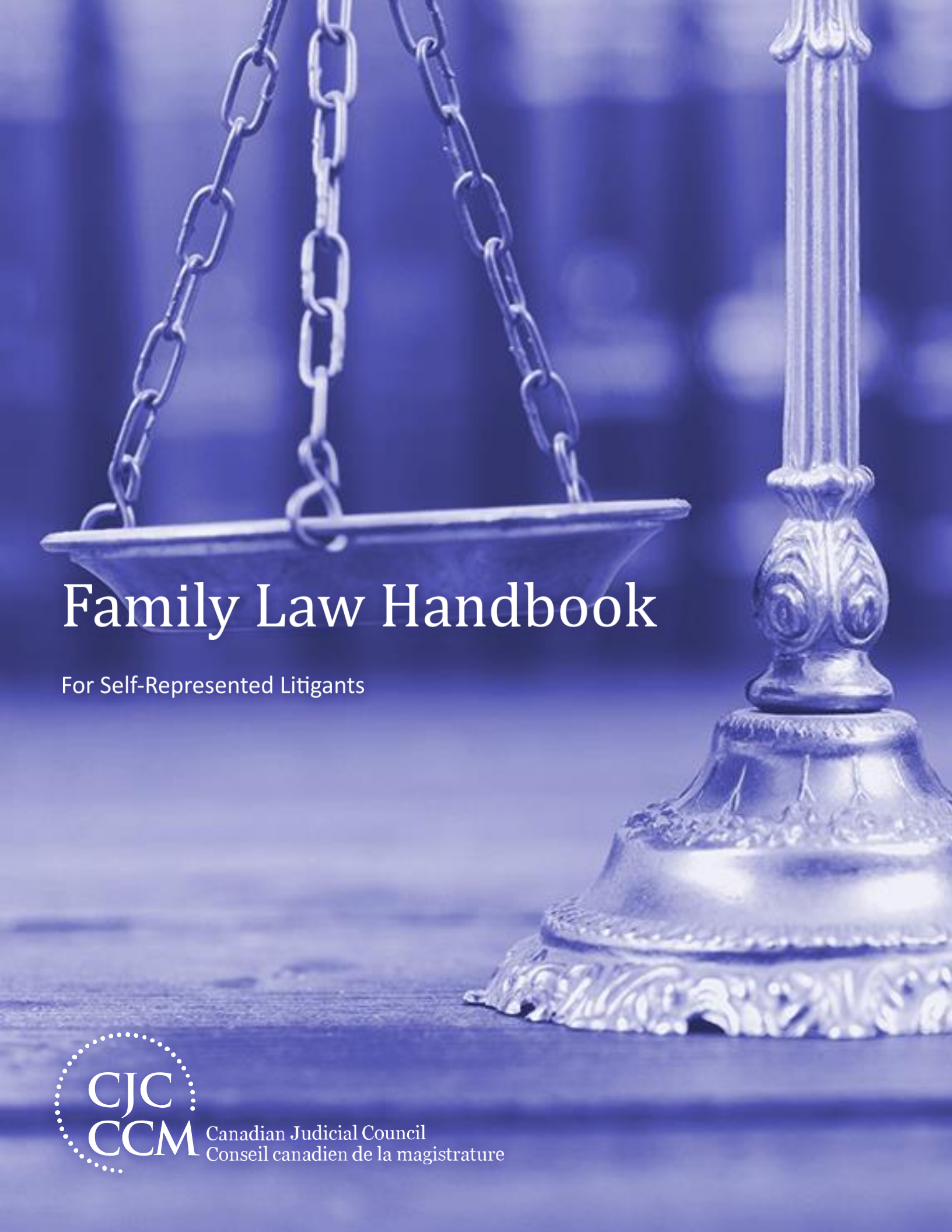


Family Law Handbook

For Self-Represented Litigants

CJC CCM
Canadian Judicial Council
Conseil canadien de la magistrature

Table of Contents

Family Law Handbook for Self-Represented Litigants[1]

Note to Readers

This Handbook is intended as a reference for self-represented family litigants appearing in Canadian courts. While this Handbook cannot anticipate all of the possible situations that may arise, and it is difficult to keep up with changes in the rules and practices of each relevant Court (see **Section 17**: **Resources**), it provides a starting point that will assist and guide litigants.

This handbook does not provide legal advice and is not a substitute for the advice that a lawyer may provide. The handbook provides general information only. Certain laws and court procedures are different in each province and territory – Quebec in particular has some distinct laws (e.g. *Civil Code of Quebec*) and procedures. Moreover, as noted, these changes may be frequent – especially during emergencies. Information in this handbook may not be applicable to your situation.

Language

Throughout this document, the term "self-represented" is used to describe persons who appear without representation from a lawyer. The use of this term is not meant to suggest inferences about the reasons the individual is without representation, nor about the quality of his or her self-representation.

This handbook tries to describe legal processes in plain language, but we provided definitions for words that are not normally used outside of the legal context in **Section 16: Glossary**.

Hyperlinks

Hyperlinks have been added where referenced material is available online. Clicking "Ctrl" and on a link in the Handbook will open the target document in your default web browser.

[1] This Family Law Handbook was produced by the Justice Education Society (JES) of British Columbia (authors – Nora Bergh and Emily Jones), under contract with the Canadian Judicial Council (CJC), with reviews by professionals from the Public Legal Education Association of Canada (PLEAC) – Zoe Si (BC) and Shawn O'Hara (NS); and at the CJC the Handbook was reviewed, edited and finalized by volunteers, including: Associate Chief Justice John Rooke (AB)(Chair of the SRL Handbooks Project); (alpha) Justice Mary-Lou Benotto (ON); Josee Desjardins, CJC Staff; Adrienne Ding, Legal Officer (NL); Chief Justice Deborah Fry (NL); Diana Lowe, Q.C., Executive Legal Counsel (AB); Justice Pamela Marche (NS); Associate Chief Justice Eva Petras (QC); Chief Justice Robert Richards (SK); and Chief Justice Raymond Whelan (NL). Translation was provided by 5 Star Communications.

1. Self-Represented Litigants' Rights, Responsibilities & Supports

1.1 Statement of Principles on SRLs

In 2006, the Canadian Judicial Council issued a statement of principles on self-represented persons to foster access to justice and equal treatment under the law. Read the full statement of principles here. The following are the highlights of the statement.

To promote rights of access

Access to justice for those who represent themselves requires that all aspects of the court process be open, transparent, clearly defined, simple, convenient and accommodating.

The court process should, to the extent possible, be supplemented by processes including triaging, case management, alternative dispute resolution (ADR) procedures, and informal settlement conferences presided over by a judge.

Information, assistance and self-help support for self-represented persons should be made available through the normal means of information, including pamphlets, telephone and courthouse inquiries, legal clinics and internet searches.

All self-represented parties should be:

- informed of the potential consequences and responsibilities of proceeding without a lawyer; and
- referred (see **Section 17: Resources**) to available sources of representation, including those available from Legal Aid, pro bono assistance and community and other services, and to other appropriate sources of information, education, advice and assistance.

To promote equal justice

Judges and court administrators should do whatever is possible to provide a fair and impartial process and prevent an unfair disadvantage to self-represented persons.Self-represented persons should not be denied relief on the basis of a minor or easily rectified deficiency in their case.

Where available in a court's procedure and when appropriate, a judge should consider engaging in such triaging and case management activities as are required to protect the rights and interests of self-represented persons. Such triaging and case management should begin as early in the court process as possible.

Depending on the circumstances and nature of the case, the presiding judge may:

- explain the process;
- inquire whether both parties understand the process and the procedure;
- make referrals to agencies able to assist the litigant in the preparation of the case;
- provide information about the law and evidentiary requirements;
- modify the traditional order of taking evidence; and
- question witnesses.

Responsibilities of the participants in the justice system – both judges and court administrators

Judges and court administrators should meet the needs of self-represented persons for information, referral, simplicity and assistance.

Forms, rules and procedures should be developed which are understandable to and easily accessed by self-represented persons.

To the extent possible, judges and court administrators should develop packages for self-represented persons and standardized court forms.

Judges and court administrators have no obligation to assist a self-represented person who is disrespectful, frivolous, unreasonable, vexatious, abusive, or making no reasonable effort to prepare their own case.

1.2 Right to Represent Yourself

You have a right to represent yourself. You are allowed to appear in court without a lawyer. However, it is highly advisable to get a lawyer if you are able to do so. Lawyers provide experience and legal expertise that help to reduce the stress and time of a legal case. They can also provide you with valuable advice that can help you prove your case. There are often many emotions and life changes involved and it will be important to have support in place to help you with the new social, relationship, parenting and financial changes you will be dealing with. A lawyer can help with the legal aspects of your case, which will allow you to better take care of yourself and your family.

1.3 Your Responsibilities

If you choose to represent yourself, you are expected to prepare your own case. The information in this Handbook is intended to assist you to do so.

You are responsible for learning about the court process, the rules and the law that relates to your case. As the saying goes: *Ignorance of the law is no excuse*. The fact that you do not have a lawyer will not excuse you from having to follow court rules and processes.

You have the right to be in the courtroom throughout your hearing or trial. However, that right is not absolute: if you disrupt the hearing, the judge can require you to leave the courtroom. If you do not follow the judge's orders, you can also be found in contempt of court. The punishment for contempt of court may include a fine or jail.

