear any applications for orders concerning the pretrial examination of experts.

27. At this or any other case conference, the judge shall analyze the proposed expert evidence and attempt to obtain agreement from all parties which would facilitate the admission of that evidence or shorten the trial, including:

(a) evidence which may be admitted by consent;

(b) evidence which may be admitted by affidavit, without the need to call the expert to testify; and

(c) agreements among parties with a common interest in the subject-matter of the action to rely upon the same expert in a given area.

28. A case management judge may make any orders, impose terms and give directions as necessary to carry out the purpose of this Practice Note, including:

(a) adjourning a case management conference from time to time;

(b) requiring that any party, or if the party is a corporation, the party's representative, attend all or part of the conference together with counsel;

(c) requesting that any other person, whose attendance may be of assistance, be present at all or part of the conference;

(d) directing that experts, who have been retained by the parties and who are expected to testify at trial, confer on a without prejudice basis to determine those matters on which they agree and to identify those matters on which they do not agree;

(e) ordering that the parties file and exchange written briefs where not otherwise provided by this Practice Note, for the use of the case management judge, including specifics as to the content and length of the written briefs and the date by which they are to be filed and exchanged; and

(f) ordering, with the consent of all parties, that certain evidence be given at trial by affidavit:

(i) without the need to call oral evidence, or

(ii) with the witness being presented for oral cross-examination only.

29. An order shall be entered or a memorandum be filed at the direction of the case management judge, reciting action taken or ordered to be taken and issues resolved at the conference, and such order shall control the subsequent course of the action unless modified by a subsequent order. Any order made by the case management judge may be modified at the trial to prevent injustice.

30. The case management judge may initiate a hearing, case management conference or conference call to deal with any matter arising in connection with case management, including a failure to comply with this Practice Note or the Rules of Court; however, prior to making any order resulting from the case management judge's own initiative, he or she will give all parties a full opportunity to make representations.

31. Other case management conferences may be held at any other time during the proceeding, including before, during or after any examination for discovery, upon the direction of the case management judge acting on his or her own initiative or where the parties consent or upon the successful application by one of the parties.

32. The case management judge may, at any stage, require any counsel to confirm that his or her client has been provided with notice of any case management conferences or settlement conferences or copies of any memoranda or orders resulting from same.

33. At any case management conference prior to the action being set down for trial any party may apply for an order that certain issues be tried

separately and prior to the trial of others, where appropriate. For example, liability may be ordered tried separately from damages in an appropriate case. Where such an order is granted, the case management judge shall establish separate case timetables for each portion of the case to be tried separately. The provisions of this Practice Note will then apply to each separate case timetable.

34. The case management judge is not a compellable or competent witness. Other than as expressly provided elsewhere in this Practice Note, no communication shall be made by anyone to the trial judge or in later proceedings as to the proceedings or communications at any conference except:

(a) as disclosed in the order or orders of the case management judge;

(b) as agreed to by all parties or their counsel; or

(c) as required by any standard form of memorandum adopted by the Court of Queen's Bench.

35. At any case conference where it appears that the only reason for calling evidence is to rebut a possible adverse inference, the case management judge may order the evidence not be called; such an order will be entered and form part of the Record; Plaintiff's counsel shall expressly draw the attention of the trial judge to it at the commencement of the trial.

Interlocutory Applications

36. If urgent, a case management conference may be held or interlocutory application made with or without filed supporting material, and by attendance, conference call, telephone call, telefax, or in writing, and upon such notice as directed by the case management judge.

37. Matters expected to take 30 minutes or less will generally be dealt with by the applicant making a request by telephone to the secretary of the case management judge; that judge will then set a time to resolve the matter in private chambers (usually outside normal sitting hours) at a mutually convenient date. Matters likely to take longer than 30 minutes or which counsel believe should be dealt with in an open courtroom should be set before the case management judge via the trial coordinator booking time before that judge in the normal course.

38. The case management judge will attempt to be available on reasonable notice, to deal with any matter which may arise. It is expected that counsel will be prepared to demonstrate any claimed urgency. It must be remembered

that the fixed schedules, including out-of-town assignments, of the case management judges will continue unchanged.

Confidential Dispute Resolution

39. Where two or more parties to an action wish to resolve a dispute which arises between themselves on any procedural point which affects only themselves, and about which they do not wish to advise parties opposite in interest, the disputing parties may apply before a judge other than the case management judge. The judge hearing the application will resolve it, or give directions for its resolution.

Scheduling Trial Duration

40. A very long trial may be entered for trial only by order granted by the case management judge at a case management conference. A start date for the trial will have been established in the scheduling conference. However, at least 9 months in advance of that date a case conference must be held where that start date is considered, and a time set for the duration of the trial. For this case conference each party shall prepare and serve a memorandum in the form set out in Part 1 of Appendix B at least 30 days prior to the date it is to be held. Within 10 days of being served with a memorandum, each party shall complete the sections relating to estimated time needed for cross-examination of each proposed witness, and serve and file the completed document. The completed form shall attach:

(a) all experts documents and replies to experts documents, including experts reports and any affidavits any party intends to rely upon at trial, as required by Rule 218.5;

(b) all affidavits containing expert evidence where such evidence has been ordered to be tendered in that form;

(c) copies of any documents relevant to the expert's opinion which are referred to in that expert's report, as requested by the case management judge;

(d) the estimated length of time needed for the examination in chief of each witness; and

(e) the estimated length of time needed for the cross-examination of each witness, as provided by each party expected to cross-examine.

The case management judge will automatically cancel and reschedule the application if he or she has not received a memorandum from each party by this deadline. However, if any rescheduling takes this conference closer than 9 months to the target start date of the trial, that date may be lost. Nothing in this Practice Note requires any party to disclose the existence of any witness called solely to impeach credibility nor that any witness otherwise called will also impeach credibility but where counsel intends to call such a witness, the general time estimate given in Appendix B, Part 1, paragraph N shall include that counsel's time estimate of the time needed for examination and cross-examination of same.

41. Counsel should limit the length of materials filed so that the materials of all parties can be read quickly. Counsel should indicate which of the materials should be read and which are filed only as reference material. Passages of special importance should be highlighted.

42. The case management judge alone will then finalize the number of days to be reserved for the trial after a consideration of the material and submissions of counsel and after making a personal assessment of the time needed to try the matter, considering the number of witnesses including expert witnesses, the nature of the evidence proposed, the issues, and all other relevant matters.

43. At the conclusion of this conference, the case management judge shall complete Part 2 of Appendix B, recording his or her assessment and conclusions and will provide it to the trial coordinator for use in scheduling the trial; Part 1 of Appendix B and all attachments shall be returned to the parties.

Final Case Management Conference

44. A final case management conference may be scheduled after the action is set for trial, not earlier than five months before the start of the trial.

At this time the case management judge may order:

(a) the production of updated information on damages only, including updated expert material;

(b) final examination for discovery to update damage information only; or

(c) anything necessary to facilitate or expedite the trial.

Appeals

45. The taking of an appeal from any order granted by a case management judge shall not stay or otherwise affect that order or any other order, direction or decision except as may be subsequently directed by the case management judge, the Chief Justice or Associate Chief Justice of the Court of Queen's Bench or any judge of the Court of Appeal of Alberta, made on notice to and after hearing from all parties.

Settlement

46. In any case management conference the case management judge may consider and discuss with the parties and may make suggestions to the parties with respect to:

(a) the possibility of settlement of any or all of the issues in the proceeding;

(b) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, agreements regarding the authenticity of documents, and advance rulings from the Court on the admissibility of evidence;

(c) the possible use of extrajudicial procedures to resolve the dispute;

(d) the question of liability;

(e) the amount of damages, where damages are claimed; and

(f) any other matters which may aid in the disposition of the action.

47. If the action is settled, counsel will be expected to notify the case management judge at once, in writing.

48. Prior to the commencement of the trial, one or more settlement conferences shall be held before the case management judge or, with his or her approval, any other judge selected by the parties. The purpose of this conference is to settle some or all of the issues in the action. If only some of the issues are so resolved, a statement of resolved issues will be prepared for use by the trial judge.

49. Where a settlement conference is conducted, counsel shall ensure their clients are available at the Courthouse in order to give instructions; for corporate clients, those attending must have authority to enter into a

settlement binding on that party, should one be reached.

Trial

50. Unless otherwise ordered by the trial judge in exceptional circumstances, written argument will be received only if it is submitted no later than 21 days after the conclusion of oral argument or so soon thereafter as the trial judge may direct.

Penalties

51. Upon the happening of any of the following events:

(a) a party or party's counsel fails to obey a conference order;

(b) no appearance is made on behalf of a party at a conference;

(c) a party or party's counsel is substantially unprepared to participate in the conference;

(d) a party or party's counsel acts in bad faith;

(e) an application to set a matter for trial is heard notwithstanding the absence of adequate or any pretrial memoranda; or

(f) the trial exceeds 25 days in length, (whether or not it is set to take less than this time), yet no request was made for the appointment of a case management judge pursuant to this Practice Note,

the case management judge, the trial judge or any other judge, upon application or on his or her own initiative, may make such orders with regard thereto as are just, including any of the orders provided in Rule 704(1)(d). In lieu of or in addition to any other order, any such judge may require the party or counsel representing the party or both to pay the reasonable expenses incurred because of any noncompliance with this Practice Note, including counsel's fees.

52. Where, in the opinion of the case management judge, the conduct of one or more of the parties prior to trial has significantly and unnecessarily affected the length of time needed for trial, or has created significant avoidable delay between the close of pleadings and the start of the trial, that judge may so advise the parties and trial judge by written memorandum to be read by them only at the conclusion of the trial but prior to the setting of costs.

General

53. The computation of all time periods referred to in this Practice Note excludes Saturdays, Sundays, holidays, the long vacation, and the Christmas vacation.

54. The judges wish to ensure that the procedures in this Note are fair, reasonable and consistent with its purposes. Counsel will accordingly be expected to advise the Chief Justice or Associate Chief Justice or one of the judges involved in case management should there be any problems encountered with the procedures set up in this Note.

55. Except where inconsistent with this Practice Note the provisions of Practice Note 3 apply to the very long trial.

56. Where any portion of this Practice Note refers to a Rule not yet in force, that portion shall be interpreted and applied by the case management judge to achieve the goals of this Practice Note, within the mandate of the Rules which are in force.

APPENDIX A

CASE TIMETABLE
(para. 17)

(Form to be Adapted as Necessary:
references in brackets to paragraphs in
Very Long Trial Practice Note)

A. Short Title of Proceedings and Action Number:

_____
_____

B. Counsel Representing Each Party:

Plaintiff:

Name _____
Address _____
Telephone Number _____
Telefax Number _____
Mailing Address of Party _____

Defendant:

Name _____
Address _____
Telephone Number _____
Telefax Number _____
Mailing Address of Party _____

(and so on for each other party)

C. Dates by which each of the following steps are to be completed – specify nature and responsibility. Ensure that sufficient time is allowed to accomplish the step.

Date for application re production of documents, and to establish a mechanism for same: _____ (para.18(b) and (c))

Date by which examination for discovery is to commence for each

party: _____ (para.18(d))

Date for case management conference after each party is examined for discovery once: _____ (para.23)

Date for case management conference re potential expert evidence: _____ (para.24)

Target Date for exchange of experts reports: _____ (para.18(e))

Date by which all undertakings are to be answered:

_____

Date for application for any orders permitting further discovery, and setting scope of further discovery: _____

Date by which all examinations for discovery, including any examinations on answers to undertakings, are to be completed:

_____

Target Date for conference confirming entry for trial and setting number of days for trial: _____ (para.40)

Target Date for Start of Trial _____
(para.18(g))

Nature and Target Date for Each
Remaining Interlocutory Application:

1. _____
2. _____
3. _____
4. _____
5. _____ etc.

Date for the next case management conference: _____

Signed:

_____
Counsel for Plaintiff

Disposition made by case management judge:

___ approved as above

___ approved with the following amendments:

_____
_____
_____

_____
(Conference Judge)

APPENDIX B

PART 1
PRETRIAL MEMORANDUM

(Adapt Form as Necessary to Accommodate All Parties and All Witnesses. **NOTE: Shaded portions to be completed by counsel opposite in interest.**)

A. Short Title of Proceedings and Action Number:

_____
_____

B. Counsel Representing Each Party:

Plaintiff:

Name _____
Address _____
Telephone Number _____
Telefax Number _____

Defendant:

Name _____
Address _____
Telephone Number _____
Telefax Number _____

(and so on for each other party)

C. Brief statement of circumstances of occurrence, events or transactions which led up to claim:

Plaintiff's view:

_____
_____
_____
_____

Defendant's view:

_____

_____
_____
_____

(add other parties as necessary)

D. The issues and defence in this action are as follows (identify and discuss in 50 words or less each):

_____
_____
_____
_____
_____
_____
_____

E. The relief claimed by the Plaintiff is as follows:

_____
_____
_____
_____
_____
_____
_____
_____

F. There is/is not a counterclaim for the following relief:

_____
_____
_____
_____

G. There is/is not a claim(s) for contribution or indemnity as follows:

_____
_____
_____
_____

H. The following possible amendments to pleadings should be considered:

_____
_____
_____

_____

I. The following interlocutory applications are yet to be made:

_____
_____
_____
_____

J. Examinations for discovery are complete and all undertakings have been answered, except as follows:

_____
_____
_____
_____

(Note: if any substantial exception is listed, an order setting the action for trial will not likely be granted.)

K. All of the dates established in the original or amended Case Timetable have been met except as follows (give reasons for failure to meet date):

_____
_____
_____
_____

L. The party filing this memorandum expects to call the following witnesses (including rebuttal witnesses but excluding expert witnesses) to give the following evidence:

1. Name of witness: _____

Brief summary of expected evidence:

_____
_____
_____
_____

ESTIMATE OF TIME NEEDED FOR EXAMINATION IN CHIEF OF THIS WITNESS:

_____

ESTIMATE OF TIME NEEDED FOR CROSS-EXAMINATION OF THIS WITNESS BY EACH PARTY OPPOSITE IN INTEREST:

Plaintiff: _____

Defendant: _____

Third Party: _____

(and so on for each anticipated witness)

M. The party filing this memorandum expects to call the following expert witnesses (including expert witnesses which may be called in rebuttal). Attached as Schedule 1 to this Memorandum are copies of all Experts Documents, Replies to Experts Documents, experts reports, and affidavits, if any, containing expert evidence upon which reliance will be made at trial:

1. Name of witness: _____

Topics upon which I will apply to qualify him/her as an expert:

_____
_____
_____
_____

ESTIMATE OF TIME NEEDED FOR EXAMINATION IN CHIEF OF THIS EXPERT:

_____

EACH PARTY OPPOSITE IN INTEREST ESTIMATES IT WILL NEED THE FOLLOWING TIME TO CROSS-EXAMINE THIS WITNESS:

Plaintiff: _____

Defendant: _____

Third Party: _____

(and so on for each anticipated expert witness)

N. The amount of time I anticipate needing to lead my evidence in chief

_____, for rebuttal _____ and for argument _____.

O. My best estimate of the total amount of time needed to complete the evidence (including cross-examination and rebuttal) and the argument by all parties:

_____

P. The following preliminary applications may be made by me at trial:

_____

Estimated time needed for these preliminary applications:

_____

Q. Where the relief sought is damages, a list of all special damages claimed is attached as Schedule 2. The other heads and amounts claimed for damages are as follows:

_____
_____
_____
_____

R. The following judges may be disqualified from hearing this trial:

_____
_____
_____
_____

S. Other matters relevant to the trial time needed, or to the conduct of the trial which have not been covered above are as follows:

_____
_____
_____
_____
_____
_____

Dated at _____, Alberta on _____ (insert date).

_____
Counsel for the
Plaintiff/Defendant/Other

APPENDIX B

PART 2

REPORT OF THE CASE MANAGEMENT JUDGE

(TO BE COMPLETED BY THE CASE MANAGEMENT JUDGE; Adapt Form as Necessary)

A. The issues and defences in this action are as follows:

_____
_____
_____
_____
_____
_____
_____

B. The relief claimed is as follows:

_____
_____
_____
_____

C. My estimate of the total time needed to examine and cross-examine each anticipated witness is as follows:

[**NOTE**: THESE TIME ESTIMATES ARE TO BE ARRIVED AT BY THE CASE MANAGEMENT JUDGE AFTER REVIEW OF THE ANTICIPATED EVIDENCE OF EACH WITNESS AND THE EXPERTS REPORTS – TAKE INTO ACCOUNT COUNSEL'S ESTIMATES OF TIME AND ADAPT TO REFLECT YOUR PERSONAL ASSESSMENT OF TIME NECESSARY – THESE ARE THE CASE MANAGEMENT JUDGE'S OWN INFORMED ESTIMATES, BASED ON ALL OF THE INFORMATION PROVIDED IN PART 1 OF THIS SCHEDULE AND HIS OR HER OWN KNOWLEDGE OF THE ACTION, GAINED THROUGH OVERALL CASE MANAGEMENT.]

