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# FAMILY LAW CASE CONFERENCES

Case Management is a process that applies to certain family law proceedings in the Court of Queen's Bench (Family Division) Winnipeg Centre. It allows a Judge to mediate, monitor and manage the progress of a court case.

Case Conferences generally last for 45 minutes to an hour. They are more informal than a trial and are more geared toward settlement. The objectives of Case Management are to:

- help parties decide if a settlement can be reached without going through the court process; and
- if a settlement cannot be reached, to make sure that all the steps that need to be taken before trial or hearing have been taken and that the parties are ready to go to trial.

The Petitioner (the party who has started the court action) must serve a document called a Case Management Pamphlet on every other party at the same time and in the same way as the initiating pleading is served. (An Initiating pleading is a Petition for Divorce, Petition, Notice of Application, Notice of Application for Guardianship, Notice of Application to Vary, Notice of Motion to Vary, or a Statement of Claim). The Petitioner must also serve a Demand for Financial Disclosure (Form 70D.1) if support is involved. The Petitioner has a year to serve the initiating pleading, from the date of filing, or apply for leave to extend the time for service within a year.

A Case Conference must be held first, before any Motion or Application is heard. Exceptions can be made with leave of a Judge for urgent matters or cases of hardship.

## **To Set a Case Conference:**

If there are no issues of support, custody, access or guardianship, you can file a Requisition (Form 70D.2) for a Case Conference, confirming that the initial Petition (or other pleading) has been filed and served, and marking on the form whether the case conference is with or without the consent of both parties.

If there are issues of support, custody, access or guardianship, there are two ways to proceed to set a Case Conference date:

1) With consent of the parties if:

- all required financial information has been provided by each party,
- if the matter involves custody, access, or guardianship, the parties have attended, or are enrolled in, the "For the Sake of the Children" program,
- the Petition (or other pleading) has been filed and served, and
- each party indicates that they have consented to the case conference.

2) If no consent, or if financial information has not been provided and:

- the Petition (or other pleading) has been filed and served,
- if the matter involves custody, access or guardianship, the party requesting the Case Conference has attended or is enrolled in the "For the Sake of the Children" program
- the party requesting the Case Conference has given all required financial information to the other party
- the party has served a Demand for Financial Information (Form 70D.1) on the other party and has received the information, gotten an order for disclosure, or will make a motion for disclosure within two weeks of filing the Requisition. This motion must be heard before the date of the Case Conference.

Once you get a Case Conference date from the Registrar, you must serve the Requisition (Form 70D.2) on the other party at least 14 days before the Case Conference.

You must file and serve a Case Management Information Statement (Form 70S) at least seven days before the Case Conference date.

The Case Management Information Statement contains:

- the names and addresses of the parties;
- the date of marriage or cohabitation and date of separation;
- the names, ages and birthdates of children;
- whether there are any outstanding motions and details about them;
- which matters have been settled;
- which matters have not been settled (with a summary of the present situation and the party's proposals for resolving these outstanding matters);
- if support is being asked for, information should be given about what disclosure has been provided and what still needs to be provided;
- if a trial date is being asked for, provide information to show that the matter is ready to go to trial, information about witnesses, and time requirements;
- if you are asking to change a Child Support Order, provide details about a change of circumstances (for example information about income).

At the Conference, the matters may be resolved. If not, the Judge may make various orders including:

- asking the parties to provide further information;
- asking the parties to attend mediation;
- referring the parties to Family Conciliation Services' First Choice evaluation service;
- referring the parties for a court-ordered assessment by Family Conciliation Services;
- ordering a paternity test;
- imputing income to a parent (interim and reviewable);
- ordering child support (interim and reviewable);
- suspending enforcement of support or arrears;
- recalculating child support.

If a party is not complying with orders or court rules, the judge can also order costs (must be paid immediately), a stay of proceedings, that the party's pleadings be struck out or that the party or the party's lawyer come to court.

If the parties come to an agreement at the Case Conference, they prepare a Consent Order that shows what they actually agreed or consented to. The same Judge will preside at all Case Conferences. This is referred to as being "seized." If the matter goes to trial, a different Judge will preside, unless the parties agree to have the same Judge preside.

After a case conference, the judge must issue a Case Conference Memorandum setting out the results of the case conference, including any Orders made or directions given; the issues that have been resolved; the issues requiring a trial or hearing; and if the Judge schedules another Case Conference or a party requests one, the date of the next Case Conference and the steps to be taken before that Case Conference.

There can be a maximum of three Case Conferences before the matter is resolved or goes to trial. (There may be more than three if a judge allows additional case conferences). The Case Conference Memorandum, issued by the Judge, provides the parties with direction before the next Case Conference.

A party that does not agree that a Case Conference Memorandum is accurate has 14 days to notify the court and the other party. The 14 days runs from when the Case Conference Memorandum was received. The party that is objecting can ask to have the Case Conference re-opened to deal with the matter in dispute.

In Queen's Bench Courts (other than Winnipeg Centre), parties must attend at least one Pre-Trial Conference with a Judge before the trial. This is similar to a Case Conference, with similar goals. In Provincial Court, there is no Pre-Trial Conference.

For more information, see Court of Queen's Bench Rules, Rule 70 Family Proceedings (Manitoba Regulation 553/88), at <http://web2.gov.mb.ca/laws/rules/qbr2e.php#r70>

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