1.4 Role of the Judge

Judges ensure that the case is dealt with fairly and impartially, and also ensure that the law of evidence and court procedures are followed. Judges hear from witnesses, assess the credibility of witnesses' evidence, consider arguments, and make decisions based on the law and the facts as they find them.

Judges cannot provide you with legal advice. They cannot tell you how to protect your rights or how to run your case. They must remain neutral and unbiased. Judges may however provide you with information about the process and help explain and clarify what is happening. If you do not understand what is happening or what you are being asked to do, be sure to ask the judge.

1.5 Communication

Note that this is just an introductory section. For more detail, see **Section 3 Communication**.

Family restructuring is complicated. The challenges you are dealing with may include social, relationship, parenting, financial and legal issues. It is easy to become emotional about these matters, especially if you don't have supports in place. If you are not able to manage your emotions, they may cloud your judgment and you may make bad decisions. Many of the emotions associated with family separation are understandable, as there are significant changes taking place in all aspects of your life. Even so, you cannot afford to let emotions affect your ability to reach a positive outcome.

Warning: If your former partner communicates in a way that makes you or your children feel unsafe, you need to protect yourself and your children. See **Section 15: Family Violence** for more information.

Communications with the other side

Communicating with the other side is not easy, especially if it is a former spouse or partner. Your relationship has changed and you are not going to be talking to each other the way you used to when you were a couple. These changes have probably been emotional, but you cannot let behaviour and emotions control how you communicate. The better you communicate, the easier, cheaper, and quicker it will be to settle your family case.

Communication tools

When stress levels are high and emotions are sensitive, meeting face-to-face may make it more difficult to reach agreement. Thankfully, there is no shortage of communication alternatives these days. You can choose to communicate a different way, like by telephone, through e-mail, by texting or using a parenting app.

Choose the right communication channel that works for both of you. Some conversations might be best face-to-face, while others are better through a phone call, email, text or online app.

For more information on constructive communication and supports to assist you with the social, relationship, parenting and financial challenges that can cause stress at this time, see **Section 3 Communication**.

Communication with the Court

Usually, court staff will help you as much as they can. If court staff refuse to help you with something, it may be because they are not permitted to give the help you are requesting. It is important to understand that court staff have boundaries they cannot cross (see: https://www.nsfamilylaw.ca/sites/default/files/video/legal_advice_poster_final_july_2014.pdf) from Nova Scotia, based on the work of Professor John Greacen, for information on what Court staff can and cannot do to help self-represented litigants. Simply put, they cannot give you legal advice which means they cannot tell you if your forms are filled out correctly or not. Nevertheless, it is important to follow proper decorum and respect for court staff and judges at all times – which will encourage as much assistance as they can provide.

Communication with the Judge

Do not try to contact the judge outside of the courtroom. In general, communication with the judge should take place through formal processes, such as through filing of court forms or affidavits. In the exceptional circumstances, where permitted by the Court outside a hearing, where you need to send any letters or information when you are not in a hearing, send it through the court staff. Make sure to send a copy of everything you are sending to the Court to

the other parties / their lawyers. This is because the judge cannot communicate with one party alone—any communication from the judge to one party must be shared with all other parties. Please note that letters sent to the judge through the Court may not end up forming a part of your court file and, unless directed by the judge, cannot constitute evidence in your case.

1.6 Non-legal Supports

Separation and divorce can be highly emotional. The adversarial nature of court processes tends to make it difficult for parents to maintain the type of relationship that you need in order to continue to parent together. When you are separating or divorcing, you need to access the kinds of support that will help you to move forward in your new family structure, in a way that is healthy for you and if you have them, your children. While this means different things for different families, it includes getting the kinds of support that will help to address the emotions your family members are feeling and to promote well-being, even as your family is experiencing the pressures of family restructuring. Examples include:

- Learning how to “parent apart”.
- Moving forward in a new and different relationship as parents (co-parenting).
- Planning for the financial challenges of creating two households.
- Learning how to handle the legal challenges of separation and divorce.

While there are often legal matters to be addressed at the time of a separation or divorce, many of the issues you and your family will deal with are social, personal, or financial in nature rather than legal. Many separation issues are best dealt with outside of the court system. Non-legal support services are available to help you and your former partner create a new stable relationship including parenting your children, apart.

These non-legal supports are often available from government services, through collaborative family practice, and through private service providers and include:

- Mediators
- Family and psychological therapists
- Co-parenting experts
- Stepparent supports
- Grief counsellors
- Life coaches
- Financial advisors
- Mortgage brokers

- Insurance mediation strategists

See **Section 17 Resources** for support in your region.

1.7 Resolving Your Case Without Going to Court

Going to court and having a trial is not the only way to resolve a family issue. Most issues can and should be dealt with away from the courts, between parties, without trial, and even without starting a legal case. When you resolve matters out of court, you, as parents, can be empowered to restructure your family in a way that works best for you and your children. There are many supports to assist you in resolving your issues without going to trial that are quicker, cheaper, and more private. Resolving your case outside court through compromise and negotiations gives you the most control of the outcome, instead of having a third party, a judge, impose a decision on the parties. To learn more about resolving your family law case without going to court, see **Section 4 Alternative Dispute Resolution**.

1.8 Legal Help

Free or low-cost lawyers

If you do not have a lawyer because you cannot pay for one, you can try applying for a legal aid lawyer. There are certain criteria such as income level or type of case that allow you to qualify for free legal aid. Check with your local legal aid provider to see if you qualify. If you do not qualify for legal aid, check to see what other free or low-cost legal services are provided in your area. There are often legal clinics, law student programs, and non-profit organizations that can provide some legal advice. Check out **Section 17 Resources** for listings of services in your community.

Legal advice

Many lawyers will offer a short initial interview for free or at a low cost, whether or not you ultimately decide to hire them. If you cannot afford a lawyer to represent you throughout your case, you might still be able to get help from a lawyer. A lawyer might provide *limited* services to a client. Lawyers call these services "unbundled" or "limited scope" legal services. If you think you can handle some parts of your case, you can pay a lawyer to do the parts that you cannot/do not wish to do. It is an arrangement where you pay only for what you want. It is a mid-way option between full legal representation and no legal representation.

Here are some examples where you might pay a lawyer for limited or unbundled services:

- You pay the lawyer to research the law for you and explain how much money, if any, you will likely receive or have to pay if there is a claim for spousal / partner support. The lawyer's advice will be based on other similar cases that have gone to court.
- In your claim for property division, your lawyer helps you prepare the documents that are necessary for the court hearing, and gives you advice on how to make your own application in court.
- In a claim against you for child support, you talk to a lawyer about your obligations and what documents you need to prepare for the court hearing. You prepare your own court documents and hire the lawyer to represent you at the court hearing.

Your lawyer will prepare a retainer letter that sets out:

- The lawyer's responsibilities and the work that he or she will do (and not do);
- Your responsibilities and the work that you will do by yourself; and
- How the lawyer's fees for their work will be calculated.

Even if you do not hire a lawyer to help you with your case, it is a good idea to consult with one at the beginning of your case. They can advise you of what your legal rights and responsibilities are, may help you to reach an agreement with the other side, and can advise you know whether you need to start a family court case.

Your case may be complicated. If you go ahead without a lawyer, you may not have the same advantages as you would if you had a lawyer. So, make sure to exhaust all methods of getting legal advice available to you.

Preparing to meet with a lawyer

Your first meeting with a lawyer is an important step in dealing with your legal dispute. In addition to giving you a chance to meet each other, you can also learn a lot about your legal dispute, and what the result is likely to be. The more prepared you are, the more cost-effective you can make your time with a lawyer.

What a lawyer will want to know:

- **Basic information**: A lawyer will want to know your situation and the reason that you decided to consult him or her.
- **All relevant information**: It is very important to tell the lawyer everything that is related to your dispute, not just the information that supports your side of the story. "Relevant" means that the information tends to prove a matter of fact significant to the case. It is

sometimes difficult to know what is relevant and what is not, but the lawyer will help you sort this out.

- **The truth**: It is important to tell the lawyer the truth so they can advise you properly. What you say to the lawyer remains confidential – your lawyer is generally not allowed to tell the other side what you tell them (that information is privileged, subject to some very narrow exceptions to this rule). A lawyer cannot act for you, if you are planning to lie to the court in any way.
- **Documents**: You must also provide *all* relevant documents to the lawyer. Take a file of documents to your appointment containing such things as letters, court documents, receipts, invoices, and agreements.
- **Previous representation**: A lawyer may also want to know if you have had a lawyer represent you in your family law matter before.

It is a good idea to write down in advance the basics of your case and questions you want to ask the lawyer. You should also ask about other ways to resolve your dispute without going to court, like a separation agreement, parenting agreement, negotiation, mediation, collaborative practice, or arbitration (arbitration may not be available in some provinces – e.g. Quebec).

Review the ***Questions to Ask a Lawyer Worksheet*** to get a better idea of what to ask a lawyer.

1.9 Questions to Ask a Lawyer Worksheet

Documents to take to your first meeting with a lawyer:

- A written summary of the facts in your dispute, including whether you have children, and questions about parenting, spousal and child support, where you will live, and property division.
- Important documents, relating to your dispute, such as letters, invoices, receipts, employment income for you and your spouse / partner, tax returns, business income, personal and business assets of you and your spouse / partner, photographs, court documents, agreements, and contracts.
- Personal contact information, including your personal and business addresses, telephone numbers, email addresses.
- Contact information for potential witnesses.