Plaintiff (Insert Name): _____

Witness #1: Time for examination in chief: _____

Total time for cross-examination by all parties opposite in interest:

_____

Witness #2: Time for examination in chief: _____

Total time for cross-examination by all parties opposite in interest:

_____

(and so on, for each ordinary and expert witness to be called by this Plaintiff)

Defendant (Insert Name): _____

Witness #1: Time for examination in chief: _____

Total time for cross-examination by all parties opposite in interest:

_____

Witness #2: Time for examination in chief: _____

Total time for cross-examination by all parties opposite in interest:

_____

(and so on, for each ordinary and expert witness to be called by this Defendant)

Third Party (Insert Name): _____

Witness #1: Time for examination in chief: _____

Total time for cross-examination by all parties opposite in interest:

_____

Witness #2: Time for examination in chief: _____

Total time for cross-examination by all parties opposite in interest:

_____

(and so on, for each ordinary and expert witness to be called by this Third Party)

[ADD SIMILAR SECTIONS FOR EACH OTHER PARTY TO THE ACTION]

D. My informed estimate of time needed for any anticipated rebuttal evidence, including examination in chief and cross-examination of all parties:

_____

E. My informed estimate of the time needed for any anticipated preliminary or other applications made during the course of the trial:

_____

F. My informed estimate of the time needed by each party to argue orally is:

Plaintiff (Insert Name): _____

Defendant (Insert Name): _____

Third Party (Insert Name): _____

(and so on for all other parties)

G. My informed estimate of the time needed by the Plaintiff to orally reply:

_____

H. My informed estimate of the number of extra days required to cover unanticipated exigencies: _____

I. **MY TOTAL ESTIMATE OF THE TIME NEEDED FOR THIS TRIAL (TOTAL OF ABOVE ESTIMATES):**
_____ days

J. The following judges are disqualified from hearing this trial:

_____
_____
_____
_____

K. The following special arrangements are requested for the handling of documents, holding demonstrations, etc. during the trial:

_____
_____
_____
_____

L. Other matters relevant to the trial time needed, or to the conduct of the trial which have not been covered above are as follows:

_____
_____
_____
_____
_____
_____

Dated at _____, Alberta on_____ (insert date).

_____
(Case Management Judge)

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "8"

SUMMARY TRIALS

Effective September 1, 2000

INTRODUCTION – EXPLANATORY NOTE

The Summary Trial Rules (Part 11, Division 1, Rules 158.1 – 158.7 of the *Alberta Rules of Court*) came into effect on September 1, 1998, with amendments which came into effect September 1, 2000. These Summary Trial Rules were modelled after B.C.'s Rule 18A, in effect since September 1993. Since 1998 a number of Alberta judicial decisions and directions have been rendered, and articles published, that are relevant to the procedural aspects of summary trials. The authorities provide a number of points of procedural direction, but may raise questions as to other procedures. These sources and questions of the Bar have suggested that some further broad judicial direction is necessary, and, in addition to the amendments effective September 1, 2000, that is the purpose of this Practice Note.

It is very important to recognize that the Summary Trial Rules were created with a view that they should be used for expeditious adjudication, and be as flexible as possible, limited (with some parameters) only by the imagination of counsel using them. Therefore, restrictions outside those specified in the Rules should be avoided if possible. Indeed, "judges should be careful but not be timid in using [the Summary Trial Rule] for the purpose for which it was intended", namely to expedite the early resolution of cases – that is, expediting the administration of justice[1]. It is also important to recognize that "while every effort must be made to ensure a just result, the volumes of litigation presently before our courts, the urgency of some cases, and cost of litigation do not always permit the luxury of a full trial with traditional safeguards in every case particularly if a just result can be achieved by a less expensive and more expeditious procedure... [the Summary Trial Rule] substitutes other safeguards which are sufficient to ensure the proper attainment of justice".[2]

With that said, the Bar, Clerks' Office and the Judiciary should have a common understanding of what is expected. Specifically: the Bar needs to know how

1 *Compton Petroleum Corporation v. Alberta Power Limited* (1999), 242 A.R. 3, (Q.B. – Paperny J.), relying upon the leading B.C. test case of *Inspiration Management Ltd. . McDermid St. Lawrence (1989), 36 B.C.L.R. (2d) 202, at 214 (B.C.C.A.).*

2 McEachern C.J.B.C., in *Inspiration*, at 213.

they set down a summary trial, what they need to provide and how the trial will be conducted; the Clerks' Office needs to ensure that the Bar has met the requirements, and that the time reserved is sufficient to determine the case; and the Judiciary needs to have the opportunity in advance of the trial to read anything that is intended to be relied upon at the summary trial.

With these things in mind, the following directions are prescribed to ensure that summary trials are an available tool to provide efficient (that is, time sensitive) and cost effective justice.

PRACTICE NOTE

Summary Judgment v. Summary Trial

1. There is a very clear distinction between an application for summary judgment (the tripartite test must be met – generally, no defence to the position being advanced – or the application is denied and the matter proceeds to trial), and a summary trial, which is like any other "conventional" trial, except the procedures are simplified.

One Stage v. Two Stage Proceedings

2. (a) There are two components to a summary trial – (1) is/are the issue(s) suitable for a summary trial determination, and (2) the merits of the summary trial application. The Summary Trial Rules were created to be flexible enough to allow Counsel to proceed in 1 or 2 stages to have these components determined.

   (b) Counsel may proceed with a two stage application. That is, they must comply with Rule 158.1, but may set the matter down in the first instance in regular chambers for advice and directions consistent with the Summary Trial Rules and this Practice Note. They may also seek a preliminary determination of issue (1) before proceeding to issue (2). However, in this circumstances, whether or not there has been a determination of issue (1) in chambers, at the summary trial the presiding justice may, having regard to the evidence, still determine that the matter is not appropriate for the summary trial procedures.

   (c) For those counsel wishing to put issues (1) and (2) together, they may proceed with a one stage application. Indeed, many have suggested that a one stage application is preferred, but there is a freedom to counsel to so determine and the Court to rule.

   (d) The flexibility for either a one stage or two stage application gives counsel the opportunity to evaluate the risks of time and cost of each alternative. Obviously, counsel for both sides may agree on a

procedure and format, consistent with the Summary Trial Rules, and this Practice Note, and appear before a chambers justice to confirm the procedure by a consent order for advice and directions.

Setting Down

3. Any party to a proceeding may apply for a summary trial.

4. Counsel may set a matter down for summary trial, by "Notice of Motion for Summary Trial"[3], in two ways, depending on the nature of the issue, the time it will take and the judicial district in which it is to be brought:

   (a) notwithstanding the apparent complexity of the Summary Trial Rules, and this Practice Note, in the infrequent situation where the issue is very simple, does not require the judicial review of any material more than a normal chambers application, and can be determined within 20 minutes, it may be brought into regular chambers (family or non-family);

   (b) any summary trial application may also go to regular chambers for an order for advice and directions; and

   (c) for a matter that will take more than 20 minutes to argue, counsel must, before filing the Notice of Motion for Summary Trial, reserve a date(s) and time on the civil trial list, with:

      (i) in Calgary and Edmonton, the Civil Trial Coordinator; and

      (ii) in other judicial districts, the Trial Coordinator.

5. Counsel should be careful in their Notice of Motion for Summary Trial to make clear as to whether:

   (a) the matter is to appear on the regular chambers list (family or non-family) or trial list, in accordance with paragraph 4 above; and

   (b) all issues or only a specified issue(s) is/are being proposed for summary trial.

6. No Certificate of Readiness, or Pre-Trial Conference, is necessary. However, once a summary trial application has been filed, or is, on informal notice, expected to proceed, it is useful for applicant counsel (or respondent if applicant counsel does not do so) to seek a quick Pre-Trial Conference to identify the issues, to explore (informally) whether the matter can properly be determined by a summary trial – thereby avoiding

[3] This title to be used to assist the Clerks' Office in distinguishing such a Notice of Motion for Summary Trial from other Notices of Motion.

potential cost and delay, and to obtain advice and directions as to filings and timing or on any unusual aspect of the application.

7. It is to be noted that, by Rule 158.5(1)(g), there will be no *viva voce* on a summary trial without a justices's order, which shall be sought in advance of the hearing.

Filings

8. Subject to other direction under Rule 158.4(2)(d) and any order for advice and directions, a brief of fact and law, providing a summary of the facts and law intended to be relied upon (not to exceed 4 pages), and copies of any authorities intended to be relied upon, shall be filed, and served on the party(ies) opposite, not later than the following:

   (a) applicant, on the 21st day prior to the hearing;

   (b) respondent, on the 7th day prior to the hearing; and

   (c) applicant, in rebuttal only, on the 3rd day prior to the hearing.

   So that judicial consideration is properly focussed on the most important material, the pertinent parts of all documentary evidence and authorities (that is, other than the contents of the affidavit and brief) that counsel wishes the justice to have regard shall be specifically **highlighted** in the copies filed and served under this paragraph.

The Trial

9. A summary trial is, in spite of the procedure set out in the Summary Trial Rules and herein, a trial, with a final resolution of the matter or an issue (subject only to appeal). Accordingly, once the matter proceeds to trial, all the attributes of a trial shall, unless exempted by specific judicial order, apply – such as gowning.

10. Unless there is an order of the Court, an agreement, or substantive law applicable to the contrary, the applicant shall present evidence first and has the burden, on a balance of probabilities, to establish that the matter(s) in issue is/are appropriate for summary trial, and that the evidence justifies judgment in favour of the applicant on the merits – otherwise, the onus of proof that would otherwise be applicable does not shift simply because the matter is being heard as a summary trial[4].

[4] See: *Inspiration* and *Miura v. Miura* (1992), 40 R.F.L. (3d) 43; 66 B.C.L.R. (2d) 345, at 352 (B.C.C.A.).

11. As with any trial, counsel should be aware of the record that will be created, and, accordingly, available for the Court of Appeal – the normal rules for admission of new/fresh evidence will be expected to apply. Specifically, counsel should be alive to the distinction between lack of "sufficient evidence" for adjudication (Rule 158.6(1)) and the failure to adduce necessary evidence – only in the former case will adjudication be deferred.

12. The normal rules of admissibility at a "regular" trial apply. Accordingly, counsel should make certain that no inadmissible (e.g. affidavits based on information and belief), or irrelevant or immaterial, evidence is provided. For example, if counsel want to rely on evidence of their party, that party must "testify" (by affidavit, or *viva voce* by prior court order). A party cannot use his/her/its own evidence at examination for discovery as evidence at the summary trial – rather, only that of a party adverse in interest is admissible. It is important to recognize, especially in view of the new discovery rules setting the test as "relevant and material", that evidence obtained at discovery may not be admissible at trial.

EXPERTS

13. While expert evidence may be adduced at a summary trial, the Summary Trial Rules do not modify Rule 218.1, and therefore, absent agreement or judicial advice and directions to the contrary, the time frames for summary trials may have to be elongated to take into effect Rule 218.1.

Costs

14. Schedule "C" does not specifically reference Summary Trials. However, items 10 (modified as appropriate in regard to footnote 2 thereof) and 11 would appear adequate in accordance with the Court's discretion on costs. Note that the fees in item 11 are identical (except for 2nd counsel fees) to item 8 for special chambers.

FINALITY

15. Counsel and their clients need to realize that a summary trial is – **not** like an application for summary judgment, which if dismissed, proceeds to trial – a final disposition, like any other trial, subject only to appeal to the Court of Appeal.

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "10"

FORMAT OF EXPERT EVIDENCE OF ECONOMIC LOSS OR DAMAGES

EFFECTIVE JANUARY 1, 2000

1. Where a party serves an expert's report containing evidence as to economic loss or damage pursuant to Rules 218.1 or 218.12, including any expert's report offered by way of reply, that report must contain the following information:

   (a) a list identifying individually, all of the factors upon which, in the opinion of that expert, finding of fact must be made to arrive at an ultimate conclusion;

   (b) the assumptions of fact for each factor, used to determine his/her opinion as to economic loss or damage; **(it would be helpful for the expert to offer alternative conclusions based on all alternate assumptions of fact available on the evidence)**;

   (c) the expert's reason(s) for choosing each such assumption from among the available alternatives; and

   (d) where alternative methods of calculating a loss/damages exist, the method chosen by the expert and the reason for selecting same.

2. Where the assumptions of fact chosen by an expert as a basis for his/her opinion are based on evidence given by that expert, that evidence must also be contained in the expert's report. Counsel should be mindful that the value of the expert's report will be seriously debased if the expert makes assumptions of fact for which no evidence is led at trial, either from the expert or some other witness. If the expert has engaged in no independent verification of the economic facts upon which his/her assumptions are based that should be clearly noted.

3. When instructing experts, counsel should remain mindful that an expert's report is more effective if it contains opinions based on several various possible findings of fact that may be made by the trial judge. Expert evidence based on only the "best case scenario" set of facts from the perspective of the party entering it in evidence may be of little use to the judge.

4. Whether or not an expert has stated the numerical total of economic loss or damages in written or oral evidence, the trial judge may, upon giving judgment, direct the expert to calculate the economic loss or damage, on the basis of the facts as found by the trial judge. Where this occurs all parties have the right to

be heard as to the accuracy of the calculation before the final judgment is entered.

3. The requirements of this Practice Note do not limit the ability of of an expert witness to otherwise address, explain or support his or her opinion. Lawyers must ensure that all issues upon which expert opinion will be tendered at trial are addressed in his or her expert report whether or not they are included in the following example.

4. Any party served with such an expert report may apply to the Court at least 60 days prior to the commencement of the trial to review the working file upon which the expert report is based, including any spreadsheets or other analytical documentation prepared by the expert for the purpose of arriving at his/her expert opinion; leave may be granted subject to any conditions that judge considers appropriate, including any required to protect client privilege.

5. An expert who provides written or oral opinion evidence in reply to an expert report governed by this Practice Note, shall specifically identify the information in the expert report with which he or she disagrees and the reasons for the disagreement.

An Example: **

An economist's report relating to the present day value of future income loss in a personal injury case should contain the following type of statement:

> "In my opinion the following matters must be addressed to arrive at a conclusion as to the present value of future income loss in this case:

Mandatory Factors	Assumption of Fact & Reason for Selecting Assumption
1. Age at which Plaintiff would have retired had she not been injured	62 years, based on Statistics Canada statistical information that workers in the Plaintiff's occupation retire at an average age of 62 years
2. Mortality rate to be applied had Plaintiff not been injured	.02% per annum, based on Canada Life insurance tables
3. Plaintiff's future annual Income had she not been injured	$11,000 which was her average total annual income for each of the three years prior to the accident, based on her produced income tax returns for those years
4. Likelihood Plaintiff would have been completely and permanently disabled pre-retirement by other causes had this injury not occurred	.05% in any year, based on Statistics Canada statistical information for workers in the Plaintiff's occupation
5. Likelihood Plaintiff would have become unemployed in any event	10% in any year, based on Canada Employment Insurance statistical information for workers in the Plaintiff's occupation
6. Discount Rate	2.5%, being the historical difference between the rate of inflation and the interest rates paid on conservative investments
7. <other factors>	" ..

*** [Note: while this example relates to a personal injury loss it may be adapted, as appropriate, to business evaluation and other types of economic loss.]*

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE "11"

COURT ANNEXED MEDIATION

EFFECTIVE SEPTEMBER 1ST, 2004

Preamble

Alberta Justice is proceeding with a pilot initiative to promote private, user pay, interest based mediation in Alberta. Alberta Justice has requested that the within Practice Note be issued to facilitate implementation of this pilot project to promote mediation as an additional method of dispute resolution. It is not intended to derogate in any way from the JDR program in the Court of Queen's Bench. The Court will not be involved in the management of court annexed mediation. Alberta Justice will be responsible for the appointment of mediation coordinators, together with support staff in each judicial district where the pilot project will be undertaken.

1. This practice note applies to non-family civil actions in the Court of Queen's Bench of Alberta, Judicial Districts of Edmonton and Lethbridge, filed on or after September 1st, 2004.

2. After January 1st, 2005, provided that all parties to an action have filed and served Affidavit of Records pursuant to Part 13 of the Alberta Rules of Court, any party may file and serve a Request to Mediate on all other parties.

3. No Request to Mediate may be served after a Certificate of Readiness has been filed.

4. Unless one or more parties object to the Request to Mediate, the mediation shall proceed before a mediator agreed to by the parties or from a roster of mediators established by Alberta Justice.

5. If the parties are unable to agree on a mediator within 30 days of service of the Request to Mediate, the parties shall attend on the Mediation Coordinator for the Judicial District, who shall appoint a mediator from the roster.

6. Following appointment of a mediator, the parties and the mediator will decide within 30 days what exchange of information is required for the mediation.

7. The mediation shall proceed for a minimum of three hours within 120 days of service of the Request to Mediate or as agreed to by the parties.

8. The parties shall attend the mediation, and those with authority to act on behalf of a party shall attend to provide a decision.

9. Any party served with a Request to Mediate who objects to mediation proceeding shall within 30 days of service of the Request to Mediate apply on notice to all other parties to the Mediation Coordinator for an exemption of the action from mediation. Any party dissatisfied with the decision of a Mediation Coordinator may apply to a Justice of the Court of Queen's Bench, on notice to all parties, within 15 days to set aside or vary the decision of the Mediation Coordinator.

10. An exemption from mediation may be granted if:

    (a) The case is too complex.
    (b) The volume of records, number of issues in dispute, or status of the action renders mediation premature.
    (c) The parties express a desire to proceed with a Judicial Dispute Resolution in the Court of Queen's Bench.
    (d) Other sufficient reason exists.

11. The Request to Mediate does not operate as a stay of proceedings and does not affect Case Management Orders.

12. Everything said in a mediation is confidential unless disclosure is required by law or as agreed to by the parties.

13. Discussions in mediation and any materials produced for the mediation are inadmissible in any proceedings except to prove the fact or terms of a settlement agreement.

14. The mediator is not compellable or competent to testify in any proceedings.

15. Should a party served with a Request to Mediate who does not seek an exemption from mediation fail to attend the mediation or fail to respond to the Request to Mediate, the serving party shall be at liberty to apply to a judge for an order of costs payable forthwith by that party. In addition, the failure to respond to the Request to Mediate or the failure to cooperate with the mediation may be considered in awarding costs of the action.

Dated this 2nd day of July, 2004

Allan H. J. Wachowich
Chief Justice

Allen B. Sulatycky
Associate Chief Justice

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE NO. "12"

ORDERS RESTRICTING MEDIA REPORTING OR PUBLIC ACCESS

EFFECTIVE SEPTEMBER 1, 2004
AMENDED AUGUST 16, 2009

1. Unless otherwise provided for in another practice note, this practice note applies to an application for:

   a) the use of pseudonyms,
   b) a publication ban,
   c) a partial sealing order,
   d) an order permitting participants in judicial proceedings to testify behind a screen or in some other fashion to prevent their identification, and
   e) an order for an *in camera* hearing.