Some of the following questions may not apply to your situation. Read the following questions before visiting a lawyer and cross off the questions that do not apply to you.

- How does the law affect my situation?
- What are my options – for resolving the dispute out of court, or in the court?
- What experience do you have with similar cases?
- How would you handle my case?
- What legal risks am I facing?
- How can I settle the case?
- How long will my case take?
- What documents do I need to support my case?
- Do I need statements from witnesses?
- What is the court likely to order?
- If I am successful at trial, how can I collect money after the judgment?
- What types of fee options do you offer? What is your hourly rate?
- When will I receive bills from you, and when am I expected to pay?
- How can I reduce the cost? Can I handle some of the legal work myself?
- Do I have payment options?
- Do you need a retainer right away (deposit in advance)?

- How is it best to contact the lawyer, and how soon can I expect a reply? Do you charge for phone calls, emails and mail?
- What do you expect from me? What can I expect from you?
- Other questions you may have.

1.10 Appearing in Court Without A Lawyer

When you appear in court without a lawyer, the judge will likely ask you if you have obtained a lawyer, and if you have not, whether you wish to do so, and why.

If you have not been able to get a lawyer but wish to, you may ask the judge to grant an adjournment so that you can obtain a lawyer. Explain to the judge:

- that you wish to hire a lawyer;
- the reason why you have not been able to get a lawyer yet; and
- that you wish to request adjournment of your case until you have a lawyer. (This must be a reasonable amount of time, you cannot use this as a tactic to delay the case.)

Understand that, if you tell the judge you wish to go ahead without legal representation, it may be difficult to change your mind if it means delaying an important hearing. This could happen if the lawyer you want to represent you is not available for trial/hearing dates that are already set, for example.

2. Family Law Basics

The following is intended to provide general information about family law in Canada. Each province and territory has their own family law legislation and case law which is updated and changed from time to time. It is your responsibility to familiarize yourself with your jurisdiction's current laws, rules and terminology. See **Section 17 Resources** for your province or territory.

Family law covers many different topics but this handbook primarily focuses on separation and divorce, child and spousal/partner support, and parenting after separation. It does not cover every area of family law or child welfare cases. Note that **Section 15 Family Violence** may be relevant to why you are seeking court assistance – if so, refer to it first.

2.1 Changes Ahead

If you are going through a separation or divorce, your family may be experiencing a lot of changes. It is important to consider how these changes will impact you and your children (if you have any).

Some of the changes you may face are:

- Living arrangements: You may need to move or sell the family home.
- Finances: You may switch from a two-income household to a one income household. Managing your personal finances may be new to you.
- Parenting: If you have children you will need to parent across two homes. How will you share the responsibilities of caring for your children?
- Lifestyle: It may take some time to adjust to the end of your relationship. The things you do and the people you see may change.

Going through a family restructuring may mean going to court. Often, however, the parenting and financial issues of separation can be dealt with without going to court. Going to court can be challenging. Going to court on a family matter can be even more difficult. Dealing with the emotional, financial and legal changes takes patience and strength. You may not know what to expect, what to do, or how you are going to get through it. It is important to understand the road ahead, before you begin the journey.

Establishing Expectations

The separation or divorce process may be a long journey. If you are expecting the process to be easy or quick, you are setting yourself up for disappointment. People are often surprised to find out how time consuming the process can be. These are important life decisions you are going to be dealing with, so expect them to take some time to settle. It might take a lot of patience, flexibility, and hard work to reach an agreement. Remember that despite the difficulties, most couples still manage to separate without ever going to trial.

It is going to be emotional. Feeling angry, frustrated, sad, and resentful is normal. Try to be aware of your emotions and if you are feeling like you are overwhelmed, take steps to get help. Do not be afraid of reaching out to those closest to you for support. It is okay to feel these feelings and you do not have to go through the process alone.

2.2 Legal Framework

In Canada, there are several laws that deal with family law issues.

The *Divorce Act*

The *Divorce Act* is the federal law which sets out the rules for ending a marriage and applies only to people who are legally married. It includes rules for divorce, arrangements for children, child support and spousal support.

Provincial / Territorial Family Law Legislation

At the same time, each province and territory have laws that sets out rules for ending relationships, property division, financial arrangements for child, spousal and partner support, and parenting arrangements for the children. If you were not legally married, you will need to rely on your provincial or territorial legislation. These laws will deal with arrangements for children whether or not the parents were in a relationship at all.

Parties who were or are married have a choice of whether to proceed under the *Divorce Act* or the provincial / territorial legislation to sort out their family law issues, apart from divorce.

Provinces and territories also have court rules that govern the procedures in court. Some provinces have rules specific to family court. These rules set out how court procedures will work, for example, what documents you must file, how to file applications or documents, how much time you have to file documents, and how a hearing / trial will be conducted.

Other

Each province and territory also has laws dealing with enforcement of financial support orders, adoptions, and the protection of children. Try to become familiar with the legislation in your region that may be applicable to you.

2.3 Parenting After Separation

It is vital to ensure the separation causes the least distress to your children. Your children will go through significant changes. They will also struggle with their emotions throughout the process.

The Best Interests of the Children

Part of helping your children adjust is coming up with a parenting plan that is in the best interest of the children. The best interests of the children are what are considered by the law, and so should be considered by parents first and foremost.

The factors may include:

- the children's ages;
- the views of the children, when age appropriate;
- their health and well-being;
- any special needs;
- their relationships with important people in their lives including each parent and their extended family;
- cultural considerations;
- history of care; and
- the impact of family violence against any family member or the child.

The "best interests of the children" is a legal test but it is useful to frame all of your decisions with respect to your children through that lens, whether you go to court or not.

2.4 Parenting Plan

Generally, as a parent, you are responsible (individually or jointly) for your children's care. You may have heard the terms "decision-making responsibilities", "contact", "guardianship", "primary residence", "parenting time", "parenting arrangements" etc. These are all terms used to describe how the children will be looked after and which parent will do what to care for the children. These terms have specific definitions depending on which law your case is under, so it is important to become familiar with the law you are using.

Your legal responsibilities as a parent could include making decisions about:

- day-to-day care;
- health care;
- education;
- religious upbringing;
- extracurricular activities; and
- where the child lives.

You could share the responsibilities equally or one of you may take on one or more of the responsibilities. As you are trying to work out parenting decisions, always keep in mind that they must be in your child's best interest.

You do not need to go to court to resolve parenting issues. You and the other parent are free to come to an agreement between you that works best for your children's unique situation. You are going to need to make a lot of decisions on how to parent. You will need to come to an agreement (a parenting plan) about where and with whom the child will be living and when the child will have time with each parent.

Here are some examples of ways to divide parenting time:

- the child spends one week with one parent and the next week with the other parent;
- the child lives with one parent during the school year and the other during summer holidays and winter breaks;
- the child primarily resides with one parent and the other parent has parenting time according to a fixed or flexible schedule which may include weekends and times during the week; or
- the child lives with one parent during the week but lives with the other parent on weekends.

You should also set out which parent has what decision-making responsibilities. There are lots of ways to divide up these responsibilities.

For example, the decision about the child's extracurricular activities could be:

- the sole responsibility of one of the parents only;
- the responsibility of both and they must come to a mutual agreement on all decisions; or
- the responsibility of both and can make decisions on their own.

Once you come to a general agreement of how your parenting time is to be arranged, it is

important to consider the details. For example, at what time is the child to be picked up and dropped off? Where are these pickups and drop offs going to happen? If you are alternating weekends, who has the first weekend? How are long weekends and specific holidays to be spent? These are all questions that you should discuss. Many parents find that conflict arises around scheduling parenting time and communication in general. It pays to be organized and to keep communication civil.

Remember: Your children's needs change over time. As such, your parenting arrangements may need to be adjusted to fit the evolving needs of the children. Be flexible and always keep the best interests of the children top of mind when establishing parenting arrangements. Allow flexibility to revisit your agreement as the needs of your family change.

Take a moment to fill in the **Parenting Decisions Worksheet** – and see **Section 17 Resources** for Justice Canada's Parenting Plan tool. This worksheet will help you think about your position on a lot of the major decisions you are going to need to make about raising your children. The time spent thinking about how you can parent together early on will help to ensure that key elements of your parenting agreement are worked out.

2.5 Parenting Decisions Worksheet

Before you sit down to work out the parenting decisions for your family, think about what will be best for the children in the following areas:

Day-to-day care and decisions

How will the responsibility for the care, control and supervision of the child be shared?

_____

_____

_____

How will the day to day decisions affecting the child be made?

_____

_____

_____

Week-to-week time arrangements

Overall schedule and plan for the children's transition between the parents' homes

_____

_____

Holidays and special days

School vacations

_____

_____

Parents' vacations with and without children

_____

_____

Health care decisions

How are the child's health care decisions shared? (e.g. medical treatment, checkups, dental etc.)

_____

_____

Education decisions

Consultation between parents about any change in school, special educational needs, tutoring or extracurricular activities

_____

_____

Communication between parents

What type of information should be communicated about the children and how it should be communicated?

_____

_____

Communication when the child is with the other parent

_____

_____

Changes in childcare schedule

What happens if a parent cannot care for a child when scheduled?

_____

_____

_____

Resolving disagreements

How will disagreements be resolved? (Be specific)

_____

_____

Other issues

_____

_____

_____

_____

_____

_____

_____

2.6 Child Support

Parents have a legal responsibility to support their children financially. They have this duty when they separate or divorce, even if one parent does not see or take care of the children. This is called child support and it is the right of the child. One parent pays the other to help cover the costs of caring for the children. There are legal guidelines set out by the federal and or provincial / territorial governments on how to calculate these payments. For more information on how to calculate child support payments, see **Section 17 Resources**.

In addition to basic child support, parents may also have the responsibility to pay for special or extraordinary expenses of the children.

Parents should think about child support as soon as they separate. While all the other long-term details of the separation and divorce get worked out, children still need to have their daily needs met. If you are required to pay child support but fail to do so, the court may order you to pay back-payments.

Child Support Payments

The laws around child support are quite specific. As a parent, you must financially support any dependent children. The parent who the child lives with most of the time is entitled to receive child support from the other parent to cover the cost of raising the child. If the child shares their time equally or close to equally between their parents, the parent who has a higher income will likely pay net child support.

Special or Extraordinary Expenses

In addition to child support, parents are required to pay for their children's special or extraordinary expenses. Often, special or extraordinary expenses will cover:

- child care expenses
- medical expenses
- educational expenses, such as school field trips
- discretionary extracurricular activity expenses upon which the parents agree, such as music lessons or sports

Payments for special or extraordinary expenses are typically divided between the parents, proportional to their incomes.

Steps to Calculating Support:

1. Determine which guidelines apply (federal or provincial / territorial).
2. Determine the number of children requiring support (minor children, children of the relationship over the age of majority who still depend on their parents).
3. Determine the parenting arrangement (where the children spend most of their time).
4. Determine annual parental income (may need one or both parents' income).
5. Find the base amount of child support payable using the child support guideline tables (which table you use depends on your province / territory).
6. Determine which, if any, of the children's expenses qualify as special or extraordinary and divide any special or extraordinary expenses between the parents in proportion to their respective gross incomes.
7. Determine if there is undue hardship (if it is difficult to pay or difficult to support the child). Review the guidelines to see what counts as undue hardship.

Once you reach an agreement on how much child support is to be paid, there will still be decisions about how these payments are to be made. How frequently will they occur and on what date? What will the method of payment be? What happens if a payment is late?

Calculations

For an easy way to calculate child support, go to the Federal Justice Canada or applicable provincial / territorial department of justice website.

The basic calculator assumes that the child / children spend more than 60% of their time with one parent. In this parenting arrangement, the paying parent is the one that spends less time (less than 40%) with the child / children.

To calculate:

- Enter the annual gross income of the paying parent, the number of children and the province the paying parent lives in.
- Click lookup.
- The amount provided is the monthly amount the paying parent will need to pay the other parent for child support.

If you and the other parent spend roughly equal amount of time (40% or more) with the child/children, you will need to do this calculation twice: once with your income and once with

the other parent's income. The net difference between the two calculated child support amounts will be the amount of child support the parent with the higher income will pay to the other parent for child support.

You should provide for an annual exchange of financial information (usually after the date of tax returns or other agreeable date), to provide for annual adjustment by agreement at a certain date (some provinces / territories have an automatic legislated adjustment that you can accept or reject).

Let us imagine you do the calculation and it says your support payment is $478 and the other parent's support payment is $692. The difference you get $214. If you share parenting time relatively equally (40% or more), your spouse would pay you $214 a month for child support.

Special Expenses Calculations

Usually both parents must contribute to the cost of reasonable special expenses in proportion to their incomes. It is important to exchange financial information. You will need to know both your annual income as well as that of the other parent. You will want to write down a list of all the special expenses your children have during a year, such as piano lessons, tutoring, dental costs etc. Some jurisdictions have specific forms for this – see **Section 17 Resources**. On discretionary extracurricular activities both parents should agree, or ask the Court to direct what activities are appropriate for your children. Make sure to organize all receipts for special expenses in a folder and be able to provide them during your discussions. You will divide the cost of these expenses between you and the other parent proportional to your incomes or in another way you agree. If you cannot agree on how to divide special expenses, you may need legal and financial advice, or ultimately a court decision to determine what reasonable special expenses are and how they are to be divided.

Fill in the ***Child Support Worksheet*** with your own information. This will put you in a better position for making a realistic settlement.

2.7 Child Support Worksheet

Fill in the details of your financial situation. If you are unsure of the exact numbers, estimate to the best of your ability.

Parenting	Sole	Shared
Annual Income	Other Parent: _____	You:_____ Other Parent:_____
Total Income		_____
Income Proportion (%)		You:_____ Other Parent: _____
Support Payment	You:_____	Other Parent:_____
Special Expenses (%)	You:_____	Other Parent:_____

Special Expense Chart

Item	Cost	You Pay	Spouse Pays

TOTAL:			

2.8 Spousal Support

Spousal support is the money that may be paid by one spouse to the other when a relationship ends. Either spouse may be eligible to receive spousal support, but spouses are not automatically legally entitled. When a relationship ends, one spouse may face financial disadvantages as a result of the divorce or separation. Spousal support is designed to ensure, as much as possible, that neither spouse faces economic hardship from the separation. Spousal support helps each spouse become financially independent within a reasonable amount of time. You will want to check what the law in your province or territory is relating to spousal support. You should seek legal advice to help you determine what your spousal support rights or obligations might be.

The Spousal Support Advisory Guidelines (SSAG)

The Federal SSAG provides informal guidelines that can help applicants calculate the range of spousal support that they might be able to receive. The SSAG is not mandatory. Spousal support agreed to by the parties can be below or above the amounts in the SAGG, but courts must consider the guidelines and, except in certain circumstances, will generally follow the guidelines when awarding disputed spousal support.

Once you have agreed to an amount of spousal support, you must also decide how the support will be paid. For instance, one couple may agree to pay spousal support all at once in a lump sum, while another might agree to pay in monthly installments for a set period of time. Be aware of the tax consequences of these decisions and consider speaking to an accountant or tax specialist.

Tax Ramifications

Generally, periodic spousal support payments are tax deductible for the payor and taxable income for the recipient. To claim spousal support payments as a tax deduction, the agreement or court order must clearly state that the payments are for *spousal support* and the payments must be *periodic* in nature.

Lump sum payments are neither tax deductible nor taxable income.

Partner support with respect to unmarried couples may be available under provincial legislation.

Details to Consider:

- Type of payment: Is it a one-time payment or periodical (e.g. monthly for the next period of time or indefinitely).
- Date payments are to be made: If they are made periodically (such as monthly or bimonthly) then specify which date every period they are payable and what date the payments are to start.
- Date payments are to end: If there is an end date, make sure to specify it.
- Any circumstances that end support: Parties can agree that when an event occurs, such as one party starts receiving pension or remarries, spousal support payments end.
- How payments are to be made: This could be anything you agree to together, such as post-dated cheques, cash, or e-transfers.
- Annual exchange of financial information: You can agree to share copies of your income tax returns for the previous year by a specific date each year, if you agree to make spousal support income dependent.
- Reviewable: If you want to review the terms you should set out when those reviews are to occur, e.g. review to be done every June 1.
- Dispute resolution: Discuss how you want to resolve any disagreements about support should they arise in the future. You can agree to mediate first before going to court.

Take a moment to fill in the ***Spousal / Partner Support Worksheet***.

2.9 Spousal / Partner Support Worksheet

Fill in the blanks to the best of your knowledge. If you are claiming spousal / partner support, briefly note why you would be entitled to it *(e.g. how you are financially disadvantaged*).

Annual Income _____ _____

You Spouse

Support Payment _____ _____

You Spouse

Reasons for spousal support

_____

_____

_____

_____

_____

_____

Notes

_____

_____

_____

_____

_____

_____

2.10 Enforcing Support Orders

Child and spousal support orders are legal documents and can be enforced through the courts. An agreement for child or spousal support may also be enforced if it is in writing. Each province and territory has a program to help enforce support orders and agreements if they are not being followed. See **Section 17 Resources** for information about the program in your region.

2.11 Property Division

It is likely that during your relationship, you or your spouse / partner acquired assets, such as a home, a car, or furniture. You may have also acquired debts, such as a mortgage, credit card debt or a bank loan. You may have joint bank accounts and loans may be intermingled. Property division is the legal term that describes how you and your former spouse / partner decide to separate what you own and what you owe. You are going to need to decide how to separate the assets and debts. The specific law on how property is divided varies between province and territory and whether parties are married or not. Even what is considered family property to be divided is different in different jurisdictions. For example, in some jurisdictions most things you obtained *during* your relationship – what you own and what you owe – is family property that may be split, but in other jurisdictions, property and debts you acquired *before* the relationship may also be considered family property for married couples. There may be differences in the law depending on whether you and your spouse were married or unmarried. As such, it is best to get legal advice from a lawyer in your area to know exactly how a court might divide your property.

Between the two of you, you can decide to divide property any way you choose. So, for example, one spouse may get the house and all of the furniture, while the other gets both cars. This is perfectly legal. It is your agreement and is valid as long as you are making an informed decision. Couples can decide how they want to separate their property and debt.