2. "Interested parties" include the parties to the lawsuit, the electronic and print media, and any other person named by the Court.

3. Unless otherwise ordered:

   a) the Applicant must file with the Clerk of the Court three copies of the Notice of Application, as prescribed in Form A and serve the interested parties, except the media, at least 2 clear days before the beginning of the trial, application, proceeding or matter to which the ban or order is to apply; and

   b) pending implementation of an electronic form of notice, notice to the media shall be given by filing Form A with the Clerk of the Court, who shall post the notice at the place reserved for such notice at the courthouse where the application is to be heard.

4. The application must be made to the judge assigned to hear the case. If that judge is unknown or unavailable, the application must be made to the case management judge. If there is no case management judge, the application must be made to the Chief Justice, the Associate Chief Justice, or a judge they have authorized to hear such applications.

5. The Applicant may apply to the Court for further directions as to the parties to be served and the manner of service.

6. Any party not referred to in para. 2 above and claiming an interest in the proceedings must apply to the Court for standing to be heard at the application.

7. The information that is the subject of the initial application may not be published without leave of the Court until that application is heard.

8. If satisfied that there has been a failure to comply with the requirements of this practice note, the Court, on application or on its motion, may:

   a) make any of the orders provided for in Rules 599.1 or 704(1)(d);

   b) require the party or counsel representing the party, or both, to pay the reasonable expenses incurred because of any noncompliance with this practice note, including counsel's fees; or

   c) make any other appropriate order.

9. An application to seal the entire court file, or an application to set aside a sealing order, must be made to the Chief Justice, the Associate Chief Justice, or a judge authorized by one of them to hear such applications, who will give directions regarding notice and service.

NOTE:

Applications described in para. 1 of Practice Note 12 may be granted upon evidence that it is necessary to prevent serious risk to the proper administration of justice or some other important interest, including a commercial interest, and if the salutary effects of the order outweigh its deleterious effects including the effects on the right to free expression; see ***Dagenais v. CBC***, [1994] 3 S.C.R. 835; ***Sierra Club of Canada v. Canada*** [2002] 2 S.C.R. 522.

Original Dated this 15th day of July, 2004
Amended the 16th day of August, 2009

Allan H. J. Wachowich
Chief Justice

Neil C. Wittmann
Associate Chief Justice

PRACTICE NOTE #12
FORM A

File # _____

IN THE COURT OF QUEEN'S BENCH
JUDICIAL DISTRICT OF _____

BETWEEN:[1]

X

(Plaintiff/Applicant/Appellant)

- and -

Y

(Defendant/Respondent)

Notice of Application for an Order Restricting Media Reporting or Public Access

Take notice that an application for a *(***specify the order sought, for example:** *publication ban, a partial sealing or unsealing order, the use of pseudonyms, an order permitting participants in judicial proceedings to testify behind a screen*, *an order for an in camera hearing*) will be made before the (Chief Justice, Associate Chief Justice, or _____) at _____ , Alberta on the ____ day of _____ , 20__ at _____ a.m./p.m. on behalf of (**name of applicant**) who is (**describe applicant:** *Crown, plaintiff, witness etc.*)

And further take notice that the specific terms of the proposed order sought are (**describe the nature of the order***: all of proceedings closed, specific evidence sealed, etc.*), and the proposed duration of the order is _____.

[1] **Parties** (if the ban or sealing order relates to the identity of a party, that party may be temporarily identified by initials pending the hearing of the application).

And further take notice that the specific grounds for the application are (**describe legal basis for application, for example:** *the commercial interests at stake relate to the important objective of preserving contractual obligations of confidentiality*);

And further take notice that on the application reference will be had to Queen's Bench Practice Note # 9 and (**describe evidence to be relied on:** *affidavit, viva voce or other* **and any statutory provision or rule**).

Dated this _____day of _____, 20___.

_____
Counsel for the Applicant

_____

_____
Address and phone number of
Applicant or Applicant's counsel.

Note: The information that is the subject of this application may not be published without leave of the court until the application is heard.

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE NO. "13"

NATIONAL DATABASE OF CLASS PROCEEDINGS

Effective September 4, 2007

The Canadian Judicial Council has endorsed the recommendation of the Uniform Law Conference of Canada for the creation of a Canadian Class Proceedings Database to facilitate the exchange of information about multi-jurisdictional class proceedings. The Canadian Bar Association has announced a pilot project to establish such a Database and this Practice Note is issued to support the initiative.

Similar Practice Notes or Directions have been issued in British Columbia, Quebec and Ontario, and it is anticipated that similar procedures will be implemented across the country and that lawyers and members of the public will be able to search the Database to obtain information about class action proceedings that have been commenced in any jurisdiction in Canada.

For existing class proceedings, within 60 days of the effective date of this Practice Note, and for new class proceedings, within 10 days of service or filing, whichever is earlier, a copy of any:

1. Statement of Claim issued under the *Class Proceedings* Act, S.A. 2003, c. C - 16.5; or
2. Notice of Motion for certification (not including affidavits in support); or
3. Amendments to the foregoing,

must be sent electronically by plaintiff's counsel to the National Class Action Database of the Canadian Bar Association at the following address:

National Class Action Database
Canadian Bar Association
E-mail: classaction@cba.org
Web-site: www.cba.org/classactions
Attention: Kerri Froc

A registration form must be used when submitting documents to the National Class Action Database, with data entered electronically. A copy of this registration form may be obtained online through the above e-mail or web-site. Please be advised that PDF is the preferred format for documents; however, MS Word documents will also be accepted.

Dated: May 30, 2007, effective September 4, 2007.

Allan H. J. Wachowich	Neil C. Wittmann
Chief Justice	Associate Chief Justice

30 May 2007

COURT OF QUEEN'S BENCH OF ALBERTA

CIVIL PRACTICE NOTE NO.14

GUIDELINES FOR THE USE OF TECHNOLOGY IN ANY CIVIL LITIGATION MATTER

1. INTRODUCTION

1.1. This Practice Note provides guidance to parties in the use of ***Technology*** for the preparation and management of civil litigation in the Court and a Court approved framework for managing both ***Hard Copy*** and electronic ***Records*** in a ***Technology*** environment.

1.2. Parties requiring further information or assistance in the appropriate use of ***Technology*** in civil litigation in the Court are encouraged to contact the eCourt Co-ordinator, Kate Welsh, by email at **kate.welsh@gov.ab.ca**, or by phone at 1-780-415-8583.

1.3. Further information can also be found on the Court's website at **http://www.albertacourts.ab.ca** under the Litigation Technology link where particular guidance with respect to the collection and management of ***Electronic Material*** in civil litigation is provided.

1.4. The Court may issue further Practice Notes about such matters as electronic filing and electronic service of ***Court Documents***. Parties are encouraged to refer to the Court's website at **http://www.albertacourts.ab.ca** for current information on these matters.

1.5. This Practice Note comes into force on 2007 September 4, unless otherwise agreed by the parties to apply this Practice Note in whole or in part, for matters initiated prior to this date.

1.6. Definitions

1.6.1. Technical terms used in this Practice Note are defined in Appendix 4 – Glossary of Terms. A term which is so defined is indicated by the use of ***bold italics underlined*** and is hypertext linked in the electronic version of this Practice Note.

1.6.2. In this Practice Note a reference to a rule is a reference to that rule in the Alberta Rules of Court.[1]

[1] Alberta Rules of Court, A.R. 390/68 as amended.

1.7. Appendices

Attached to and forming part of this Practice Note are:

Appendix 1 A checklist of ***Technology*** matters which parties may use to identify technical options and issues that may arise at various stages of the proceedings.

Appendix 2 A sample discoverable document which identifies the type of information to be captured in the ***Fields*** to be used for the description of documents in accordance with the ***Default Standard*** for a schedule to an Affidavit of Records pursuant to Rule 187;

Appendix 3 Guidelines showing how the default ***Fields*** should be populated and suggesting possible additional ***Fields*** for the description of ***Discoverable Records*** in a ***Database***.

Appendix 4 **Glossary of Terms**.

2. APPLICATION OF THE PRACTICE NOTE

2.1. In the event of a conflict between this Practice Note and the Alberta Rules of Court, the Alberta Rules of Court apply.

2.2. This Practice Note, in whole or in part, applies to any civil proceeding:

2.2.1. where the parties agree it will apply and sign a ***Protocol***; or

2.2.2. where the Court orders.

2.3. Parties are encouraged to adopt this Practice Note in a proceeding where one or more of the following apply:

2.3.1. a substantial portion of the ***Potentially Discoverable Records*** consists of ***Electronic Material***;

2.3.2. the total number of ***Potentially Discoverable Records*** exceeds 1,000 ***Records***, or is more than 3,000 pages;

2.3.3. there are more than three parties to the proceeding;

2.3.4. if the matter is likely to be more than a 10 day trial as specified in the E-Appeals Practice Note (*Court of Appeal Practice Note (June 17, 2004) Part K, Electronic Appeals)*.; or

2.3.5. the proceedings are multi-jurisdictional or cross-border.

2.4. Before any party seeks relief from the Court with respect to the use of technology in the proceeding, the parties should use best efforts to reach an agreement to use some or all of the provisions of this Practice Note or another agreed Protocol.

2.5. Parties should consider the ways in which the use of ***Technology*** might lead to the more efficient conduct of the litigation and, in particular, to its application and use in:

2.5.1. delivering ***Court Documents*** to another party;

2.5.2. communicating with another party;

2.5.3. providing copies of ***Records*** to another party; and

2.5.4. preparing an electronic Agreed Exhibit Book for trial or hearing of a proceeding.

2.6. This Practice Note does not apply to Streamlined Procedures under Part 48 of the Rules unless the parties consent.

2.7. In a proceeding to which this Practice Note applies, the Court may, on application by a party:

2.7.1. order that the proceeding or certain steps in the proceeding be conducted using ***Technology***;

2.7.2. where a party is not reasonably able to access ***Records*** produced by another party, order that such other party take steps to enable access to ***Electronic Material*** produced by that party;

2.7.3. resolve disputes between the parties as to matters that are the subject of this Practice Note, and give directions accordingly;

2.7.4. order that there be an ***Electronic Trial*** of the proceeding;

2.7.5. amend, vary or revoke any order previously made under this Practice Note; or

2.7.6. make any other order that it considers appropriate.

2.8. An order for the ***Electronic Trial*** of a proceeding may include any or all of the following orders:

2.8.1. that ***Court Documents*** and other ***Records*** be delivered to other parties in electronic form;

2.8.2. that ***Court Documents*** be delivered in electronic form for the Trial Record;

2.8.3. that there be an electronic Agreed Exhibit Book;

2.8.4. that there be a restriction upon the use of ***Hard Copy Records*** at trial; and

2.8.5. any other Order that the Court considers appropriate.

3. COSTS

3.1. The reasonable costs incurred in complying with this Practice Note, including the expenses of retaining or utilizing necessary internal and external consultants, are considered costs within the meaning of Rule 600(1).

3.2. Where this Practice Note applies, and a party incurs disbursements for work undertaken that is not in accordance with the Default Standard or an existing agreed Protocol or a Court ordered Protocol, then these will not be treated as costs within the meaning of Rule 600(1)(a), unless otherwise ordered by the Court.

4. *DEFAULT STANDARD and* AGREED *PROTOCOL*

4.1. The Court expects that, in all proceedings to which the Practice Note applies, in which the parties are unable to reach agreement on an agreed Protocol, the parties will comply with the following ***Default Standard***, subject to amendments by order of the Court or further agreement by the parties:

4.1.1. the following formats are the default for the delivery of ***Court Documents***[2], to another party:

Record	Format
Court Documents Other than those listed below	PDF - (Image only format)
Lists or schedules of ***Discoverable Records*** under Rule 187	***Tab Delimited ASCII*** file
Record of Pleadings	PDF – (Image only format)
Index for the Agreed Exhibit Book and the Record of Pleadings (if appropriate)	***Tab Delimited ASCII*** file

4.1.2. the following formats are the default for the ***Fields*** for a list or schedule of ***Discoverable Records***[3]***:***

Field	***Data*** Type	Length of ***Field***
Record ID	Alpha/numeric	AAA000000
Date	Date	YYYY-MM-DD
Record Type	Text	254 Characters
Author / [Author Organization]	Text	Unlimited
Recipient / [Recipient Organization]	Text	Unlimited

[2] See Appendix 1 for other options for an agreed protocol

[3] See Appendices 2 and 3

4.1.3. the default fields do not apply to documents over which privilege is claimed:.

4.1.4. the following format is the default for imaged ***Discoverable Records***[4]***:***

Single page ***TIFF*** (CCITT Group 4) with a resolution of 300 dpi

4.1.5. the following format is the default for printable ***Electronic Material***:

Single page ***TIFF*** (CCITT Group 4) with a resolution of 300 dpi

4.1.6. For all other ***Electronic Material*** please refer to Special Considerations in Appendix 1

4.2. If a party to whom this Practice Note applies wishes or needs to depart from the ***Default Standard***, it should seek agreement from all other parties to an agreed ***Protocol***. In an agreed ***Protocol***, the parties are free to modify any ***Field*** or format so long as the ***Data*** so produced and material referred to in 4.1 meets the minimum standards required by the Court and described in the ***Default Standard***.

4.3. In creating an agreed ***Protocol,*** the parties should give consideration to:

4.3.1. the issues concerning the collection and discovery of ***Electronic Material*** discussed in the *Guidelines for the Discovery of Electronic Documents in Ontario, dated October 2005,* which can be found on the website at **http://www.oba.org/en/main/ediscovery_en/default.aspx** ; and

4.3.2. the use which might be made of this ***Data***

4.3.2.1. in the preparation of the index to the Agreed Exhibit Book;

4.3.2.2. in the preparation of a ***Record of Pleadings***; and

4.3.2.3. generally, at trial.

[4] If not black and white then see Appendix 1 Special Considerations

5. COURT DOCUMENTS

5.1. Parties are encouraged to agree to deliver and to accept service or delivery of ***Court Documents*** and other ***Records*** and communications, electronically.

5.2. Even if the parties have not reached agreement as provided in section 5.1, a party must, unless the Court otherwise orders, deliver to any other party upon request a copy in electronic format of any ***Court Document*** which is required to be delivered in ***Hard Copy*** in addition to the ***Hard Copy***.

5.3. Where a ***Court Document*** is provided in electronic format, it must contain the same text as the ***Hard Copy***.

5.4. Where it is impracticable to deliver any part of a ***Court Document*** or ***Record*** in an electronic format, it may be delivered in ***Hard Copy*** or its original form.

5.5. While the sender should make every effort to provide ***Malicious Code*** free ***Data*****,** it is the obligation of the recipient to test for ***Malicious Code***.

6. DISCOVERY OF RECORDS

6.1. At an early stage in the proceeding, parties should consider whether they:

6.1.1. have in their power or possession any ***Electronic Material*** that is potentially discoverable;

6.1.2. have ascertained the probable volume of ***Records*** likely to be produced on discovery by that party, taking into account any limits on discovery that may be agreed between the parties or the subject of a direction of the Court;

6.1.3 have conferred with the other parties regarding any issues about the collection, preservation and production of ***Discoverable Records*** including ***Electronic Material***, and, where possible, agreed on the scope of each party's rights and responsibilities with respect to these matters, including agreeing on any changes to the default standard;

6.1.4. have given the other parties notice of any problems reasonably anticipated to arise in connection with the discovery of ***Electronic Material*** and to have conferred with those parties about these problems, including:

6.1.4.1. the desirability of limiting search efforts for any category of ***Discoverable Records*** where these efforts are considered to be unduly burdensome, oppressive or expensive having regard to the importance or likely importance of this category of ***Discoverable Records*** to the proceeding;

6.1.4.2. the transfer (in whole or in part) of the likely costs of searching for and discovering such ***Discoverable Records*** to the party or parties demanding such discovery; and

6.1.4.3. the identification of potentially relevant and material ***Data*** that is likely to be destroyed or altered in the normal course of the operations of the person in possession or control of the ***Discoverable Records*** containing such ***Data*****,** or pursuant to any document retention policy of that person.

6.1.5. have given due consideration on how to manage ***Records*** electronically in an Examination for Discovery pursuant to Part 13, Division 2 of the Alberta Rules of Court.

6.2. The Court's website contains information regarding the type of ***Potentially Discoverable Records*** in electronic form which may be in the possession of a party and regarding matters which the parties and should take into account in the collection, retention and protection of ***Electronic Material*****.**

6.3. A ***Record*** is sufficiently described if it is described in terms of the ***Fields*** described in the ***Default Standard***, the agreed ***Protocol*** or the Court ordered ***Protocol***, as the case may be.

6.4. Notwithstanding that ***Discoverable Records*** have been produced for inspection in electronic format, a party retains the right to inspect in its original form any ***Discoverable Record*** (including those originally held in ***Hard Copy***).

6.5. Where particular hardware or software or other supporting resources are required to access discovered ***Electronic Material***, the parties should work together to ensure that ***Electronic Material*** can be inspected for use in the proceeding.

7. TRIAL

7.1. Not later than the first pre-trial conference, the parties will be required to make submissions to the Court regarding how best to use ***Technology*** at the trial. They should address all aspects of the ***Technology*** that might be used at trial by the parties and the Court, and in particular:

7.1.1. the equipment and services (including appropriate hardware, software and additional infrastructure) that they and the Court might require;

7.1.2. the arrangements that may need to be made between the parties, the Court and any third party service providers to ensure that appropriate equipment and services are available at the hearing;

7.1.3. the format for the electronic Record of Pleadings, Agreed Exhibit Book and any other ***Record*** that may be necessary which is compatible with the software and ***Technology*** available in the courtroom;

7.1.4. the format of Expert reports and Transcripts of Examinations for Discovery;

7.1.5. the compliance of the parties with the requirements of any ***Electronic Trial*** order; and

7.1.6. how costs of the necessary equipment and services will be shared subject to any orders as to costs made by the Court.