Protect Yourself Financially

You should take steps to protect yourself financially as soon as possible after you separate. You may wish to take legal steps or agree with your former spouse / partner to freeze or close joint credit cards or accounts, and protect any real property from being sold or borrowed against. If you do not agree to do this, or take legal steps to do so, your ex could, for example, run up a credit card debt on your joint card which could affect your credit, if not paid. However, we are not telling you what to do in this regard, but only to suggest an agreement with your former spouse / partner, or seek advice on how to do so if no agreement.

It is a good idea to record your date of separation because you may be responsible for assets and debts up until the date of separation. You may also want to let people know about the separation, including your creditors. Here are some steps to protecting yourself financially (by agreement or, if no agreement is possible, by court order on application):

- Let your creditors know right away about your separation
- Freeze or reduce borrowing limits on joint credit cards and accounts
- Close joint accounts and credit cards
- Require both of your signatures in order to make decisions about accounts
- Register your interest in property
- Get a court order to protect your assets
- Speak to a lawyer or a financial advisor

This can get complicated and you could face significant financial consequences if you do not protect yourself. Speaking to a family lawyer as soon as possible is the best way to ensure you are protected.

Financial Disclosure and Asset Hiding

In order to come to an agreement regarding property division, both parties need to provide full and frank disclosure. However, a common problem in family litigation is where one or more parties hides assets, or one party pressures the other to accept an unfair property settlement. Here are some signs or reasons that someone may be hiding assets or spending your share of assets:

- They are secretive about their financial affairs
- They suddenly claim their business is failing
- They want complete control of bank accounts
- They pay suspicious debts to or give large gifts to friends or family
- They gamble or have a substance abuse problem
- They own a safety deposit box
- They open new bank accounts and transfer money into them

If you are concerned that your ex is hiding or spending assets or is pressuring you to sign an unfair agreement you should seek legal advice. You should get independent legal advice regarding any separation agreement before you sign.

You may need to get a court to order your ex to provide disclosure or you may need to do some investigation into their assets. Without full financial disclosure, it is almost impossible to come up with a fair separation agreement. For more information on disclosure obligations in family matters, see **Section 9: Disclosure / Discovery / Questions**.

Steps to Separating your Finances

By having a good grasp on your own financials, you will be more able to deal with dividing your property. With full and frank disclosure from both you and your ex, you will have the confidence you can move forward towards a fair agreement for both parties.

1. Make changes to bank accounts: If you have a joint credit card or bank accounts, you may want to agree to cancel them, share the contents and apply for your own card or account. Be sure to inform the other party about any changes to your joint cards or accounts.

2. Collect information: Gather all your financial information in a binder (such as bank statements, mortgage agreements, tax returns and pay stubs).

3. Appraise: Have your property professionally appraised to determine its current value.

Decisions

You will need to make some decisions about how to divide up your things.

The Home:

- What will happen to the family home? Will you sell it or will one of you continue to live there and buy out the other's share in the house?
- What is the value of the home? Consider getting a professional value assessment done.
- If you cannot come to a final decision / agreement on the home or you are planning to sell the home, you will need to make some decisions about what to do with the home in the meantime.
- Decide who is to arrange, or pay for things like the cost of a professional value assessment, house repairs, insurance, mortgage and taxes on the family home.

Other:

- Who gets what? Create a list of the family assets and think about what you want to keep. Also try to keep in mind your former spouse / partner's interests and think about what they may want to keep. This will help you react more calmly and be better prepared for negotiations.
- Review personal health, life, and disability insurance coverage. Consider changing beneficiaries on policies.
- Change your will: Review your Will and other estate planning documents and make any necessary changes.

Use the ***Property Division Worksheet*** to determine how much each of you are entitled to.

2.12 Property Division Worksheet

List everything you and your former spouse / partner own and owe. Write down the present value of each item and the value each of you will get according to the property division laws or agreements in place. You can use this worksheet when sitting down to negotiate.

Assets ($ you own)	Total value	You get	Spouse / Partner gets
Bank Accounts			
Real Estate			
Furniture			
Vehicles			
Financial Assets (Investments, Pensions)			

Assets ($ you own)	Total value	You get	Spouse / Partner gets
Other Valuables, Insurance Policies			
Total Assets (A)			

Liabilities ($ owed)	Total value	You get	Spouse / Partner gets
Real Estate Mortgage			
Bank Loans			
Credit Cards			
Taxes Owed			
Automobile Loans			

Liabilities ($ owed)	Total value	You get	Spouse / Partner gets
Other Loans			
Total Liabilities (L)			
Net Worth: (A) – (L)			

2.13 Divorce

If you were married, you remain married until you receive a court order for your divorce. To get a divorce order, you must file certain court forms applying for a divorce. You are not legally required to get a divorce. You may settle all key separation issues in an agreement or order without applying for a divorce. Some couples separate but remain married for personal or financial reasons (e.g. employment benefits). However, if you do wish to remarry you will need to first be granted a divorce.

To get a divorce you need to prove one of the following:

- One-year separation: you and your spouse have lived apart for at least a year;
- Adultery: Your spouse was unfaithful to you; or
- Cruelty: Your spouse was physically or mentally cruel to you.

Separation is the most frequent and only requires proof of the date of separation, whereas other grounds require further evidence and proof. However, grounds for divorce are not fault (but only factual) based – they do not determine support or property settlement entitlement.

If you and your former spouse agree on how to deal with the key issues you can apply for an uncontested divorce (also called a “desk-order divorce”). You can file an application jointly (joint application) or one of you applies (sole application). If the other does not respond, it is an uncontested divorce.

Uncontested divorces are often a matter of filing the correct and complete documents. If you both agree on the issues you will likely be granted the divorce without going in person before a judge.

3. Communicating

Note that most of the information in this Section is not about Family Law *per se*, but about dealing constructively with difficult family issues.

3.1 Managing Emotions

It is normal to feel a range of negative emotions: sadness, anger, resentment, guilt etc. Usually, we cannot choose how we feel. But we can choose how we respond to those feelings. If you have ever said something you did not mean when you were upset, you know how emotions can affect your behavior and decisions.

Family law cases are complicated matters. If you are not able to manage your emotions, they may cloud your judgment and you may make bad decisions, possibly detrimental to other family members who are important to you. Many of the emotions associated with family separation are understandable and often fear-based. After all, there are significant changes taking place in all aspects of your life. Even so, you cannot afford to let emotions affect your ability to reach a positive outcome. Your emotions should be reviewed though a child-focused lens if there are children involved – your and your spouse's / partner's emotions may have a positive or negative impact on children, differing dependent on age and other circumstances.

Warning: It is normal to feel strong emotions during a separation. But if you start to express those feelings in an aggressive and threatening way you should seek help.

If your former partner communicates in a way that makes you or your children feel unsafe, you need to protect yourself and your children. See **Section 15: Family Violence** for more information.

5 ways to avoid getting overwhelmed

If you get overwhelmed, you could be prevented from making good decisions and communicating effectively. These strategies will help you avoid emotional roadblocks.

1. Be prepared

It is hard to respond to changes that you have not thought about. Before you begin to work things out you need to think about what you want and what the other side might want.

It is easy to forget what you want to say if you are in a conflict situation with your ex. As such, if

you are going to have a meeting with your former spouse / partner, it is a good idea to write down the few main points you want to get across. That way, even if things get heated, you can check you notes and make sure you have addressed each issue that is important to you.

As you consider how things might go, also think about your emotions. What makes you upset? Write down the toughest, most upsetting questions or topics that might come up. Think about how you could answer in a calm way. Be ready to respond politely and calmly, no matter how aggressively the other party is behaving.

2. Avoid conflict and stress

Be strategic with your communications. For example, you might create an agenda where, in the first meetings, you will only talk about the key issues with the least conflict. It is probably not worth bringing up the baggage of the past that is going to lead to more conflict now.

If it is difficult for you and your former spouse / partner to speak to each other in a productive, low conflict way, you can agree to discuss things by telephone or email, if that works for you both. Think about what you can do to avoid conflict and stress.

Try to focus on reducing the stresses that you have control over. For example, if being late stresses you out, take steps to be early or on time.

3. Refocus and stay active

Dwelling on negative emotions is not healthy. Instead, find something else to think about or do, focusing on the positive. Distract your attention and refocus. For example, try out a new hobby or take a class you always wanted to take. Simple things like going for a walk, calling a friend or even diving into a TV show can make a real difference. Clearing your head by focusing on other positive things can help stay centred on what is important. Staying active is a great way to release emotions.

4. Talk to people you trust

Talk to friends and family who support you and let them know how you feel about what is happening. Express yourself and your feelings and have them help you cope with your feelings by discussing them together, while ensuring that any negative comments about your spouse / partner are not transmitted to your children. Letting your feelings out to trusted sources might help you deal with your emotions if they are triggered later on.

5. Get help from a professional negotiator

When it comes to negotiating complex issues with your former spouse / partner, having a third person present can help settle deadlock. There are professionals who can facilitate tough discussions. Mediators, collaborative lawyers and family justice counselors have specialized training in conflict resolution. Professionals like these can help lead your discussion and keep the conversation from boiling over.

5 Steps to Managing Your Emotions in the moment

1. Be aware and label your emotions

Do you feel yourself getting upset? Are your cheeks getting flushed and red? Recognize the signs that you are losing control and why it is happening to you. Label your emotions – whether you are mad or frustrated or happy. Being aware of how events are making you feel and putting a label on your feelings is the first step to dealing with them properly.