7.2. Not less than 30 days before the date appointed for the commencement of the trial, the parties should meet with the eCourt Co-ordinator of the Court to make arrangements for the provision of the required equipment. At least 14 days prior to the date scheduled for the meeting, the parties must make a joint submission in writing to the eCourt Co-ordinator regarding the arrangements they propose.

7.3. Where an ***Electronic Trial*** is to take place, an electronic version of the Record of Pleadings must be filed at the same time as the ***Hard Copy*** version, pursuant to Rule 239 of the Alberta Rules of Court, of the Record of Pleadings is filed.

7.4. Unless otherwise agreed among the parties or ordered by the Court, the ***Default Standard*** will apply to ***Records*** contained in an Agreed Exhibit Book.

7.5. Each party should have available for production at trial within a reasonable time, if required, the original ***Hard Copy*** or ***Native File*** as the case may be, of each of the ***Discoverable Records*** in its possession that are included in an Agreed Exhibit Book.

Date: 30 May 2007

_____

Allan H. J. Wachowich
Chief Justice

APPENDIX 1

TECHNOLOGY CHECK LIST

Parties are encouraged to use this checklist to identify ***Technology*** options and issues that may arise during proceedings. The ***Default Standard*** is applicable unless the parties agree to another ***Protocol*** or the Court otherwise orders. For more information, please see the *Generic Protocol Document* published on the court's website.

Required format for default standard (**)

1. PRE-TRIAL

***Court Documents* - *Record* Exchange**

- ***Hard copy*** and electronic copy (**) □
- Electronic copy only □
- ***Hard copy*** only □

Electronic *Record* Format for ***Court Documents***

- ***PDF*** Version #[5] (**) □
- Microsoft Word Version #[6] □
- WordPerfect Version #[7] □
- ***ASCII*** text file □
- ***XML*** □
- ***RTF*** □
- ***HTML*** □
- Other □

***Record* Exchange Via**

- CD-R (**) □
- Email Attachment □
- DVD-R □
- Internet (eg. ftp site) □
- External Storage Device □

[5] # version of software must be agreed

[6] # version of software must be agreed

[7] # version of software must be agreed

2. DISCOVERY OF RECORDS

***Discoverable Records* – Exchange**

- ***Hard Copy*** and electronic copy (**) □
- Electronic copy only □
- ***Hard Copy*** only □

Electronic *Record* List Format

- ***Tab Delimited ASCII*** file (**)[Note: Double quotes, hard returns, asterisks and semi colons cannot be used in the database text] □
- ***ASCII CSV*** (comma separated values) □
- Electronic Spreadsheet □
- Word processing table format □
- ***HTML*** Table □
- ***XML*** □
- Other □

***Record* Exchange Via**

- CD-R (**) □
- Email Attachment □
- DVD-R □
- Internet (eg. ftp site) □
- External Storage Device □

In addition to the above list the parties may wish to exchange the *Data* in an agreed *Database* format such as:

- ***Tab Delimited ASCII*** file (**) □
- CT Summation format □
- Dataflight Concordance □
- Excel Spreadsheet □
- File Maker Pro □
- FTI Ringtail Casebook (aka Ringtail Legal 2005) □
- Introspect format □
- Microsoft MDB (aka Access) □
- Searchlight □
- Other □

3. RECORDS PROVIDED TO A PARTY FOR INSPECTION

***Record* Inspection Format**

- ***Native File*** or ***Image*** copy of ***Record*** (**) □
- ***Hard Copy*** only □
- ***Hard Copy*** and ***Native File/Image*** copy □
- Non-paper ***Record*** for example, video/audio tape, ***Database***, microfiche, etc. □
- Other medium □

Image **Formats / *Record* Formats (300 dpi)**

- ***TIFF*** **-** Single page **(**)** □
- ***TIFF*** – Multi page □
- ***PDF*** □
- ***Native File*** □
- ***GIF*** □
- JPEG □
- Other □

Record **Exchange Via**

- CD-R (**) □
- Email Attachment □
- DVD-R □
- Internet (eg. ftp site) □
- External Storage Device □

4. TRIAL

Exchange of Agreed Exhibit Book Indexes

- ***Hard copy*** and electronic/***Image*** copy (**) □
- Electronic copy only □
- ***Hard Copy*** only □
- Other Medium □

Electronic *Record* Index Format

- ***Tab Delimited ASCII*** file (**)[Note: Double quotes, hard returns, asterisks and semi colons cannot be used in the database text] □
- Word Processing Format □
- Electronic Spreadsheet □
- ***ASCII CSV*** (comma separated values) □
- Other □

Record **Exchange Via**

- CD-R (**) □
- Email Attachment □
- DVD-R □
- Internet (eg. ftp site) □
- External Storage Device □

Agreed Exhibit Book Format

- ***Hard Copy*** and electronic/***Image*** copy (**) □
- Electronic ***Image*** copy of all ***Discoverable Records*** in the index □
- ***Hard Copy*** only □
- Non-paper ***Record*** for example, video/audio tape, ***Database***, microfiche, etc. □
- Other Medium □

Electronic *Image* Formats (300 dpi) □
- ***TIFF*** – Single page (**) □
- ***TIFF*** – Multi page □
- ***PDF*** □
- ***GIF*** □
- JPEG □
- ***Native Format*** □
- Other □

Record **Exchange Via**
- CD-R (**) □
- Email Attachment □
- DVD-R □
- Internet (eg. ftp site) □
- External Storage Device □

5. Special Considerations

Redacting (Management of Redacted Documents) □

Image Resolution □

Colour ***Images*** (Compression) □

Unique ***Image*** Name (referenced by **Record_ID**) □

Management of ***Lead/Attachment Relationships*** □

Management of Oversized ***Records*** □

Management of Unprintable Information (e.g. Databases) □

Management of Confidential Information □

Management of Multi-Media Files (such as audio and video files) □

Management of Forensically Gathered Information □

Default *Fields*: (If information is available)

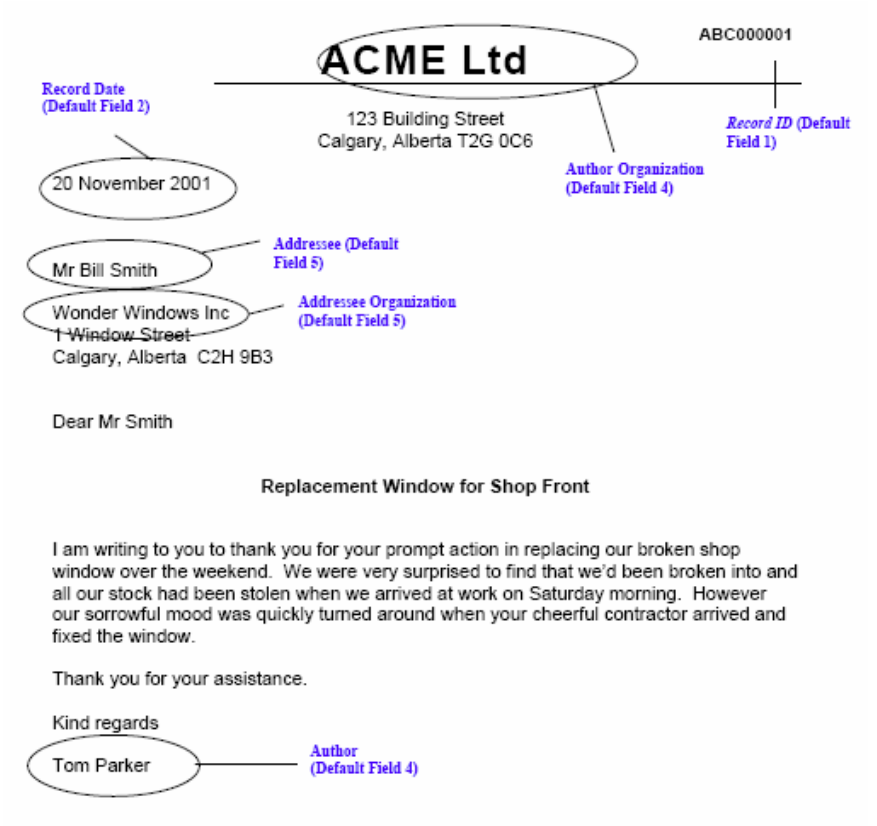
1. ***Record_ID*** AAA000000
2. Date (YYYY-MM-DD or 2001-11-20)
3. ***Record*** Type
4. Author/[Author Organization]
5. Recipient/[Recipient Organization]

The following is an example of a List of Documents which was populated using the ***Data*** from the sample letter contained in ***Appendix 2***. For more detail regarding the ***Default Standard*** including options for departing from the ***Default Standard*** including additional ***Data Fields*** parties may wish to consider including in a List of Documents, please refer to ***Appendix 3***.

Example Affidavit of Records

Record ID	**Date**	**Record Type**	**Author / [Author Organization]**	**Recipient/ [Recipient Organization]**
ABC000001	2001-11-20	Letter	Parker, Tom [ACME Ltd]	Smith, Bill [Wonder Windows Inc]

APPENDIX 2



APPENDIX 3

Database Field Guidelines

***(Default Standard Fields** are shaded)*

Field	***Data* Type and Length of *Field***	**Notes**
Record ID **Default *Field* 1**	Text and Numbers (if appropriate) Length – 9 or depending on ***Field*** structure	Each record should be uniquely identified by the first page number being the Record ID, and stamped in the required form. The ***Field*** will comprise a two part number in form AAA000000 where "AAA" represents alphabetic shorthand for the party name, where 000000 represents the page number or the numbers could be used to suit the convenience of the party processing the information. Unless processing electronic information in its ***Native Format,*** each page of a record should be individually numbered or some other satisfactory arrangement should be reached in an agreed ***Protocol*** and each ***TIFF Image*** should be named to match the ***Record ID***. If processing ***Native Files*** the file name should be the ***Record ID*** with each record numbered consecutively. If the parties agree not to number each page, consideration should be given to an additional ***Field*** recording the number of pages in each record. Attachments to ***Discoverable Records*** will be separately listed and numbered. Attachments can be numbered sequentially following the lead record. For example, a lead record may be numbered XXX-000001 (being a 5 page record) and its attachments would be numbered as XXX000006 (being a 2 page record) and XXX000008 (being a 1

Field	***Data*** **Type and Length of** ***Field***	**Notes**
		page record). Note: For larger matters parties should agree to use an extended number such as AAA-BBBB-FFFF-PPP where: AAA is the Party Code, which identifies the party in the proceedings. Padded characters will not be used. BBBB is the box or bundle number. Padded with zeros, maximum value of 9999 (e.g. 0099) FFFF is the folder of file number. Padded with zeros, maximum value of 9999 (e.g. 0020) PPP is the unique "page" identifier within the document. Padded with zeros, maximum value of 999 (e.g. 099). It should be noted that the first page number in each document will become the document ID.
Lead Record Number	Text and Number, Length depending on the ***Record ID***. Structure	Contains first page of the lead record to which an attachment is attached. There will never be multiple entries in this ***Field*** as each attachment should only ever have one lead record
Date **Default *Field* 2**	Date, 10	Date can be exported as: YYYY-MM-DD for example 2001-11-20 YYYY = Year MM = Month DD = Day Undated = If there is no way of ascertaining the date of the record or it is illegible – leave ***Field*** blank ***Discoverable Records*** with no discernible date will be coded as

Field	***Data*** **Type and Length of** ***Field***	**Notes**
		"Undated" by leaving the date ***Field*** blank. It should be noted that in a true date ***Field*** "00" is not an acceptable value and ***Discoverable Records*** with only the month and year (e.g. August 1997) will be coded as undated unless otherwise agreed between the parties. ***Discoverable Records*** with the day and month but no year are considered undated. ***Discoverable Records*** with a date range will be coded using the earliest date unless otherwise agreed. OR Format is YYYY-MM-DD: 2001-11-20 January is the default month when no month exists and the '01' is the default day when no day exists. For years use 1800 (on historical files use 2050). • Year but no month or day 01-Jan-2000 with the estimated date field coded • Year and day but no month 01-Jan-1999 with the estimated date field coded • No Year but month and day 01-Mar-1800 with the estimated date field coded. DO NOT fill in the missing information with zeros. • If the date is completely illegible LEAVE blank. • Look for the date the document

Field	***Data* Type and Length of *Field***	**Notes**
		was written, created or signed. • If a date has been crossed out and another one written in, use the original date. • If there is an undated fax cover, fax message or fax confirmation/transmittal sheet, use the fax trailer date. The trailer date can only be used as the Docdate if the Doctype is Fax. • Newspaper and journal articles often have a handwritten date on them – you can use this for the docdate if there is no other date. • For electronic documents, the best available meta data is acceptable. Use the following priority for coding dates: • latest revised/updated date – the document must state that it has been revised or updated • latest date of creation (top, bottom of page, or end of document), • latest approved date • latest published date • latest copyright date • latest date from title – If the latest date is a future date then code the latest non-future date • latest stamp date • latest print date When coding agreements/contracts use the following priority: • latest date next to actual

Field	***Data*** **Type and Length of** ***Field***	**Notes**
		signature - the signing date • execution/in effect date – usually in the first paragraph of the document When coding court documents and legal documents use the following priority: • latest date next to actual signature - the signing date • filing date • execution/in effect date
Estimated Date	Text, 3	No = If the exact **full** date is on the record (for example 1963-03-04). Yes = Where we cannot be certain of the actual date and it has been agreed in the ***Protocol*** to use an estimate date. For example if there is a partial date (e.g. August 1979), the date is stamped on, the date has been amended by hand or the only visible date is on the fax track. If an agreement has an original date as well as a subsequent later date as a result of alterations being made to the record, then the later date is taken as the record date and "Estimated Date = Yes". If a newspaper clipping has the date/reference handwritten on to the record, then the record is dated according to the handwritten notation and is an "Estimated Date = Yes". If there is a date range the first date of the date range could be used and "Estimated Date = Yes"

Field	***Data* Type and Length of *Field***	**Notes**
Record Type **Default *Field* 3**	Text, 254	This ***Field*** can be completed using commonly received record types, for example letter, memo, deed etc. If the record has been faxed, this ***Field*** can include "facsimile". If a group of ***Discoverable Records*** is being discovered as a bundle, this ***Field*** may be completed as "Record type bundle". If the document is an E-document then parties should agree on appropriate document types such as xls, Doc or msg, or agree to populate with traditional document types, such as Document, Letter, Fax, etc. Parties should confer and agree on a standard list on a case by case basis at the earliest opportunity.
Author/ [Author Organization] **Default *Field* 4**	Text, 254 or as appropriate	Person or persons who authored the record. To be completed using information on the face of the record. **Last name, First name** for example "Parker, Tom [ACME Ltd]", or if it is an email address it should be captured as it is written, E.g. **tom.parker@acme.com** Author Organization should not be derived from the email address. Semi colons must separate multiple entries.
Recipient/ [Recipient Organization]	Text, 254 or as appropriate	Person or persons who received the record. To be completed using information on the face of the record. **Last name, First name** for example "Smith, Bill

Field	***Data* Type and Length of *Field***	**Notes**
Default *Field* 5		[Wonder Windows Inc]", or if it is an email address it should be captured as it is written, E.g. **bsmith@hotmail.com**. Recipient Organization should not be derived from the email address. Semi colons must separate multiple entries.
Record **Title**	Text 254 or as appropriate	Title of a record such as "Report on Technology" etc. or the "re" line in a letter, memorandum or email, full name of an agreement or lease. Cheque numbers and invoice numbers and amounts If none of these then leave blank. In a discovery of ***Native Files*** this could be where the original electronic file name is captured.
Parties	Text, 254 or as appropriate	Identifies parties to an agreement or other legal record
Source	Text, 20 or as appropriate	Parties may find this ***Field*** useful to identify ***Discoverable Records*** that have been obtained from someone other than the party giving discovery; for example, ***Discoverable Records*** obtained on subpoena or through some other compulsory process of obtaining access to ***Discoverable Records*** or it could be used to identify the location of the original record. This ***Field*** would identify the party from whom such ***Discoverable Records*** were obtained.
Non-paper record	Text, 3	This ***Field*** can be used to identify information recorded using a medium other than paper, where the relevant information has not been printed out and discovered in ***Hard Copy*** form; for example, video and audio tapes, floppy disks and magnetic computer tapes (these could contain emails, non standard software applications, electronic

Field	***Data* Type and Length of *Field***	**Notes**
		Discoverable Records, electronically stored ***Records*** or ***Image*** files etc.). Permissible entries are "Yes" and "No".
Redacted	Text, 3	If the produced record has been redacted. Permissible entries are "Yes" or "No".
Basis of ***Redaction***	Text, 12	If a document has been marked "yes" in redacted field above, then choose reason, such as privilege or confidential.
Pages	Number	The number of pages in each record can be recorded in this ***Field*** – particularly if parties decide to number Records only.
CC	Text	Person or persons who were copied in to the record. To be completed using information on the face of the record. **Last name, First name** for example "Smith, Bill [Wonder Windows Inc]", or if it is an email address it should be captured as it is written, E.g. bsmith@hotmail.com. Semi colons must separate multiple entries.
ENDOC	Text and Numbers (if appropriate)Length – 9 or depending on ***Field*** structure	Complete this field with the last page number in the Record.

APPENDIX 4

GLOSSARY OF TERMS

For the purposes of this Practice Note, the following technical terms shall have the following meanings:

ASCII

The abbreviation for American Standard Code for Information Interchange which is the most common format for text files in computers and on the Internet. In an ***ASCII*** file, each alphabetic, numeric, or special character is represented with a 7-bit or 8-bit binary number.

Court Documents

Those ***Records*** that are filed in Court or that are delivered to another party pursuant to an order of the Court or a Rule or practice of the Court (such as pleadings, discovery lists etc.), and includes witness statements, outlines of expert evidence, chronologies, outlines of argument and other ***Records***.

CSV (comma separated values)

The abbreviation for comma separated values. In computers, a file that contains the values in a table as a series of ***ASCII*** text lines organized so that each column value is separated by a comma from the next column's value and each row starts a new line. A ***CSV*** file collects the ***Data*** from any table so that it can be conveyed as input to another table-oriented application such as a relational ***Database*** application. Microsoft Excel, a leading spreadsheet or relational ***Database*** application, can read ***CSV*** files.

Data

Electronic information that has been translated into a form that is more convenient to move or process (in the format of a ***Database*** for example).

Database

A collection of ***Data*** that is organized so that its contents can easily be accessed, managed and updated.

Default Standard

The standard format established by paragraph 4.1 of this Practice Note for the exchange of electronic evidence.

Discoverable Records

Records that are required to be disclosed to a party in accordance with the Alberta Rules of Court and practice of the Court.

Electronic Material

Any email messages or computer generated files identified in their ***Native Format.*** An example is a computer file of a Microsoft Word record as opposed to the printed version of that record.

Electronic Trial

An ***Electronic Trial*** is a hearing where evidence is managed, presented and stored electronically by the Court in an eCourt. The eCourt is a multi-media electronic in-Court system designed to manage the electronic information relating to and generated by a Court case. The eCourt System is designed to:

Manage Transcripts

- Real-time Transcript (What is being said right now)
- Historic Realtime Transcript (What was said earlier today) (this can be delivered in near realtime, or in batches of transcript delivered on a half day basis or other intervals as may be appropriate)
- Edited Transcript (What was said on previous days)
- Streaming of Realtime to remote locations (if required)

Manage Evidence

Repository for ***Records*** and other multimedia based evidence stored using ***Images*** and ***Native File*** formats imported from the participants
Management of status - exhibits and MFI's (marked for identification)
Court Operator controlled Broadcast Channel (Public View)

Manage Associated Materials

- Manage pleadings, witness statements, etc.
- Manage Audio and Video
- Streaming of realtime audio visual to remote locations (remote transcription services)

Integrate External Resources

- Links to the Court's own web site pages (***Protocol*** pro forma, Practice Note)
- Links to Internet web sites for research
- Links to the Court's additional core systems such as case management

Field

A ***Field*** represents a column of ***Data*** within a ***Database*** or a spreadsheet.

GIF

The abbreviation for Graphics Interchange Format which is one of the two most common file formats for graphical ***Images*** on the World Wide Web. The other is the JPEG (Joint Photographic Experts Group) which is another image format used on the Web

Hard Copy

A ***Record*** in non-electronic form. A ***Hard Copy*** is often a paper copy of a ***Record.***

HTML

The abbreviation for Hypertext Markup Language which is a set of "mark up" symbols or codes inserted in a file intended for display on the Internet by a World Wide Web browser.

Image

A picture that has been created or copied and stored in electronic form, an electronic photocopy. The format of the ***Image*** is given by the file extension name suffix – for example BMP, ***GIF***, JPEG, or ***TIFF.***

Image Resolution

A description of the sharpness of an ***Image*** sharpness (that is, the density of illuminated points) which is measured in dots per inch (dpi). The dot pitch determines the absolute limit of the possible dots per inch. Industry standard is 200 dpi for black and white imaging.

Lead/Attachment Relationships

While lead and attachment relationships are not required in the default ***Fields*** and may not be captured in the majority of lists of ***Records.*** Parties will need to agree on whether to record this information and how it will be recorded for exchange.

Malicious Code

Malicious code is the term used to describe any code in any part of a software system or script that is intended to cause undesired effects, security breaches or damage to a system. Malicious code describes a broad category of system security terms that includes attack scripts, viruses, worms, Trojan horses, backdoors, and malicious active content.

Native (Native Files or Native Format)

A reference to a computer file in its original electronic format. For example, if a ***Record*** is produced as an ***Image*** or in ***Hard Copy*** format the original electronic file is referred to as the ***Native Format***.

PDF

The abbreviation for Portable Document Format which is an open file format that captures all the elements of a printed document.

Potentially Discoverable Records

Records that are included in the initial collection of information at a time when decisions are being made to determine which of them are ***Discoverable Records.***

Protocol

A special set of rules which are often described in terms of an agreed upon, industry or international standard. For this Practice Note the default protocol can be found on the Courts website (see sub-paragraph 1.3)

Record

Record has the meaning set out in Rule 186 of the Alberta Rules of Court, which includes:

> the physical representation or record of any information, data or other thing that is or is capable of being represented or reproduced visually or by sound, or both.

Record ID

The ***Record ID*** is the method by which each ***Record*** is uniquely identified.[8]

Redaction

The process by which information or text is electronically covered or masked in such a way that it can not be read by other parties. ***Discoverable Records*** that contain a combination of discoverable and non-discoverable or privileged information may be produced with non-discoverable or privileged information redacted.

RTF

The abbreviation for Rich Text Format which is a generic file format that allows exchange of text files between different word processors in different operating systems.

Tab Delimited

In computers, a ***Tab Delimited*** file contains the values in a table as a series of ***ASCII*** text lines organized so that each column value is separated by a tab character from the next columns value, and each row starts a new line. Microsoft Excel, a leading spreadsheet or relational ***Database*** application, can read ***Tab Delimited*** files.

Technology

Technology refers to any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of ***Data*** or information. The term information technology includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

[8] See Default Field 1 in Appendix 3 and, for an example, see Appendix 2.

TIFF

The abbreviation for Tagged Image File Format which is a common format for saving ***Image*** files.

XML

The abbreviation for Extensible Markup Language which is a flexible way to create common information formats and share both the format and the ***Data*** on the World Wide Web, intranets, and elsewhere.

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTES

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE "1"

PARENTING AFTER SEPARATION

AMENDED: JULY 1, 2005
(EFFECTIVE: OCTOBER 1, 2005)

1. This Practice Note applies to proceedings under the Divorce Act and the Family Law Act where the parties have co-habited and live in Bonnyville, Brooks, Calgary, Camrose, Edmonton, Edson, Fort McMurray, Grande Prairie, Hinton, Jasper, Lethbridge, Lloydminster, Medicine Hat, Peace River, Red Deer, Slave Lake and Wetaskiwin or within 150 kilometres of any of those cities or towns.

2. Every Plaintiff in an action for divorce and every Applicant in an application for relief under the Family Law Act where child support, custody, access, parenting or contact is an issue must attend the Parenting After Separation seminar within three months of filing the Statement of Claim or application. In the Brooks, Camrose, Hinton and Jasper areas the time within which to attend the seminar is four months. A certificate of attendance must be filed with the Clerk of the Court.

3. Where the parties live within the Judicial Districts of Calgary and Edmonton and within 150 kilometres of these cities no application for interim support for children, custody of, access to, parenting of or contact to children under the age of 16 shall be brought before the party bringing an application first attends Parenting After Separation. A certificate of attendance must be presented to the Clerk of the Court prior to filing an application.

   However, in situations where there is an application being brought:

   a. for interim custody or parenting incidental to an *ex parte* restraining order where there is domestic violence,

   b. where kidnapping or abduction of a child has occurred, or

   c. where a unilateral change in *de facto* custody of a child has taken place,

   the Applicant may bring an application without first attending but is required to attend the course within two weeks of filing the application, and must have registered in the course and provided the proposed date of attendance to the Clerk of the Court prior to filing any documents for the application.

4. The Plaintiff or Applicant must serve upon the Defendant or Respondent to any action or application a "Notice of Mandatory Seminar" in the prescribed form at the same time as the Statement of Claim or originating document is served.

5. The Defendant or Respondent to any such action must attend the Seminar within three months of being served with the Statement of Claim or originating document except for Brooks, Camrose, Hinton or Jasper, where they must attend within four months of being served. A certificate of attendance must be filed with the Clerk of the Court.

6. Any party to an action for divorce or any other proceeding when custody, access or child support is in issue who lives within 100 kilometres of the following towns:

   Hanna
   High Level
   Lac La Biche

   and who is not covered by paragraph 1 of this Practice Note must attend at the local office of Alberta Child and Family Services Authority to view a video version of the Parenting After Separation seminar within 3 months of filing a Statement of Claim or application or being served with either of them.

7. Before an action can be set down for trial, proof of attendance by the party setting the action down for trial must have been filed.

8. Any party who does not attend and has not been exempted may be subject to having his or her pleadings struck or may be refused the right to make submissions on an application or at trial.

9. There is no requirement to take this course where the children are all 16 years of age or over.

10. There may be other extraordinary cases where an exemption from attending the course will be granted and these cases will be dealt with on an individual basis upon application to the court.

[effective October 1, 2005]

PARENTING AFTER SEPARATION COURSE

APPLICATION FOR EXEMPTION

Date of Application _____

Action Number: _____

Style of Cause: _____

Name of Person Seeking Exemption: _____

Name of Counsel: _____

Name of Other Party: _____

Name of Counsel: _____

Date registered for Course: _____

Reason for Asking for Exemption:

- ☐ Exemption not granted
- ☐ Exempt from taking the course
- ☐ Exempt from taking the course before bringing Notice of Motion or application but must take the course within one month of today's date. [In order to obtain a one month exemption the party must already be registered for the course and the dates indicated on this request.]

_____
Justice of the Court of Queen's Bench

_____
Date

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE "2"

NOTICE TO DISCLOSE

AMENDED – JULY 1, 2005
(EFFECTIVE – OCTOBER 1, 2005)

1. The Notice to Disclose attached hereto may be used in proceedings under the *Divorce Act,* the *Matrimonial Property Act* and the *Family Law Act.*

2. The purpose of a Notice to Disclose is to facilitate an exchange of information on a timely basis. Extensions of time for compliance will not be granted in the absence of extraordinary circumstances.

3. **Please read the Notice to Disclose carefully and only ask for disclosure of those items which are relevant and material to the particular proceedings.**

4. The Notice to Disclose has a Notice on the back which is a Notice of Motion under the Rules of Court. Make sure it is filled in and that the return date is far enough in the future so that service can be achieved more than 30 days before the return date.

5. The full Notice to Disclose may only be used in a proceeding in which the Court has not made a final determination of support.

6. Where a Notice of Motion or application is filed after a final determination, disclosure of items 1-8 and 12 in the Notice to Disclose is all that may be requested without court order. Disclosure of items 1-8 and 12 may also be requested not more than once every calendar year after there has been a final determination without an outstanding application .

7. Where a Notice to Disclose is being served after there has been a final determination, the Notice to Disclose shall be served personally.

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF XXXXXXXXXX

BETWEEN:

[NAME]

Applicant

- and -

[NAME]

Respondent

NOTICE TO DISCLOSE
NOTICE OF MOTION

Notice to party requesting disclosure: Carefully review the list of items that may be requested, and only check those items that are relevant to the particular proceedings.

You are hereby required to provide to the Applicant within 30 days of service of this Notice:

☐ 1. A copy of every personal income tax return you have filed for each of the 3 most recent taxation years.

☐ 2. A copy of every notice of assessment and reassessment issued to you for each of the 3 most recent taxation years, or a copy of the Canada Revenue Agency printout of your last 3 years' income tax returns.

☐ 3. If you are an employee, a copy of each of your 3 most recent statements of earnings indicating your total earnings paid in the year to date, including overtime, or where such a statement is not provided by your employer, a letter from your employer setting out that information, including your rate of annual salary or remuneration.

☐ 4. If you receive income from employment insurance, social assistance, a pension, workers compensation, disability payments, dividends or any other source, the most recent statement of income indicating the total amount of income from the applicable source during the current year, or if such a statement is not provided, a letter from the appropriate authority stating the required information.

☐ 5. If you are a student, a statement indicating the total amount of student funding you have received during the current academic year, including loans, grants, bursaries, scholarships and living allowances.

☐ 6. If you are self-employed:

a. Particulars or copies of every cheque issued to you during the last 6 weeks from any business or corporation in which you have an interest, or to which you have rendered a service;

b. The financial statements of your business or professional practice for the 3 most recent taxation years, and

c. A statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to yourself, or to persons or corporations with whom you do not deal at arm's length, for the 3 most recent taxation years.

☐ 7. If you are a partner in a partnership, confirmation of your income and draw from, and capital in, the partnership for its 3 most recent taxation years.

☐ 8. If you have a 1% or more interest in a privately held corporation:

a. The financial statements of the corporation and its subsidiaries for its 3 most recent taxation years, and

b. A statement showing a breakdown of all salaries, wages management fees or other payments or benefits paid to yourself, or to persons or corporations with whom the corporation, and every related corporation, does not deal at arms's length for the corporation's 3 most recent taxation years.

☐ 9. If you are a beneficiary under a trust, a copy of the trust settlement agreement and copies of the trust's 3 most recent financial statements.

☐ 10. Copies of all bank account statements and cancelled cheques solely or jointly in your name for the past 6 months.

☐ 11. Copies of credit card statements for all credit cards solely or jointly in your name for the last 3 months.

☐ 12. A detailed list of any special or extraordinary expenses claimed (where child support is an issue) as well as copies of receipts or other documentation providing the amount of those expenses, namely

a. Child care costs

b. Health care and extended medical and dental insurance premiums attributable to the child

c. Unisured health care and dental expenses

d. **Extraordinary** educational expenses

e. Post secondary educational expenses

f. **Extraordinary** extracurricular expenses

☐ 13. Your monthly budget of expenses (where spousal or adult interdependent partner support is an issue).

☐ 14. A sworn itemized list of your income, assets and liabilities.

☐ 15. Copies of the most recent statement for all R.R.S.P.'s, pensions, term deposit certificates, guaranteed investment certificates, stock accounts and other investments in your name or in which you have an interest.

☐ 16. A list of any exemptions claimed (where the action involves the division of matrimonial property).

DATED at _____, Alberta, on the _____ day of _____, 20 ____.

_____
Applicant / Solicitor for the Applicant

The requested documents are to be delivered to: (insert name of Applicant or Solicitor for the Applicant and address for service).

Note: If parties have shared or split custody or parenting, or there are s.7 expenses being claimed, the party sending the Notice to Disclose is required to send to the other party with this notice to disclose his or her own equivalent to the information being requested.

Notice

TO:

If you fail to provide the requested documents within the time given, you are to appear before the presiding Justice in Chambers at the Court House in the City of _____, in the Province of Alberta at 10:00 a.m. on _____, the _____ day of _____, 20 _____, at which time the Court may:

a) Order you to provide the documents to the Applicant by a specific date;

b) Order payment of support in an amount the Court considers appropriate, drawing an adverse inference against you and imputing income to you;

c) Order you to pay costs to the Applicant up to an amount that fully compensates the Applicant for all costs incurred in the proceedings

d) may grant any other remedy requested by the Applicant.

e) order that your employer, partner or principal, or any other person, provide to the Applicant and/or the Court, any or all of the financial information requested by the Applicant that is within the knowledge of, in the custody of, or under the control of that person.

Action No.

_____

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA
JUDICIAL DISTRICT OF
XXXXXXXXX

_____

BETWEEN:

[NAME]

Applicant

- and -

[NAME]

Respondent

_____

NOTICE TO DISCLOSE
NOTICE OF MOTION

_____

(Name, Address for service, and telephone number of Applicant or Solicitor for the Applicant)

IMPORTANT NOTICE TO THE RESPONDENT:

If you want to present any evidence to the Judge hearing this application, you must:

1. Make an Affidavit, sworn or affirmed as true before a Commissioner for Oaths or Notary Public;

2. File the Affidavit with the clerk of the Court;

3. Make sure the Applicant's lawyer (or the Applicant if he or she does not have a lawyer) receives the Affidavit at least 24 hours before the hearing.

4. Bring an extra copy to Court for the judge.

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE "3"

FAMILY LAW CHAMBERS

EFFECTIVE JANUARY 1, 2006

A. Morning Chambers

1. Time Limits

No application that will take more than 20 minutes in its entirety may be heard in morning family law chambers without leave of the presiding justice. Contested applications for change of custody or substantial changes to a parenting arrangement may not be heard in morning chambers.

Longer applications that cannot conveniently be heard in morning chambers may be set down in special chambers, or for a short oral hearing and adjourned from morning chambers to the date given for the longer hearing.

2. Information Sheets

The Court from time to time will designate information sheets to be completed and presented to the presiding Justice before an application will be heard. Counsel are to exchange these sheets at least 24 hours prior to any application.

3. Affidavits and Statements

A. Divorce Act

A party bringing an application under the *Divorce Act* will be entitled to file only one affidavit sworn by that party in support of the application. The Respondent to the application will be allowed one affidavit sworn by that Respondent in reply. The Applicant is entitled to one sworn affidavit in reply to matters raised by the Respondent. Any new matters raised by the Applicant in the reply affidavit will be disregarded; costs may be awarded against any Applicant attempting to raise new issues in any affidavit filed in reply.

B. Family Law Act

A party bringing an application under the *Family Law Act* will be entitled to file only one Statement sworn by that party for each request made and one contemporaneous supplemental affidavit. The Respondent to the application will be allowed only one Reply Statement and one contemporaneous affidavit sworn by that Respondent for each Statement filed by the Applicant.

The Applicant is entitled to respond to the Respondent's Reply Statement in an affidavit but is limited to matters raised by the Respondent. Any new matters raised by the Applicant will be disregarded; costs may be awarded against any Applicant attempting to raise new issues in an affidavit filed in reply.

If a Respondent wants relief from the Court, the Respondent is entitled to file only one statement for each request made in the Response and one contemporaneous supplemental affidavit. With respect to the relief being sought by the Respondent, the Respondent will follow instructions for the Applicant and the Applicant will follow instructions for the Respondent.

B. Special Chambers

1. References in this Practice Note to the Chambers Clerk means

   (a) in Calgary and Edmonton, the Justices' Chambers Clerk with respect to matters to be heard in Special Family Law Chambers Applications and the Trial Coordinator with respect to matters to be heard on the Civil Trial List;

   (b) in Red Deer and Lethbridge, the Trial Coordinator;

   (c) elsewhere, such court official as the Clerk of the Court shall designate.