2. Stop what you are doing

When you feel emotions starting to build up, pause. Take a moment to just breathe. Take a moment for yourself now, so that your emotions do not escalate. If you are in a meeting, step away. If people are waiting for you to speak, ask for a moment to collect your thoughts. Give yourself the space and time to recover. You need a moment to think before you react thoughtfully.

3. Refocus on the task at hand

So far you have recognized and labelled your emotions. You know how you feel, and now you need to think about where you are in the process and remember your goals. Take a few deep breaths. Refocus on what it is that you need to accomplish at this particular point.

4. Choose how to react

Use your discretion. Is the other party trying to provoke you? Maybe you should ignore it? Is the other party asking a tough question that is upsetting you? Answer it diplomatically instead of increasing tensions. It only takes one person to de-escalate a conflict. Choose to be that person. React in a mature and reasonable manner. It may help the other side follow suit. No matter their reaction, you may feel empowered knowing that you kept your calm.

5. Identify your triggers

Triggers are what set you off. It can be a certain topic, word or behaviour that someone brings up or does to which you have a strong emotional reaction. For instance, just the mention of an event from your past such as a failed vacation can bring up feelings of anger. By identifying your

triggers before they occur and developing strategic reactions, you can prevent them from pushing you into emotional turmoil. Also consider things that may trigger negative emotions in the other side and avoid them, if you can.

Take a moment to complete the ***Managing Emotions Worksheet***. This worksheet can help you deal with your emotions when you feel like they are getting away from you.

3.2 Managing Emotions Worksheet

Answer the following questions. Circle a number from 1 to 5 – where 1 is Strongly Disagree and 5 is Strongly Agree

	Strongly Disagree				Strongly Agree
I cannot stand to be in the same room as my former spouse / partner. I am so upset.	1	2	3	4	5
When I think about my separation, I often feel like crying / yelling.	1	2	3	4	5
I am having trouble thinking clearly.	1	2	3	4	5
I am/feel consumed by the separation.	1	2	3	4	5
I feel physically unwell.	1	2	3	4	5

If you scored high and you agree strongly with many of the statements above, use the next section to brainstorm methods to overcome emotional turmoil.

1. Acknowledge your feelings

Since the relationship ended, I feel…

_____

_____

When I think about my separation, I feel…

_____

_____

2. Your support network

When I feel bad, I can talk with supporters such as...

_____

_____

3. Get active

I can be physically healthy by…

_____

_____

4. Refocus

To help me stay focused and on point, I will…

_____

_____

Emotional Assessment

Recall a situation where you did not manage your emotions well. Analyze how you felt and reacted. Identify ways you could change your reaction so that next time, you can stay calm and focused.

The situation	How I felt	How I reacted	Ways to improve

3.3 Communicating Constructively

Communicating with the other side is not easy especially if it is a former spouse / partner. Your relationship has changed; you are not going to be talking to each other the way you used to when you were a couple. These changes have probably been emotional. But you cannot let behaviour and emotions control how you communicate. The better you communicate the easier, cheaper and quicker settling your family case will be. You may face varying levels of conflict so make sure to go through the following techniques for good communication.

Active listening

To communicate effectively you have to be an active listener. Active listening is more than just hearing what is said.

Guidelines to active listening:

- **Reflect feelings**: Pay attention to the feelings of the speaker and let them know you have heard and recognized them. For example, “I get that you are really angry about...”.
- **Reflect content**: Let the speaker know you have heard what they are saying by reflecting back their words. For example, “If I understand, you see the new middle school as a place where the children could get a good education and you think the extra 20 minute commute is worth it because of the educational opportunities it could provide.”
- **Use open questions**: Ask the speaker open-ended questions beginning with: tell me, describe, what, or how.
- **Use summarization**: Summarize the feelings and content you have heard. For example, “In other words you are saying…”

Body language

Sometimes you give off messages without saying a word. Your body language, such as crossed arms or rolling of the eyes, can send the speaker the message that you are not interested. Pay attention to your body and do not let your body language undercut your efforts to communicate positively.

Negative body language to avoid

Body language	Details	The message it sends
Fidgeting	Moving around, tapping your legs, playing with jewelry	Nervous, annoyed, bored
Eye Contact	Looking away, avoiding eye contact, rolling your eyes	Annoyed, uncertain, insecure, frightened
Sounds	Making sounds of exasperation, sighing	Not listening, frustrated, disregarding what other is saying
Posture	Slouching	Closed off, not interested
Arms and hands	Crossing arms, arms on your hips, clenched fists, pointing	Upset, closed off, annoyed

When you are communicating, do a self-check to make sure you are not derailing your conversation by giving off negative body language. For your self-check, just remember your SELF:

Spine: Your spine is straight and you are not slouching.

Eyes: You are maintaining eye contact, not rolling your eyes.

Legs: Not fidgeting or tapping your feet.

Fingers: Neutral hands, not crossing arms or clenching fists or pointing.

Stay Issue Focused

Set out what you are going to discuss and stay on topic. For example, if you and your former spouse / partner are talking about paying for your child's soccer team fees, do not get into dialogue about how he or she does not go to watch enough games. The goal of the conversation is to sort out how the team fees are to be paid.

If you allow the conversation to get off course, your goal will not be met. If the other person is getting off course, refocus them by acknowledging you have heard what they are saying but that you want to work this issue out, before moving on to other issues.

Try practicing these refocusing phrases:

- "I hear what you are saying about _____. Could we talk about that after we have discussed _____?"
- "I am sorry. I am getting us off topic. Let us get back to talking about _____."
- "We agreed to talk about _____. Let us leave the conversation about _____ for later. OK?"
- "I know it is complicated, but we really need to find a solution about _____."

Communication channels

When stress levels are high and emotions are sensitive, meeting face to face may make it more difficult to reach agreement. Thankfully, there is no shortage of communication alternatives these days. You can choose to communicate a different way, privately, like by telephone, through e-mail, or by texting. However, be careful about privacy regarding your family dispute is using social media.

Choose the right communication channel that works for both of you. Some conversations might be best face to face, while others are better through a phone call, email or text message.

Tips for using email communications

You and your former spouse / partner might use e-mail to discuss issues. It can be a convenient and practical way to exchange information, but it can also lead to escalating tensions or misunderstandings, if you are not careful.

Here are a few tips to keep in mind.

- Keep your e-mails short and to the point. If you have more than one issue to discuss, try numbering each issue to make it easier for the other person to follow your points.
- Use subject-lines. This can help both of you keep track of e-mails on different issues.
- Do not type in CAPS; this means that you are shouting.
- Be courteous in your e-mails, please, thank you and a friendly tone (not trigger points) can go a long way and engender a more positive response.

1. Understand email communication's limitation. Remember you lack visual and vocal cues you would normally have if you were communicating over the phone or in person. If the other party sends you an email that angers you, give the other party the benefit of the doubt and ask for clarification.

2. If you are feeling emotional when you need to write an e-mail, walk away and take some time to reflect. Do not finalize your e-mail until you have a clear mind. A good trick is to sleep on it before pressing send.

3. Try to stick to the facts. Avoid criticizing.

4. Do not ignore e-mails. Respond promptly and briefly when a response is required. Even if they are simply providing you with some information and a response is not strictly required, it is good etiquette to at least acknowledge the e-mail.

5. Remember: E-mails are a record of your communications. Write your e-mails as if a third person were reading it. Review email messages before you send them.

Communication Pitfalls

Communication pitfalls are ways of talking which do not advance the conversation and in fact, make things worse. Try to avoid these pitfalls.

Pitfall	Example
Blaming	"It is all your fault. We are here because of you."
Discounting	"That is ridiculous. It makes no sense."
Judging	"You are being very selfish."
Psychologizing	"You do not really want the kids. You just want to get even with me."
Ultimatums / threats	"Either you do it this way or I walk."
Cutting off	"Tell your lawyer to call my lawyer"
Labeling	"You are such a jerk"

Communication Dos and Don'ts

The Dos	The Don'ts
• Understand yourself and your own emotional state. • Communicate only when you can talk calmly without getting upset. • Be prepared to walk away if you are getting angry, instead of staying and engaging. • Keep communications brief and focused on the issues. By being clear and specific about the problem at hand. For example, "Let us stop talking about two years ago and concentrate on how to help Jane get her homework done." • Be courteous and respectful of the other person. • Recognizing your own and the other side's emotions about the situation. • Be prepared to offer an olive branch, such as saying sorry where appropriate. It may lead to a similar response.	• Do not let off topic issues get into the discussion. Discuss them later when appropriate. • Do not blame your own feelings on the other person. • Never communicate with the other parent through your child. This puts a burden on the child as the messenger which can be harmful to the child, and may also lead to misunderstandings. • Do not let the past inform the discussion and do not blame yourself or the other parent about the past. • Do not expect appreciation or praise. Manage your expectations of how the other person should behave. • Do not interrupt. Give your full attention and do not be doing distracting things when they are speaking in person. Save your points for when it is your turn.

3.4 Communicating in Conflict

The 4 musts for communications in conflict

When people are in conflict, communicating can become more difficult. People are often quicker to anger, unfocused, and less willing to listen. These 4 strategies for conflict communications can help.

1. **Neutralizing issues**

If you go in using charged language, you are already setting yourself up for a fight. The way you frame the issues should be in neutral language. Stay away from blaming the other person. A good trick is to frame the issue without using the word "you".