2. A Special Family Law Chambers Application is a contested chambers application in respect of a family law matter likely to take more than 20 minutes but not more than one hour to argue. Matters likely to require more than one hour for argument must have special leave of the Court obtained through the Chambers Clerk before they can be set down for Special Family Law Chambers. Applications likely to take more than a half day shall be placed on the Civil Trial List. The practice governing Special Family Law Chambers Applications shall apply to Family Law Applications placed on the Civil Trial List.

3. Information Sheets

   The Court from time to time will designate information sheets to be completed and presented to the presiding Justice before an application will be heard. Counsel are to exchange these sheets at least 24 hours prior to any application.

4. Affidavits and Statements

   A. Divorce Act

A party bringing an application under the *Divorce Act* will be entitled to file only one affidavit sworn by that party in support of the application. The Respondent to the application will be allowed one affidavit sworn by that Respondent in reply. The Applicant is entitled to one sworn affidavit in reply to matters raised by the Respondent. Any new matters raised by the Applicant in the reply affidavit will be disregarded; costs may be awarded against any Applicant attempting to raise new issues in any affidavit filed in reply.

An application may be made to strike out inflammatory and irrelevant material contained in an affidavit, statement or reply statement. However, notice must be given in advance in the letter required pursuant to paragraph 10.

B. Family Law Act

A party bringing an application under the *Family Law Act* will be entitled to file only one Statement sworn by that party for each request made and one contemporaneous supplemental affidavit. The Respondent to the application will be allowed only one Reply Statement and one contemporaneous affidavit sworn by that Respondent for each Statement filed by the Applicant.

The Applicant is entitled to respond to the Respondent's Reply Statement in an affidavit but is limited to matters raised by the Respondent. Any new matters raised by the Applicant will be disregarded; costs may be awarded against any Applicant attempting to raise new issues in an affidavit filed in reply.

If a Respondent wants relief from the Court, the Respondent is entitled to file only one statement for each request made in the Response and one contemporaneous affidavit. With respect to the relief being sought by the Respondent, the Respondent will follow instructions for the Applicant and the Applicant will follow instructions for the Respondent.

An application may be made to strike out inflammatory and irrelevant material contained in an affidavit, statement or reply statement. However, notice must be given in advance in the letter required pursuant to paragraph 10.

5. *Viva voce* evidence may be adduced on the hearing of a chambers application only with the prior leave of the hearing Justice granted on notice, if appropriate, to the other parties involved.

6. A Notice of Motion or Claim shall indicate an estimate of the time required for argument. A party applying for adjournment of applications from regular Chambers to Special Family Law Chambers or to the Civil Trial List should first obtain a hearing date from the Chambers Clerk, and if the adjournment is granted should forthwith advise the Chambers Clerk.

7. If an application in respect of which a Notice of Motion or Claim has been previously filed and served is adjourned to an assigned date, the Applicant's counsel shall forthwith serve all interested parties with written notice of the assigned date. If no previous Notice of Motion or Claim has been served, the Applicant's counsel shall forthwith file a Notice of Motion and supporting affidavit or Claim and Statement returnable on the assigned date and serve a copy of it on all interested parties.

8. To assist in the expeditious hearing of these applications, the practice of the Court concerning the mandatory filing of information forms, including budgets (where spousal support is in issue), evidence and letters listing issues and authorities shall be strictly enforced.

9. (a) The Applicant's materials shall be filed with the Chambers Clerk and served on the Respondent at or before 4:30 p.m. on the 4th Friday before the week in which the assigned hearing date falls. The Respondent's materials shall be filed with the Chambers Clerk and served on the Applicant at or before 4:30 p.m. on the 3rd Friday before the week in which the assigned hearing date falls. Any reply materials of the Applicant shall be filed with the Chambers Clerk and served on the Respondent at or before 4:30 p.m. on the 2nd Friday before the week in which the assigned hearing date falls. Materials not filed before these time limits will not be considered by the Justice assigned to hear the application except by leave of that Justice, which is to be obtained by way of a fiat from that Justice.

   (b) If the date on which materials are required by this paragraph to be served is a holiday, the filing and service of the materials shall be done on the day before the holiday.

10. Counsel for each party shall provide to the Chambers Clerk and serve upon each other at least one week prior to the hearing date a concise letter (no more than four pages) setting out:

    (a) the parties and their counsel,
    (b) the relevant background information with respect to the parties,
    (c) their current situation as verified by affidavits filed,
    (d) the issues,
    (e) each party's position with respect to those issues,

    and citing all relevant authorities.

    It is not necessary to provide highlighted copies of authorities unless there is an unusual point of law that will be argued. However, if counsel are going to rely upon authorities other than leading authorities (*Haisman, Moge*, etc.) then they shall provide at least the head note and highlighted copies of the passages in question.

Counsel shall provide with the letter:

(a) a copy of the filed Notice of Motion, Claim or any Response,

(b) a copy of all filed affidavits and statements, and transcript of cross-examinations that the party intends to refer to at the hearing;

(c) a copy of all previous orders at issue on the application,.

(d) the information sheets designated by the Court from time to time; and

(e) authorities referenced above.

11. In the event that an Applicant misses any of the time limits imposed in this Practice Note, the application will be struck by the Chambers Clerk. In the event that a Respondent misses any of the time limits imposed in this Practice Note, the Court may refuse to allow for late filing, or may grant a fiat for late filing and entertain an application for costs.

12. Any application for an adjournment

(a) before the last day for filing and serving the required letter may, with the agreement of all parties, be obtained by telephone from the Chambers Clerk; or

(b) on or after the last day for filing and service of the required letter, shall be made to the Justice assigned to hear the application, or in the absence of or failing the assignment of that person, to a Family Law Duty Justice;

(c) during the week of the hearing date shall be made to the Justice assigned to hear the application.

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE "4"

***EX PARTE* RESTRAINING ORDERS**

SEPTEMBER 1, 1997
(AMENDMENTS EFFECTIVE JANUARY 1, 2006)

1. Form of Application

   Applications for restraining orders may be made on affidavit evidence after an originating document has been filed. Applications may also be made by completing the designated application form and swearing a declaration.

2. At the beginning of any *ex parte* application for a restraining order, counsel shall advise the Court that oral representations of the facts deposed to will be made and the Chambers Clerk shall ensure that they are tape recorded. Counsel should avoid making *ex parte* applications in private chambers; in circumstances where it is absolutely necessary to proceed in private chambers arrangements should be made to tape record the application or counsel shall undertake not to make any oral representations but solely rely on the affidavit or declaration filed in support of the application.

   (July, 1999)

3. All interim restraining orders shall be in the following form, although variations may specifically be obtained to paragraph 1 of the Order if the distances prescribed are not appropriate in the circumstances.

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF

BETWEEN:

[NAME]

Applicant

- and -

[NAME]

Respondent

BEFORE THE HONOURABLE JUSTICE [NAME])
IN CHAMBERS)

In Court, at _____, Alberta on [Day] day, the [Date] day of [Month], 20[Year]

***EX PARTE* RESTRAINING ORDER**

UPON THE APPLICATION of the Applicant, AND UPON having heard representations of the Applicant, AND UPON having read the Declaration/Affidavit of the Applicant, filed; IT IS HEREBY ORDERED THAT:

1. The Respondent is restrained from being within 200 metres of:

   (A): the Applicant's residence _____ **(ADDRESS)**

   (B): the Applicant's place of employment _____ **(ADDRESS)**

   (C): Other _____ **(ADDRESS)**
   or from being within ***100*** metres of the Applicant anywhere else in the Province of Alberta.

2. The Respondent is restrained from harassing, molesting, watching, following, telephoning or otherwise interfering with or contacting the Applicant, either directly or indirectly, and either personally or by agent, anywhere in the Province of Alberta.

3. A copy of this Order, together with a copy of the Ex Parte Application Form/Affidavit relied upon in support of the application, shall be forthwith served personally upon the Respondent.

4. Upon the Respondent being in breach of any of the terms of this Order, any Police Officer is authorized to forthwith arrest the Respondent , and bring the Respondent, as soon as possible, before a Justice of the Court of Queen's Bench of Alberta to show any reason why there should not be a finding of civil contempt. However, the Respondent shall not be arrested unless the Respondent has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Police Officer and, upon being given an opportunity to do so, does not then obey it.

5. It is further ordered that in making an arrest under this Order, a Police Officer is authorized to do anything necessary to carry out the arrest including the use of as much reasonable force as may be necessary to make the arrest, and without warrant to enter any place where on reasonable and probable grounds the Police Officer believes that the Respondent may be found:

6. This Order is sufficient authority for the keeper of a correctional institution to hold the Respondent in custody pending appearance before a Justice of the Court of Queen's Bench of Alberta.

7. This Order shall remain in effect up to and including the [Date] day of [Month], 20[Year]. This matter will be back before the Court on that day at 10:00 a.m. so that the Court may consider whether to renew the Order for a further period of time. If the Respondent wishes to appear on that date, the Respondent shall file with this Honourable Court such affidavits as the Respondent intends to rely upon and shall serve copies of those affidavits upon the Applicant no later than the [Date] day of [Month], 20[Year] by delivering copies to the address for service of legal documents given by the Applicant. If the Respondent does not appear, an Order may be granted in the Respondent's absence.

8. Either party may apply to, vary or strike this Order upon two (2) clear days' notice.

_____
JUSTICE OF THE COURT OF QUEEN'S BENCH

ENTERED this [Date] day of [Month], 20[Year].

_____
Clerk of the Court

Action No.

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF

BETWEEN:

[NAME]

Applicant

- and -

[NAME]

Respondent

EX PARTE ORDER

LAW FIRM [or NAME]
[Address] [or Address for Service]
[City], Alberta, [Postal Code]

ATTENTION: [Counsel's Name]
[Delete if not represented by Counsel]

Telephone: [Telephone Number]
Fax: [Fax Number]

File Number: [File Number]
[Delete if not represented by Counsel]

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF

BETWEEN:

[NAME]

Applicant

- and -

[NAME]

Respondent

BEFORE THE HONOURABLE JUSTICE [NAME])
IN CHAMBERS)

In Court, at _____, Alberta on [Day] day, the [Date] day of [Month], 20[Year]

RESTRAINING ORDER

UPON THE APPLICATION of the Applicant, AND UPON having heard representations of the Applicant and the Respondent (3.1or upon proof of service on the Respondent) AND UPON having read the Declaration of the Applicant/Respondent filed; IT IS HEREBY ORDERED THAT:

1. The Respondent is restrained from being within 200 metres of:

   (A): the Applicant's residence _____ **(ADDRESS)**

   (B): the Applicant's place of employment_____ **(ADDRESS)**

   (C): Other _____ **(ADDRESS)**
   or from being within ***100*** metres of the Applicant anywhere else in the Province of Alberta.

2. The Respondent is restrained from harassing, molesting, watching, following, telephoning or otherwise interfering with or contacting the Applicant, either directly or indirectly, and either personally or by agent, anywhere in the Province of Alberta.

3. A copy of this Order shall forthwith be personally served upon the Respondent.

4. Upon the Respondent being in breach of any of the terms of this Order, any Police Officer is authorized to forthwith arrest the Respondent, and bring the

Respondent, as soon as possible, before a Justice of the Court of Queen's Bench of Alberta to show any reason why there should not be a finding of civil contempt. However, the Respondent shall not be arrested unless the Respondent has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Police Officer and, upon being given an opportunity to do so, does not then obey it.

5. It is further ordered that in making an arrest under this Order a Police Officer is authorized to do anything necessary to carry out the arrest including the use of as much reasonable force as may be necessary to make the arrest, and without warrant to enter upon any place where on reasonable and probable grounds the Police Officer believes that the Respondent may be found.

6. This Order is sufficient authority for the keeper of a correctional institution to hold the Respondent in custody pending appearance before a Justice of the Court of Queen's Bench of Alberta.

7. This Order shall remain in effect up to and including the [Day], the [Date] day of [Month], 20[Year]. However, it shall cease to have any force and effect upon this action being discontinued or upon the trial of this matter unless continued by order of this Court.

8. Either party may apply to amend, vary, or strike this Order upon two (2) clear days' notice.

_____
JUSTICE OF THE COURT OF QUEEN'S BENCH

ENTERED this [Date] day of [Month], 20[Year].

_____
Clerk of the Court

Action No.

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF

BETWEEN:

[NAME]

Applicant

- and -

[NAME]

Respondent

[ORDER]

LAW FIRM [or NAME]
[Address] [or Address for Service]
[City], Alberta, [Postal Code]

ATTENTION: [Counsel's Name]
[Delete if not represented by Counsel]

Telephone: [Telephone Number]
Fax: [Fax Number]

File Number: [File Number]
[Delete if not represented by Counsel]

COURT OF QUEEN'S BENCH OF ALBERTA

Q.B. FAMILY LAW PRACTICE NOTE "5"

FAMILY LAW PRETRIAL CONFERENCES

(For matters under the *Divorce Act, Matrimonial Property Act* and *Family Law Act*)

EFFECTIVE JANUARY 1, 2006

A pretrial conference must be held before a trial or hearing date can be obtained unless otherwise directed by the Court.

A. The objectives of a family law pretrial conference are as follows:

I. Settlement Component

1. To define the specific matters in issue between the parties.

2. To establish the position of each party relating to the matters in issue.

3. To define the position of each party relating to settlement of the matters in issue.

4. To encourage and promote settlement of the matters in issue. The parties are encouraged to set out their settlement proposal in short, written form. This proposal may be provided to the Pretrial Conference Justice together with the Family Law Pretrial Summary.

5. To determine what facts and issues can be agreed upon for:

   (a) the purpose of settlement; and

   (b) trial, if settlement is not possible.

II. Case Management Component

6. To specify the incomes, expenses, assets, liabilities, exemptions and financial circumstances of the parties in a form which may be provided to the Trial Judge at the start of the trial.

7. To establish what exhibits will be tendered at trial and whether agreement on the admission of facts or exhibits can be reached.

8. To establish the number, names and types of witnesses reasonably expected to be called at trial, the substance of their testimony and the approximate duration of their testimony at trial.

9. To estimate the amount of time required for trial.

10. For matters not yet ready for trial, to determine the steps to be completed before the filing of a Certificate of Readiness, to formulate a plan for the completion of those steps and to determine if a further pretrial conference is required.

B. <u>The following procedural and practice directives apply to family law pretrial conferences:</u>

1. Pretrial summary forms must be exchanged by counsel at least seven days before the date of the pretrial conference and submitted directly to the Pretrial Conference Justice four days prior to the pretrial conference. Failure to provide the forms in a timely fashion may result in an award of **costs against counsel personally**.

2. If counsel wishes to have the client attend at the pretrial conference, counsel shall so advise the other counsel and the Court and make the arrangements for a courtroom. Pretrial conferences with clients present will not be held in private chambers.

3. Counsel for the parties, by agreement and with the consent of the Justice, may arrange for a specific Justice to hear pretrial conferences at which the clients will be present. These pretrial conferences should be arranged by one of the counsel, after consultation with the other, telephoning the Justice's secretary to make suitable arrangements.

4. The Justice who hears the pretrial conference shall not be the Trial Judge unless counsel and both parties agree in writing.

5. The Pretrial Conference Justice will provide a report concerning case management directions to the Trial Coordinator, the Trial Judge, and the parties, through counsel where retained, in advance of trial, but this document will contain no reference to any settlement issues or discussions.

6. At the request of counsel for any party, the Pretrial Conference Justice may make an Order directing steps or procedures to be taken prior to trial and at trial including, but not limited to.

   (a) agreements made concerning exhibits;

   (b) filing of up-dated statements of property, income and financial circumstances of the parties;

   (c) a list of the witnesses to be called at trial by each party with a brief description of the expected testimony of each witness;

   (d) agreements made related to admitted facts and issues;

   (e) exchange of expert reports and the updating of any expert opinions;

(f) disclosure of documents;

g) whether a further pretrial conference should be held prior to trial.

C. Family Law Pretrial Summary

SUBMITTING PARTY _____ Action No. _____
Submitted by: _____
Counsel for the Plaintiff, Applicant, Defendant, Respondent

Parties	Plaintiff/Applicant	Defendant/Respondent
Name:		
Counsel:		
Phone/Fax		
email		

Proceedings are under (circle one): Divorce Act, Matrimonial Property Act, Family Law Act.

Birth Date: _____ _____

Date of Cohabitation: _____

Date of Marriage _____

Date of Separation: _____

Income: _____ _____

Children: (names and birth dates)

1. _____
2. _____
3. _____
4. _____

Issues to be determined at trial: (Check those matters in issue)

(a) Custody (Divorce Act) _____

(b) Access (Divorce Act) _____

(c) Parenting Issues (Family Law Act)
Specify: _____

(d) Time with the child (Family Law Act)
   a) Guardian _____
   b) Non-guardian _____

(e)	Child Support:	(i)	Income	_____
		(ii)	Entitlement	_____
		(iii)	Quantum	_____
		(iv)	Hardship	_____
(f)	Spousal/Partner Support:	(i)	Income	_____
		(ii)	Entitlement	_____
		(iii)	Quantum	_____
		(iv)	Duration	_____
(g)	Matrimonial Property:	(i)	Value	_____
		(ii)	Liabilities	_____
		(iii)	Exemptions	_____
		(iv)	Dissipation	_____
		(v)	Method of Distribution	_____

(h) Other: Specify: _____

_____

1. <u>Trial</u>:

(a) Anticipated time required for evidence and argument:

Plaintiff/Applicant: _____ days
Defendant/Respondent: _____ days

(b) Are security problems anticipated? Yes / No

(c) List trial judges with potential conflicts. _____

_____

(d) Are pleadings / required documents finalized? Yes / No

(e) List any obstacles to trial readiness. For example: outstanding motions, incomplete production, need for further examination, incomplete undertakings, expert opinions, Certificate of Readiness

_____

_____

(f) List the party's witnesses.