Avoid: I want to talk about how you are always late for pickups.

Instead: I want to talk about pickup times.

Avoid: Let us talk about how you want more money.

Instead: Let us talk about our financial needs and abilities.

2. Rephrasing language

Sometimes the way you express yourself causes the listener to react emotionally. This can lead to a communication breakdown. By learning to rephrase your language you can develop a more productive way of communicating.

Make requests, instead of making statements, which can be misinterpreted as demands.

Avoid: "You should pick the kids up at school and drive them to piano lessons."

Instead: "Would you be willing to pick the kids up..?" or

"Can we try having you pick them up..?"

Keep conversations focused on the issues. Do not let a discussion with your ex-partner become about past, irrelevant events.

Avoid: "You did not even want to buy the car. You never used it. I should get to keep it."

Instead: **"**We need to figure out a way to deal with the car. I would like to keep it because I need to drive the kids to school. What do you think we should do with the car?"

Use "I" statements. An "I" statement says how you feel and describes the condition that makes you feel that way and why it causes emotion.

Avoid: "You never listen to me."

Instead: "I feel isolated when you do not acknowledge what I am saying."

3. Business-like

Many people find that thinking of their co-parenting relationship as a business relationship helps to keep communication positive. Many parents find that they have a common goal of raising their children to be happy, healthy, and functional adults. Focusing on this positive goal helps keep communications business-like.

If children are not involved, try to agree on mutual goals to ensure that you will have a focal point for your communications.

How to keep it business-like:

- **Clear expectations**: In a business relationship, your expectations of the other person are limited to the terms that are clearly written in an agreement. Similarly, you should not have any expectations of your former spouse / partner outside of what you have agreed to.
- **Professionalism**: Businesspeople interact in structured situations such as meetings. They have agendas to guide the conversation. Always be polite during communications. Arrange meetings, have an agenda and be punctual.
- **Little personal involvement**: Businesspeople are generally not involved in the personal lives of their colleagues. As you create a new business-like relationship, keep a boundary between this relationship and your personal life. You both need to move on and live your lives separately.
- **Problem solving**: When businesspeople are met with a challenge, they work together to solve the problem. They do not play the blame game or criticize the actions of others. Instead, they apply their energies to create a positive outcome.

4. Be prepared

Before you have a difficult conversation, think about what you want to say, and how you are going to say it. Make an outline of the key points and provide an explanation about why each one is important. It is a good idea to consider your listener and how they might react. Think about the key conflicts points carefully and be ready with reasons that explain your position.

Keep the children out of the conflict:

Your children are likely going through a tough time with the separation. Involving them in your disputes only makes it more difficult for them. To keep your children out of the conflict, avoid:

- Passing messages to your former spouse / partner through your children.
- Arguing in front of them or where they can hear you.
- Insulting the other parent in front of them.
- Asking them to spy on the other parent or keep secrets from the other parent.
- Asking them to take your side.
- Denying time with the child to the other parent as a way to punish them.

Children may blame themselves for your arguing and separation. They probably still love both their parents and it is easy for them to feel caught in the middle. It is your job as the adult to assure them they are loved and minimize conflict where possible. To do so:

- Take a step back and consider whether you are putting your children in the middle of your dispute.
- Consider your children's perspective.
- Listen to your children when they tell you they do not want to be involved.

For more information, see the **Section 17 Resources** section.

3.5 Reacting to High Conflict Communications

When conflict is too high it becomes hard to have productive conversations. Try these techniques.

1. Know you cannot change them

Things become easier when you realize that you have no control over the thoughts, behaviour and actions of the other person. The best approach is to focus on your own words and actions. Make sure that your own words and actions help the conversation move forward.

2. Notice and accept automatic reactions

When faced with anger, insults, manipulation, or lies, natural reactions include lashing back, feeling like a victim, losing hope and wanting to give up. It is important to notice and accept these automatic reactions as they happen. These are the times to take a pause or a deep breath. Refocus the conversation instead of reacting to negativity. Use "I" statements to connect your feelings and the other person's actions.

3. Do not mirror

Do not respond in similar fashion to angry or hurtful comments that are aimed at you. Filter those out and focus on what is relevant to the topic you are discussing. Stay calm and use a calm tone. Anger can be disarmed when met with patience and calmness.

Strategies for High Conflict Communications

Strategy	Examples of what to say
Summarize their main point in	"What I hear you saying is that you do not want our child to take piano

Strategy	Examples of what to say
neutral words	lessons because you feel they are not useful."
Acknowledge their feelings	"I understand that you are feeling hurt…"
Focus them back on the topic that you are discussing	"I understand that you have a lot to say about my lawyer. Right now, I would like us to focus on discussing the piano lessons."
Ask for a chance to explain what is important to you	"I would like a chance to talk about why I think the piano lessons are important. Could you please give me just 2 minutes?"
Ask them for a solution	"How do you think we can work this out?"
Acknowledge their suggestion and	
• Agree with it	OK. That is a good idea. I will pay for the piano lessons."
• Modify their suggestion	"You are suggesting I pay for the piano lessons. I agree that I should pay a bigger portion. How about if I pay 75%?"
• Put forward your own solution	"You are suggesting I pay for the piano lessons. But financially, that would be hard for me right now. Could we try splitting it 50-50 for three months? Hopefully my finances will improve by then. What do you think?"

Regardless of your communication method, it is important to thoughtfully approach conversations. Good communication skills lead to better negotiations. Take a moment to fill in the ***Communication Worksheet***.

3.6 Communication Worksheet

Communicating is a skill. Think about ways that you can be a better communicator. Complete the worksheet with specific information that is relevant to you. Refer back to this sheet before going into a difficult conversation so that you will be able to stay calm and focused.

I will be an active listener by…

_____

_____

I will consider my body language by…

_____

_____

I will stay issue focused by…

_____

_____

I will use other communication channels when…

_____

_____

My neutrally stated issues are…

_____

_____

I will rephrase my language by…

_____

_____

I will be business-like by…

_____

_____

I will prepare for conversations by…

_____

_____

I will avoid high conflict by …

_____

_____

I will use these strategies to deflect conflict…

_____

_____

4. Resolving Disputes Out of Court

Family Court can be expensive and take a long time to wrap up. However, going to court and having a hearing / trial is not the only way to resolve family issues. Much of what is the subject of family cases is not actually legal in nature. It is about supports, changing relationships, parenting and financial decisions. While courts are often asked to help families deal with these matters, you should feel empowered to make your own decisions about these matters, just as you always have. When you can't agree with your spouse / partner over non-legal issues, there are resources that can assist you – see **Section 17 Resources**.

That leaves legal issues to be resolved. Often those legal claims can also be settled without a hearing / trial, and even without starting a legal case. Here are a couple of methods you can try to settle your legal issues.

4.1 Negotiations

Negotiation is a discussion between at least two people with the goal of reaching an agreement. It is an everyday activity whether it is negotiating a work contract or debating with friends about where to go for dinner. Negotiating a family dispute allows you to have a lot of control over the process. You can come up with a mutually agreed upon solution. The remedies you can get through court can be limited to those allowed under the law. Negotiating your own settlement can allow for more creative solutions. For example, you may aspire to have the kids on weekdays and every other weekend and during holidays, you would be content with weekdays and shared holidays and could live with shared 50 / 50 parenting time 2 weeks on 2 weeks off. You can still negotiate and try to settle your case even after the family case has started. It often takes many months between starting a case and getting to a hearing / trial. During this time try to settle some or all of the issue in the dispute to save you the time and money of going through a hearing or trial.

How to negotiate

For negotiating a family dispute, the collaborative style of negotiation can lead to the best outcomes. It focuses on a win-win outcome and allows for creative solutions.

The classic example that illustrates this method is the orange example. Imagine Paul and Suzy, they both want an orange, but they only have one between them. The compromising method would split the orange in half, so each would receive an equal share. The collaborative method would dig a bit deeper to find out what their underlying interests. Paul really only wants the orange peel for his baking and Suzy just wants to eat the orange flesh. So, a collaborative

solution would be to give the orange peel to Paul and the flesh to Suzy this way they are both satisfied, and you have a win-win.

Of course, not all situations in life are so simple. But the method of working towards an arrangement that meets both parties needs (a win-win) is a productive way to negotiate and allows you to come to more satisfying and creative agreements.

Three keys to collaborative negotiations

1. Understand your goals (ACL)

The first step is for you to figure out what you want and what range of possible solutions might be acceptable to you. Classify your negotiations goals according to this formula:

Aspire to – What do you hope for? What is the best possible outcome?

Content with – Where is the middle ground? What would you say is not good, but not bad?

Live with – What is the minimum acceptable solution? Where's your bottom line?

This classification is known as your ACL. It reflects your best-case scenario, middle ground and your worst-case scenario. For example, you may aspire to have the kids weekdays and every other weekend and during holidays, you would be content with weekdays and shared holidays and could live with shared 50 / 50 parenting time 2 weeks on 2 weeks off.

Knowing your goals before you start negotiating helps you avoid bad agreements and to know your limits. It helps you create good agreements that will last longer and work better for you both.

2. Understand positions and interests

There are two ways to negotiate: position-based or interest-based. Position negotiating tends to be rigid and adversarial. For example, this is my position, take it or leave it. The problem with positional negotiations is that you get too rooted into your position and lose sight of what is important to you.