_____

_____

2. Admissions:

(a) Will there be an agreed statement of facts? Yes / No

(b) Do the parties agree on the admissibility of any exhibits? Yes / No

3. Alternative methods to resolve dispute:

What efforts have been made to settle this matter prior to the pre-trial conference?

_____

_____

4. Expert Reports:

(a) Are there any expert reports, either obtained or to be obtained? Yes / No

(b) Have Rule 218.1 summaries been exchanged? Yes / No

(c) Will the expert(s) be up-dating his or her opinion before trial? Yes / No

(d) Will the qualifications of the expert(s) be admitted? Yes / No

(e) Application to cross-examine the expert before trial? Yes / No

(f) Can the reports be admitted without calling the experts? Yes / No

(g) Which ones? List. _____

_____

(h) Can the reports go to the trial judge before the trial? Yes / No

(i) In the case of an expert assessment touching on child related matters where both parties have agreed on the assessor, will the assessor be examined in chief or cross examined by both parties or will the assessment be entered by agreement? Circle one

5. Positions:

(a) Set out the current arrangements for custody/access, parenting issues (including time with the child), or contact, the party's position on the disputed parenting issues, and the expert's opinion on those disputed issues.

_____

_____

(b) Set out the current arrangement for child support, and the party's position on the disputed child support issues such as guideline incomes, section seven expenses, undue hardship.

_____

_____

(c) Set out the current arrangement for spousal / partner support, and the party's position on the disputed spousal/partner support issues such as entitlement, quantum and duration: .

_____

_____

(d) Attach the party's statement of assets, liabilities and exemptions (including nature of and method of proof of exemptions and value and tracing issues) and the party's position on the disputed issues.

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE "6"

NOTICE TO REPLY TO WRITTEN INTERROGATORIES

EFFECTIVE JANUARY 1, 2006

1. The Notices to Reply to Written Interrogatories attached as Schedule "A" may be used in *Divorce Act*, *Matrimonial Property Act* and *Family Law Act* proceedings. A Notice to Reply to Written Interrogatories shall be filed prior to service.

2. The purpose of a Notice to Reply to Written Interrogatories is to allow the parties to avoid or reduce the need for examination for discoveries through the exchange of information in writing.

3. A Notice to Reply to Written Interrogatories may set out a maximum of 30 questions which are to be answered in the form of an Affidavit.

4. The Notice to Reply to Written Interrogatories has a Notice on the back of the form which is a Notice of Motion under the Rules of Court. When filing the Notice to Reply to Written Interrogatories, bring the return date to the Clerk's attention to ensure that the matter is put on the Chambers list for the day scheduled.

5. The Notice to Reply to Written Interrogatories may be used only when there is in existence an originating document in a proceeding in which the Court has made no final determination, or there is an outstanding variation application. The Notice to Reply to Written Interrogatories may only be used once in any action, unless otherwise ordered.

Schedule "A"

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF

BETWEEN:

[NAME]

Plaintiff/Applicant

- and -

[NAME]

Defendant/Respondent

NOTICE TO REPLY TO WRITTEN INTERROGATORIES

NOTICE OF MOTION

You are hereby required to provide to the Applicant within 30 days of service of this Notice, answers to the following questions, in writing, under oath:

If you object to answering any of these questions, you must serve on the Applicant, an objection to answering the disputed questions, setting out the reasons for the objection, within 14 days of service of this combined Notice and Notice of Motion.

DATED at _____, on the _____day of _____, 20___.

_____
Applicant or Counsel

The requested documents are to be delivered to: (insert name of lawyer and address)

Notice

If you fail to respond to the questions posed or to state that you object to answering the questions and the reasons therefor, you are to appear before the presiding Justice in Chambers at the Court House in the City of _____ in the Province of Alberta at 10:00 a.m. on _____,the _____ day of _____, 200__, at which time the Court may:

a) order that the questions be answered before a date to be specified in the order;

b) find you in contempt of court;

c) grant the applicant any other remedy requested;

d) grant costs for failing to answer.

Action No.

_____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF

_____

BETWEEN:

[NAME]

Plaintiff/Applicant

-and-

[NAME]

Defendant/Respondent

_____

NOTICE TO REPLY TO WRITTEN INTERROGATORIES

NOTICE OF MOTION

_____

(Name, address and telephone number of Law Firm)

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE "7"

USE OF INDEPENDENT PARENTING EXPERTS

EFFECTIVE MARCH 31, 2001
AMENDED APRIL, 2004
AMENDED JULY, 2006

TABLE OF CONTENTS

PURPOSE AND APPLICATION:

1. This Practice Note is for use in a small minority of separated and divorcing families where:
   a) the families are experiencing an impasse,
   b) the intervention of the Court is required; and
   c) the Court requires assistance from Parenting Experts.

2. It is in the best interests of children who are members of conflicted families that there be early, quick and effective intervention by the Courts and mental health professionals.

3. This Practice Note may be used:
   a. **First** to target specific issues in the family and to facilitate resolution using Parenting Experts in an expeditious, non-adversarial fashion.
   b. **Second**, where resolution is not possible, to provide for an objective assessment of the family by a Parenting Expert as a litigation aid to assist the Court in addressing the best interests of the children.

4. This Practice Note takes into account the limitations imposed on Parenting Experts by the professional bodies that govern them, and has been prepared in consultation with the College of Alberta Psychologists and the Alberta College of Social Workers.

5. This Practice Note does not apply to matters under the ***Child, Youth and Family Enhancement Act***, R.S.A. 2000, c. C-12.

DEFINITIONS:

6. Definitions are set out in Appendix 1 to this Practice Note.

PROCEDURES:

7. This Practice Note provides for two kinds of procedures: **Interventions (both short-term and long-term)** and **Assessments**.

A. General Provisions for Interventions and Assessments

8. Appendix 2 provides forms of Order for Interventions and Assessments. Those forms of order are guides and may be modified to suit the specific case.

9. Failing agreement by the parties as to the Child Parenting Expert to be appointed by the Court, the Court will select the Expert taking into consideration the parties suggestions. The Expert may not be appointed unless the Expert consents to act.

10. This Practice Note expressly recognizes that Parenting Experts are not permitted by their colleges to engage in the dual roles of Assessment and Intervention with the same person or family.

11. Where an order is made under this Practice Note, and the parties are not under case management, the Court shall direct the parties to make an application for case management or shall order that any letters or reports from the Parenting Experts are to come to the judge making the Practice Note 7 order.

12. Each Order for an Intervention or an Assessment must address funding, time lines for funding, and each parent s responsibility for that funding. Before ordering an Assessment or an Intervention, the Court must determine the ability of the parties to pay. If the parties cannot pay and subsidies are not available then an Intervention or an Assessment must not be ordered.

13. Each Order must address the intended use of a Parenting Expert report

or letter. In particular, the Order should address whether the report or letter may be used only for interim applications, or only for trials or for both.

14. The Parenting Expert may, on notice to all parties and by letter seek directions from the Court at any time during an Intervention or Assessment, provided that the Parenting Expert has first contacted legal counsel for the parties in an attempt to resolve the issue. Given the circumstances in each case, the Parenting Expert shall give counsel a reasonable time to respond before seeking directions from the Court. Once a letter is received, the Court may convene a hearing with the Parenting Expert and the parties, or may attempt to resolve the issue by letter to the parties and the Parenting Expert. The notice provision of this paragraph applies to all of those provisions in this Practice Note that provide for the Parenting Expert to contact the Court.

15. The Parenting Expert, on notice by letter with copies to legal counsel, shall seek further directions from the Court in the following circumstances:

a) where a party withdraws from an Intervention or an Assessment,

b) where a party fails to cooperate with the Parenting Expert; or

c) if the Parenting Expert fees for the Intervention or Assessment are not paid as directed by the Court.

16. The Court may include a provision in any order prohibiting further applications by the parties with respect to a parenting, custody or access until the Intervention or Assessment is completed, unless the safety or health of a child is at risk or the Parenting Expert recommends an application.

17. Where a parent refuses to provide his/her consent to the Parenting Expert for an Intervention or an Assessment, or consent to allow the Parenting Expert to speak to the children alone or with the other parent, the Court may dispense with that parent  s consent and order the Intervention or Assessment to proceed without that parent  s involvement.

18. Unless otherwise ordered, no complaint may be made to the professional body governing the practice of the Parenting Expert until the Intervention is complete or the Court has rendered its decision in the matter for which an Assessment has been ordered

B. Interventions

19. An Intervention means a short or long term therapeutic involvement by a Parenting Expert that is resolution oriented to assist families to overcome conflict. The Intervention is intended to support the family in a collaborative, child-centred manner. Some examples of Interventions are given in paragraph

20. The Court may make an order appointing a Parenting Expert to conduct an Intervention which order may include terms that:

a) describe the nature of the issues in dispute;

b) set the type of Intervention and the time limits; and,

c) set the date by which the Intervention should be completed.

21. The types of Intervention may include:

a. **counselling/therapy:** assisting family members in the adjustment of changed circumstances and the restructuring of family roles ;
b. **educational sessions:** in addition to the Parenting After Separation Course, providing family members with education regarding children  s needs, parents  roles, caregivers  roles and negative impact on children of prolonged conflict;
c. **parenting plan:** assisting the parents to jointly develop a parenting plan;
d. **parallel parenting plans**: where the parents cannot cooperate, assisting the parents to develop and implement a parallel parenting plan;
e. **evaluation**: evaluating particular issues specific to that family;
f. **canvassing** the specific needs or, where appropriate, the wishes of the children;
g. **remedial facilitated access:** between parent and child;
h. **recommendations**: to the Court for longer term counselling; mediation/arbitration; other forms of intervention; other community group or support service; psychological testing; whether an Assessment is required; or any other recommendation which the Parenting Expert is of the opinion is appropriate in the circumstances.

22. Where the Intervention results in a written resolution such as a parenting plan defining how the proposed new family arrangements will meet the children's needs, the Court may require the parties to file the resolution with the Court. Where the Intervention does not result in a written resolution, the Parenting Expert shall communicate the resolution of the Intervention to the Court and the Court may use the written resolution or the letter as the basis for a court order determining appropriate parenting arrangements, including parenting time, contact, custody and access arrangements for the children.

23. Where the Parenting Expert communicates with the Court by letter, the Parenting Expert shall not send the letter directly to the parents or the children. The parents are entitled to view the letter with their counsel, but neither the parents nor the children may receive copies of the letter without an order of the Court. Where a party is self-represented, the Court shall provide in the Order how the party may review letters from the Parenting Expert.

24. If, at any point, the Parenting Expert determines that continuing the Intervention would not be useful, the Parenting Expert may terminate the Intervention and report by letter to the Court and legal counsel:
    a. that the Intervention has not been successful, describing factors contributing to the success or lack of success;
    b. that referral to a more appropriate Intervention could be beneficial;
    c. that because there has been no resolution or significant allegations have arisen, a Bilateral Custody Assessment is necessary, or
    d. anything else that the Parenting Expert thinks will be useful to the Court.

Confidentiality for Interventions

25. All participants shall be made aware that the Parenting Expert has a discretion either to disclose all information received from a parent, child or other source, or to keep all or some information confidential if it is in the best interests of the children to do so. However, if the dispute between the parents proceeds to trial the Court may compel production of any information not previously disclosed.

C. Assessments

26. To assist the Court in determining the best interests of the children, the Court may appoint a Parenting Expert to conduct an Assessment or a Bi-lateral Custody Assessment. Assessments will generally be used when the parties are going to trial or to special applications where the Court will determine parenting arrangements in the best interest of the children.

27. An Assessment is an objective, neutral evaluation carried out by a Parenting Expert as an aid to litigation. An assessment may address only one home or parent or child. Assessments may include psychological testing. An Assessment may also explore individual issues such as the educational needs of a child, the mental health of an individual, and anything else that the litigants identify and the Court orders. Assessments include Bi-lateral Custody Assessments.

28. The Court may seek the Expert's recommendations as to the parameters of the Assessment and the necessity for psychological testing.

29. Where a Parenting Expert has commenced an Assessment and concludes that an Intervention may be more appropriate, the Parenting Expert may, by letter, notify the Court and the legal counsel of that conclusion and seek direction from the Court.

30. A Parenting Expert may investigate and collect evidence, and is not limited to reviewing evidence.

31. Where information necessary for the Parenting Expert to complete the Assessment is held by a non-party, the Court may, on notice to the non-party, and permitting the non-party to make submissions to the Court, order the production of that information.

32. If the Parenting Expert concludes that the Assessment or Bi-lateral Custody Assessment must be terminated, the Expert shall identify the factors contributing to the termination and shall make recommendations to the Court as to further Interventions or Assessments.

33. Once the Court has ordered an Assessment, no additional assessments involving the children may be undertaken by the parties without an order of the Court.

Assessment Reports

34. A Parenting Expert shall prepare and deliver to the Court and to all legal counsel the Assessment Report or Reports at times and in the manner directed by the Court.

35. The parents are entitled to view the Report but the parents may not receive copies of the Assessment Report without prior leave of the Court. Legal counsel may not provide copies of the Report nor disclose the contents of the Report to any person, other than their client or experts retained by that counsel on behalf of the client. The children shall not see the Report, nor receive copies of the Report.

36. Where a party is self-represented, that party must be notified by the Expert by letter, a copy of which shall also be provided to the Court and the other party through counsel where that party is represented, that the Assessment Report is being delivered to the Court and that the self-represented party may contact the Court to arrange to see the Report.

37. The Court may direct that an Assessment Report be admitted as evidence in any proceeding in which the best interests of the child who is the subject of the Report are at issue. Where the Report relies on information from a file under the ***Child, Youth and Family Enhancement Act***, or where for any other reason the Court deems it appropriate, the Court may order that the filed Report be sealed.

38. A Parenting Expert who prepares an Assessment Report is compellable to give *viva voce* evidence and to be cross-examined by the parties in any proceeding in which the best interests of the child are in issue.

39. Where an Assessment Report is admitted into evidence at trial, or where a Parenting Expert gives *viva voce* evidence, the Justice, if it is appropriate and cost effective, may order the Expert to conduct further reviews or updated Assessments and make further recommendations after the conclusion of the trial No such order shall place the Expert in a conflict of interest or require an Expert to act if he is unwilling or unavailable.

Confidentiality for Assessments

40. The Assessment Order shall provide that the Assessment is not confidential unless the Expert considers that information disclosed by the children should not be disclosed to the parents. In that event, the Expert shall bring the issue before the Court and the Court may order that information be kept confidential.

41. A Parenting Expert may be required to disclose all or part of the contents of the Expert  s file after the Expert has been given an

opportunity by the Court to explain the consequences of releasing such information and to explain the regulations of the Expert's college.

The Court may make such order as to costs for copying the file as is appropriate in the circumstances.

Dated this 31st day of July, 2006

Allan H. Wachowich Chief Justice	Neil C. Wittmann Associate Chief Justice

APPENDIX 1 - DEFINITIONS

42. The following definitions apply for this Practice Note:

Bi-lateral Custody Assessment means a comprehensive Assessment of the nuclear family to assist the Court in determining parenting arrangements that are in the best interests of the children and within the capabilities of the family. Such an assessment evaluates the parents' capacities to meet their children's needs, and their personal and parenting strengths and vulnerabilities. It may also include assessments of any new partners, extended family members or other associates who play a significant role in parenting the children within the home. Additionally, it involves a comprehensive evaluation of the children's developmental needs, observation of parent/child interactions, and corroboration of reports and observations through collateral information sources.

Parent means the father, mother or guardian of the children as defined in the Family Law Act.

Parenting Expert or **Expert** means a psychologist, social worker or other professional, or a team of professionals, with sufficient training and experience to be accepted by the Court as expert in matters relating to parenting, contact, custody and access to children.

APPENDIX 2 - ORDERS

Action No: [Action No.]

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

[Applicant]

Applicant

- and -

[Respondent]

Respondent

BEFORE THE HONOURABLE MR./MADAM JUSTICE Law Courts Building, Edmonton, Alberta	))))	On _____, the ____ day of _____, 20____.

Practice Note 7 Intervention Order

UPON THE APPLICATION of the Applicant, **[Applicant]**; AND UPON having read the Applicant's Affidavit, sworn **[date]**; and UPON having read **[insert]**

AND UPON having heard from **[insert]** and from **[name of the Parenting Expert]** as to the appropriate terms of this Order;

AND UPON NOTING that this Intervention Order is made under Practice Note 7;

AND UPON NOTING that the Court **[put in the purpose of the Intervention]**;

AND UPON NOTING that the Parenting Expert appointed by the Court herein is a friend of the Court and responsible to the Court and not responsible to either party;

AND UPON NOTING that the Parenting Expert may not disclose all information received from a parent, child or other source, and may keep all or some information confidential if it is in the best interests of the children to do so, but if the dispute between the parents proceeds to trial the Court may compel production of information from the Parenting Expert.

AND UPON NOTING the Interim Order of Justice **[name of Justice]** dated **[date]** which provides that the **[parent(s)]** has/have **[parenting time,**

joint, sole, shared] custody of the children, and that the primary residence of the children is with **[mother/father]**;

AND UPON the Court being advised that the name and birth date of each child of the parties' marriage or relationship is as follows:

[Child's Name], born **[Child's Birth date]**;
[Child's Name], born **[Child's Birth date]**;

AND UPON **[insert any other preamble information].**

IT IS HEREBY ORDERED THAT:

43. [name of professional] is hereby appointed as a Parenting Expert to carry out the following **[short term or long term]** Intervention under Practice Note 7:

    a. **[describe fully the nature of the Intervention that is being ordered considering the types of intervention set out in the Practice Note]**

    b.

44. [where the Intervention is short term the following should be included:] This is a short term Intervention which must not take longer than **[specify the number of hours]** hours without leave of the Court.

45. [where the Intervention is long term, the court should consider setting time lines in consultation with the Parenting Expert]

46. The Parenting Expert may during the course of his/her mandate seek directions from the Court on notice to the parties provided that the Parenting Expert has given a reasonable time to counsel to respond before seeking directions from the Court, where:

    a. the parties are not cooperating with the Parenting Expert;

    b. the Parenting Expert concludes that the Intervention should be terminated and the Expert shall identify the factors contributing to the termination and shall make recommendations to the Court as to further Interventions or Assessments that the Court might order; or

    c. the parties have failed to fund the Intervention in accordance with the terms of this Order.

47. When seeking directions, the Parenting Expert may communicate with the Court by letter with copies to counsel representing the parties.

48. The Parenting Expert shall not, without leave of the Court, give the letter or copies of the letter to the parties. **[where one or both of the parties are self represented, set out in the order how they will view the letter.]**

49. Counsel for the parties shall not, without leave of the Court, give a copy of the letter to the parties or to the children. **[where one or both of the parties are self represented, set out in the order how they will view the letter.]**

50. The Parties may use the letters or reports from the Parenting Expert for: **[all purposes in the litigation, or only for the purpose of the case management, or only for the purpose of trial, or anything else the Court may order.].**

51. If a parenting plan or other written resolution is developed by the parties during the course of the Intervention, they shall file it with the Court.

52. Where it is necessary for the Parenting Expert to speak with a child, either alone or with the parents, the consent of the parents is hereby dispensed with.

53. Subject to the ultimate determination by the trial Justice as to how the parties shall bear the costs of the Parenting Expert, the remuneration for the Parenting Expert shall be paid in the first instance by the parties as follows:

a. **[address whether either or both parties are to seek a subsidy]**

b. **[name of party]** is to bear **[percentage]** share of the costs in the interim;

c. **[name of other party]** is to bear **[percentage]** share of the costs in the interim;

54. If either party fails to comply with the terms of this order concerning remuneration of the Parenting Expert by **[set date]**, the parties shall return to this Court for further direction **[set default date].**

55. **[if there are to be no applications to the Court until the Intervention is complete]** There shall be no applications to the Court until the Intervention is complete without leave of the Court.

56. Unless otherwise ordered, no complaint may be made to the professional body governing the practice of the Parenting Expert until the Intervention is complete.

Justice of the Court of Queen's Bench of Alberta

ENTERED this _____ day of
_____, 20____.

Clerk of the Court

Action No: [Action No.]

IN THE COURT OF QUEEN'S BENCH

OF ALBERTA

JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

[Applicant]

Applicant

- and -

[Respondent]

Respondent

Intervention Order

Action No: [Action No.]

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

[Applicant]

Applicant

- and -

[Respondent]

Respondent

BEFORE THE HONOURABLE
MR./MADAM
JUSTICE
Law Courts Building,
Edmonton, Alberta

On _____, the ____ day of _____, 20____.

Practice Note 7 Assessment Order

UPON THE APPLICATION of the Applicant**, [Applicant]**; AND UPON having read the Applicant's Affidavit, sworn **[date]**; and UPON having read **[insert]**;

AND UPON NOTING that this Assessment Order is made under Practice Note 7;

AND UPON having heard from **[insert]** and from **[name of the Parenting Expert]** as to the appropriate terms of this Order;

AND UPON NOTING that the Court wishes to have an Assessment to assist the Court in determining the family arrangements that will be in the best interests of the children of the family;

AND UPON NOTING that the Parenting Expert appointed by the Court herein has consented to conduct the Assessment and is a friend of the Court and responsible to the Court and not responsible to either party;

AND UPON NOTING the process set out herein is a Court directed process and is not confidential unless otherwise ordered by the Court and that no confidentiality attaches to the information shared by the parties, third parties or the children with the Parenting Expert and that all such information may be disclosed to the Court;

AND UPON NOTING the Interim Order of Justice **[name of Justice]** dated **[date]** which provides that the **[parent(s)]** has/have **[kind of parenting time] [joint, sole, shared]** custody of the children, and that the primary residence of the children is with **[mother/father]**;

AND UPON the Court being advised that the name and birth date of each child of the parties' marriage or relationship is as follows:

[Child's Name], born **[Child's Birth date];**

[Child's Name], born **[Child's Birth date];**

AND UPON [insert any other preamble information];

IT IS HEREBY ORDERED THAT:

57. **[name of professional]** is hereby appointed as a Parenting Expert to carry out the following Assessment under Practice Note 7:

    a. **[describe fully the nature of the assessment that is being ordered]**

    b. **[or]** a Bi-lateral Custody Assessment.

58. The parties and the children are ordered to cooperate with the Parenting Expert and: to attend before the Expert; to answer questions; to submit to testing; to allow access to the child's current or proposed accommodation; and to authorize non-parties to release relevant information, where release is not prohibited by statute, privilege or otherwise.

59. If the parties do not cooperate with the Parenting Expert, the Expert shall report the lack of cooperation to the Court on notice to the parties.

60. The Parenting Expert will provide the Assessment Report directly to the Court copying all information to counsel for the parties.

61. The Parenting Expert shall not, without leave of the Court, give the Assessment Report or copies of the Assessment Report to the parties. Further, counsel for the parties shall not give a copy of the assessment report to the parties. The parties may view the assessment report in their counsel's office**. [where one or both of the parties are self represented, set out in the order how they will view the reports.]**

62. The Parenting Expert may at any time seek directions from the Court upon reasonable notice to the parties.

63. Where it is necessary for the Parenting Expert to speak with a child, either alone or with the parents, the consent of the parents is hereby dispensed with.

64. Subject to the ultimate determination by the trial Justice as to how the parties shall bear the costs of the Parenting Expert, payment of the Parenting Expert shall be paid by the parties as follows:

    a. **[address whether either or both parties are to seek a subsidy]**

    b. **[name of party]** is to bear **[percentage]** share of the costs in the interim;

    c. **[name of other party]** is to bear **[percentage]** share of the costs in the interim;

65. If either party fails to comply with the terms of this order concerning remuneration of the Parenting Expert by **[set date]**, the parties shall return to this Court for further direction **[set default date].**

66. The parties may not obtain additional Expert reports which involve the children without prior leave of the Court.

67. Unless otherwise ordered, no complaint may be made to the professional body governing the practice of the Parenting Expert until the Court has rendered its decision in the matter for which the Assessment has been ordered.

Justice of the Court of Queen  s Bench
of Alberta

ENTERED this _____ day of
_____, 20____.

Clerk of the Court

Action No: [Action No.]

IN THE COURT OF QUEEN'S BENCH

OF ALBERTA

JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

[Applicant]

Applicant

- and -

[Respondent]

Respondent

Assessment Order

.

COURT OF QUEEN'S BENCH OF ALBERTA

Q.B. FAMILY LAW PRACTICE NOTE "8"

ALLEGATIONS OF SEXUAL ABUSE

EFFECTIVE JANUARY 1, 2006

1. This Practice Note applies to family law actions where one parent makes an allegation of child sexual abuse against the other parent, or someone in his or her household, and is intending to raise the allegation in court proceedings for custody, access, parenting or contact.

2. In these circumstances, counsel for the party making the allegation or if none, the party, shall forthwith provide a completed notification in Form 1 to the designated office of Children's Services in the appropriate region, and the Clerk of the Court in the appropriate judicial district. A Justice hearing an application for custody, access, parenting or contact may direct that a Notification in Form 1 be completed by a party to the proceeding.

3. Upon receipt of the Notification in Form 1, or upon receiving a complaint, a special investigator designated by Children's Services shall complete a Child Protection Screening [Form 2]. The information provided to the special investigator will be assessed in light of the provisions of the Child, Youth and Family Enhancement Act to determine if there are grounds for investigation. If it is determined that the matter does not warrant an investigation, a copy of completed Form 2 shall be forwarded to the Justice assigned to the case.

4. If the information obtained from the Child Protection Screening requires further investigation, the special investigator shall commence that investigation process forthwith and may, for that purpose, utilize the assistance of the appropriate police authority as required. The special investigator shall complete an investigation report and attach it to a completed Form 3. A copy of Form 3 and the Investigation Report shall be forwarded to the Justice assigned to the case.

5 The special investigator from Children's Services and the police authority or either of them shall be entitled to consult with other professionals if required during the course of the investigation, who may prepare a Specialized Referral Report. The special investigator will forward any reports to the Justice assigned to the case

6. All reports received from Children's Services will be placed in a sealed envelope on the court file. However, the parties or their respective counsel shall be entitled to receive a copy unless in the case management Justice's discretion it is not in the children's best interests to do so or the report does not pertain to the issue before the court.

7. The action will be subject to case management and all applications shall be brought before the assigned case management Justice.

8. In cases where there is an allegation of abuse the case management Justice may order an early trial date.

9 This practice note only applies to the City of Edmonton and other areas within Region 6 of Child and Family Services at this time.

Form 4 will be eliminated

COURT OF QUEEN'S BENCH OF ALBERTA

THIS FORM SHALL BE SEALED ON THE COURT FILE UNLESS OTHERWISE ORDERED

Alberta

Action No. _____

FORM 1

NOTIFICATION

FAMILY LAW – ALLEGATION OF SEXUAL ABUSE

TO: The Clerk of the Court of Queen's Bench of Alberta
Judicial District of _____ (and)
Child and Family Services Authority of _____

FROM: _____

1. Name of Mother _____
   Address _____
   _____
   Telephone No. _____

2. Name of Father _____
   Address _____
   _____
   Telephone No. _____

3. Name of any third party (step-parent) _____
   Address _____
   _____
   Telephone No. _____

4. Name of Child(ren) and Date of Birth
   a) _____
   b) _____
   c) _____
   d) _____
   e) _____

5. Allegation _____
   _____
   _____

Name of person submitting notice _____

_____
(Signature)

Address _____
_____

Telephone No. _____

COURT OF QUEEN'S BENCH OF ALBERTA

THIS FORM SHALL BE SEALED ON THE COURT FILE UNLESS OTHERWISE ORDERED

Action No. _____

FORM 2

FAMILY LAW – INVESTIGATION INTO ALLEGATION OF SEXUAL ABUSE

CHILD PROTECTION SCREENING

TO: The Clerk of the Court of Queen's Bench of Alberta
Judicial District of _____

FROM: _____

1. Name of Mother _____
   Address _____
   _____
   Telephone No. _____
2. Name of Father _____
   Address _____
   _____
   Telephone No. _____
3. Name of any other relevant third party _____
   Address _____
   _____
   Telephone No. _____
4. Name of Child(ren) and Date of Birth
   a) _____
   b) _____
   c) _____
   d) _____
   e) _____
5. Allegation _____
   _____
   _____
6. Matter is/is not proceeding to an investigation _____
7. Reasons _____

   Name _____
   _____
   (Signature)

   Address _____
   _____
   Telephone No. _____

COURT OF QUEEN'S BENCH OF ALBERTA

THIS FORM SHALL BE SEALED ON THE COURT FILE UNLESS OTHERWISE ORDERED

Alberta

Action No. _____

FORM 3

FAMILY LAW – INVESTIGATION INTO ALLEGATION OF SEXUAL ABUSE

INVESTIGATION REPORT

TO: The Clerk of the Court of Queen's Bench of Alberta
Judicial District of _____

FROM: _____

1. Name of Mother _____
   Address _____
   _____
   Telephone No. _____
2. Name of Father _____
   Address _____
   _____
   Telephone No. _____
3. Name of any other relevant third party _____
   Address _____
   _____
   Telephone No. _____
4. Name of Child(ren) and Date of Birth
   a) _____
   b) _____
   c) _____
   d) _____
   e) _____
5. Allegation _____
   _____
   _____

The investigation report is attached.

Name _____
_____
(Signature)

Address _____
_____

Telephone No. _____

COURT OF QUEEN'S BENCH OF ALBERTA

FAMILY LAW PRACTICE NOTE "9"

DISPUTE RESOLUTION OFFICER PROJECT (CALGARY)/ CHILD SUPPORT RESOLUTION PROJECT (EDMONTON)

EFFECTIVE JULY 31, 2006

This practice note applies only to the Judicial Districts of Edmonton and Calgary. In Calgary, this practice note shall apply to any application for interim or variation of child support. In Edmonton this practice note shall apply to such applications only if the applicant is self-represented.

This Practice Note does not apply to matters under the **Child, Youth and Family Enhancement Act**, RSA. 2000, c. C-12, nor does it apply to Provisional Orders made under the **Divorce Act**, RSC 1985, c. 3

A. For all actions set in the Judicial District of Calgary, the Dispute Resolution Officer (DRO) Project shall operate as follows:

1. Any application for interim or variation of child support shall be first returnable before a volunteer DRO who shall assist the Court in a number of ways, from facilitating a resolution to providing directions for the completion of disclosure.

2. All child support applications (whether interim or variation) shall initially be scheduled by the Clerk of the Court to be spoken to at a DRO Session. The Clerk shall stamp on any Notice of Motion relating to child support a notation that any portion of the application relating to child support shall be spoken to at a DRO Session and shall indicate a date for that Session. A party may pre-book a DRO Session by telephone prior to filing a Notice of Motion.

3. Except in cases of emergency (in which case an exemption may be obtained by Fiat) no application for child support shall be heard in Chambers unless a DRO has noted on the court file that a DRO Session has been completed.

4. The parties and (if represented) their lawyers shall attend at the DRO Session. The DRO shall attempt to negotiate settlement and may give directions regarding further disclosure to be provided by either party.

5. At the conclusion of the DRO Session the DRO shall make a notation to be placed on the Courthouse file setting out the results of the DRO session. The DRO may assist in drafting the Consent Order, which the Parties shall sign and then attend

in Court to present to a Justice for signature. The Order might include the following:

a. Matter settled on the following basis [details to be set out] or as per attached Consent Court Order.

b. Further DRO Session scheduled by consent [set out return date].

c. No settlement reached; matter to be spoken to in Chambers [return date to be set out].

d. Matter to be spoken to in Chambers, and listed documentation to be provided [set out return date, disclosure to be provided and by whom]

Calgary Contact Information:

Dispute Resolution Officer Project
Court of Queen's Bench, 1st Floor
611 4th Street, S.W.
Calgary, AB T2P 1T5
Telephone (403)297-3875

B. For all actions set in the Judicial District of Edmonton, the Child Support Resolution (CSR) Project shall operate as follows:

6. Except in the case of emergency (in which case an exemption may be obtained by Fiat) no application for child support shall be heard in Chambers unless a CSR Project Officer has noted on the court file that a CSR Meeting has been completed.

7. CSR Project Officers are located in the Family Law Information Centre on the main floor of the Edmonton Court House.

8. All self-represented parties who wish to bring any application for interim or variation of child support must, before filing such an application, schedule and attend an appointment for a CSR Meeting. The Clerk of the Court shall issue a Notice to Attend Child Support Resolution Meeting which will indicate a date for the CSR meeting. The applicant must serve this Notice and all of his or her financial information (details of gross and net salary, details of any other income, and copy of last three years income tax information)on the other party or parties.

9. The parties shall attend the CSR Meeting and shall bring all of their financial information to the Meeting. If the respondent is represented by counsel, that party's lawyer may also attend. If one or both of the parties resides outside of the City of Edmonton, the CSR Meeting may take place by telephone conference. The CSR Officer shall attempt to negotiate settlement and may give directions regarding further financial disclosure to be provided by either party.

10. The CSR Officer may assist in drafting a Consent Order, which the parties may sign. The Consent Order will then be sent to a Justice for signature.

11. At the conclusion of the CSR Meeting, the CSR Officer shall make a notation to be placed on the court file, setting out the results of the CSR Meeting. Such notation might include the following:

    a. Matter settled on the following basis [details to be set out] or as per attached Consent Order.

    b. Further CSR Meeting scheduled by consent [return date to be set out]

    c. No settlement reached; matter to be spoken to in Chambers [return date to be set out]

    d. Matter to be spoken to in Chambers. Listed documentation to be provided [return date to be set out, details of disclosure to be provided and who is to provide it]

Edmonton Contact Information:

Child Support Resolution Project:
Address: Court of Queen's Bench Family Law Information Centre
Main Floor, Edmonton Law Courts Building
1A Sir Winston Churchill Square
Edmonton, Alberta T5J 0R2
Clerk Telephone: (780) 427-1907

COURT OF QUEEN'S BENCH OF ALBERTA

Q.B. FAMILY LAW PRACTICE NOTE "10"

CHILDREN'S SERVICES INTERVENTION

EFFECTIVE JANUARY 1, 2006

In any divorce or other family law proceeding where custody, access, parenting of a child or contact with a child is in issue, Children's Services may intervene by filing a Notice to Intervene and serving the Notice on counsel for both parties or, if the parties do not have counsel, on the parties themselves. Thereafter, unless the Court directs otherwise, Children's Services shall be served with notice of all applications and trials pertaining to the custody, access or parenting of a child or contact with a child and may attend any application or hearing and make representations.

Action No. _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL DISTRICT OF _____

Between:

Xxx Yyy

Plaintiff

- and -

Aaa Bbb

Defendant

Notice of Intention to Intervene

Notice is hereby given on behalf of Children's Services that Children's Services intends to intervene in this action with respect to the following children:

---

and will be asking leave of the Court to make representations at any court hearing.

For further information please contact: _____ [name]

_____ [telephone number]

Dated at _____ this _____ day of _____, _____.

Notice of any applications or any trials in this action are to be given to Children's Services by ordinary mail at least 7 days prior to any hearing at the following address:

Action No. _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL DISTRICT OF _____

Between:

Xxx Yyy

Plaintiff

- and -

Aaa Bbb

Defendant

NOTICE OF INTENTION TO INTERVENE

Address for Service:

_____

_____

_____

_____

COURT OF QUEEN'S BENCH OF ALBERTA

Q.B. FAMILY LAW PRACTICE NOTE "11"

DEADLINE FOR RESOLUTION OF FAMILY LITIGATION

Q.B. Practice Note "11" which came into effect on January 1, 2006, is, by resolution of the Council of the Court of Queen's Bench, passed May 28, 2008, hereby rescinded effective immediately.