Interest-based negotiations tend to be much more creative and flexible. Interests are what your positions are based on. They are what drive you to want what you want. These negotiations are more likely to result in optimal solutions.

Consider the example:

Position: I want the kids for New Year's Day so they can visit their grandparents during the traditional celebration.

Interest: I want the kids to have a good relationship with their grandparents and to appreciate their cultural traditions.

The only way to meet the position is to have the kids on New Years. But, if the parents focus on the interests, a much richer solution may allow the kids to have a better relationship with the grandparents and experience more cultural traditions.

Interest-based negotiation allows people to gain a better understanding of what is important. This helps them to create agreements that reflect those interests. These agreements often last longer and are followed because they meet the deeper needs of the parties.

Tips for interest-based negotiations

- Figure out, what is important to you about this and why? And put yourself in the other person's shoes and imagine what is important to them.
- Keep an open mind about what the final agreement may look like. Think of a range of possible outcomes.
- You need the cooperation of the other person to make this work and they need your cooperation – there may be trade-offs to meet the most interests of both parties.

3. Collaborative Language

When you are collaborating, you will want to use the language of collaboration to keep you on track and avoid misunderstandings.

The following questions / phrases are examples of collaborative style language that helps promote good communication.

- What if we…?
- What is important to you about…?
- Let us look at how we both might…?
- How do you feel about …?
- I would like to focus on..?
- Could you tell me more about…?
- I will consider that and get back to you.
- Let me see if I understand you...
- Would this be acceptable…?
- How would it work if…?
- How do you see it?
- Does it seem fair / make sense…?

How to Speak Collaboratively Chart

The table below provides key skills and examples for a collaborative communication.

Skills	Definition	Examples
Qualifying	Statements that explain the nature of the conflict.	The only part that poses a problem for me is the Friday schedule.
Accepting Responsibility	Statements where responsibility is taken by you or both of you. Use "I" or "we", never "you".	I was too quick in thinking it was not worth the effort.
Describing	Observational statements that have no judgement passed.	I noticed the shed needed repairing after that storm.
Disclosing	Observational statements about things the other person could not have witnessed, such as feelings, intentions and motivations.	I was upset about what happened and I felt unheard.
Getting Feedback	Getting information about the other person's perspective.	What impact did that have on you?
Empathy	Statements that convey your understanding or acceptance of the other party.	I understand you felt anxious when the plans got changed.
Commonalities	Statements about shared needs or goals.	We both agree that our child's best interest is our priority.
Initiating Problem Solving	Statements that start the search for a solution.	I believe we can work towards a solution that will get us to win-win.

For more tips on collaborative language review the chart below. Before you negotiate be sure to fill out the ***Negotiation Worksheet***.

4.2 Negotiation Worksheet

For every issue to be negotiated, complete this worksheet. Fill in your ACL goals and the goals of the other party. Write down the underlying interest behind the goals. Determine if you have shared goals. Start thinking creatively about what alternative options would help you both reach agreement.

Aspire to: What do you hope for? What is the best possible outcome?

Content with: Where is the middle ground? What would you say is not good, but not bad?

Live with: What is the minimum acceptable solution? Where is your bottom line?

Issue:

_____

A: _____ A: _____

_____ _____

C: _____ C: _____

_____ _____

L: _____ L: _____

_____ _____

Underlying Interests:

_____ _____

_____ _____

_____ _____

Shared Interests:

_____

Alternative Options:

_____

Issue:

_____

A: _____ A: _____

_____ _____

C: _____ C: _____

_____ _____

L: _____ L: _____

_____ _____

Underlying Interests:

_____ _____

_____ _____

_____ _____

Shared Interests:

_____

Alternative Options:

_____

4.3 Who Can Help You Resolve Your Case

There are many professionals that can assist with resolve your case outside of court. It is often more cost effective, less stressful and time efficient to settle. Here are examples of a few types of professionals that are often used in family disputes. There are many others such as counsellors, financial advisors and parenting coordinators. To learn more about professionals in your region, see **Section 17 Resources**.

Mediation

In mediation, the parties in a family dispute meet with a mediator whose job is to help them talk to each other and see where compromise may be possible. The mediator does not make decisions for you. Their job is to help you make those decisions for yourselves. Therefore, mediation may allow you to have more control over the decision-making process.

Mediation may be used at any time. Mediation may be used before someone has gone to court. Sometimes there is no need to go to court if mediation is used and the parties come to an agreement. Sometimes people use mediation soon after a claim has been filed in court. Others use mediation when they get very close to a hearing / trial.

Key characteristics of mediation:

- **Voluntary**: Mediation is usually a voluntary process so both parties must be willing to engage in mediation.
- **Confidential**: Mediation is confidential, which means that generally speaking, what is said in mediation stays in mediation. The discussions that take place in mediation is “without prejudice” and cannot be used in the legal proceedings, without agreement. However, any agreement resulting from mediation may be filed in court and enforced legal.
- **Impartial and neutral mediator**: The mediator is not there to pick sides. They are unbiased and are usually chosen by agreement of the parties.

Collaborative family practitioners

You can hire a collaborative professional to help you resolve your case through collaborative negotiations. In this kind of negotiation, everyone agrees not to go to court. Experts, like accountants and valuators, and in family law claims, psychologists and counsellors, can be brought into the negotiation to help with social, relationship, parenting and financial problems.

The collaborative family practitioners involved have special training. They are committed to settling family issues outside of court.

Arbitration

You might also think about arbitration (where is allowed in family cases – in some provinces, e.g. Quebec, it is not). Arbitration is a lot like court, because it is adversarial in nature. Rather than a judge, you are hiring someone, the arbitrator (often an expert in the area of dispute family law), to decide for you after evidence and submissions. However, the arbitration process can be a lot simpler and a lot faster than court, and arbitration is held in private.

Others

There are other services that can help you settle your disputes, such as counselors or online dispute resolution platforms. Check **Section 17 Resources** to see what services are available in your area.

4.4 Separation Agreement

A separation agreement is a written document between you and your former spouse / partner setting out what you have agreed on the key issues. It is basically a contract that sets out how you two are to live after separation. Separation agreements are made once the relationship has ended. You must both agree to it of your own free will. It is binding upon the both of you and can be incorporated into court orders if you do go to court. Both common-law and married couples can make separation agreements.

If you have been able to settle some or all of the issues, it is important to get that agreement on paper. A separation agreement must be in writing for it to be registered and enforced. Using a lawyer(s) to draft such an agreement is often beneficial to both parties as more likely to make sure that all matters are considered and none left out – the balance of this section is if you do it yourself.

Format

Separation agreements start with the date and the full names of the parties to the agreement. Recitals follow, which describe the background or details leading to the agreement (such as date of marriage, separation, children's names and birth dates, legal steps taken, if any). Next, the terms of the arrangement form the main body of the agreement. Finally, the document ends with the execution (signing and dating of the agreement by both parties and witness).

Writing tips

- Use "will" or "must" instead of "shall".
- Group issues: The main body of the agreement should be grouped according to subject area: children, child and spousal support, and property.

- Use short, simple, descriptive sentences.

Reaching Settlement Tips

- **Stay future focused**: It will be tempting to bring up the past; however, if it is not going to help you reach an agreement, avoid bringing it up.
- **You will not get it all**: You will probably not get everything you want. You will need to compromise. Stay realistic and find an agreement that will work for you.
- **Listen**: Really listen to what your former spouse / partner is saying. Let them finish speaking before you start talking. A good tip is to paraphrase what they just said, this shows that you are listening and helps prevent misunderstandings. To paraphrase use phrases like "If I understand you correctly you want..." or "I am hearing that you find it important that...".
- **Think it over**: Give yourself time to consider all the implications of a potential agreement, both immediate and longer-term. Give the other side the same.
- **Have clear objectives**: Figuring out what you want before you go into negotiations is key. Knowing what is important to you will help you avoid being caught off guard. Think about what the other side might want.

Benefits of separation agreements

- You have control over the key issues.
- Typically done quicker than going to court.
- Can be a lot less expensive than court.
- It is enforceable by the court.
- It is easier to change than a court order. A court order requires a judge to change it, while an agreement only needs the two of you to agree, in writing.
- Allows you to agree to a division of property and debt that is different (perhaps with "trade-offs") from the way the court might divide the property under the law.
- Can be a more amicable and less stressful process than court.

If you are able to come to an agreement that is wonderful, but be careful because there are a few more things to do to finalize the agreement. It is important to take the time to carefully consider your agreement so you can avoid future disputes.

Steps to finalize your agreement

1. Evaluate your draft agreement. Ask yourself:
   - Is this agreement fair?
   - Is it in my children's best interests?
   - Can I afford this agreement – now and in the foreseeable future?
   - Is there a clearly stated method to collect or enforce commitments?
   - What did I want that I did not get? Can I live without it? Is it worth additional time and money to re-negotiate?
   - Am I rejecting this agreement because I am mad at my spouse / partner and want to make him or her suffer?
   - Will I be better or worse off if I go to court? Get advice on how a judge is likely to rule.
   - Is the financial and emotional toll of not settling too high for me and my children to pay?
2. Get legal advice
   - It is a good idea to see a lawyer before you sign the agreement, to make sure that you have protected your rights, have independent objective advice, and to ensure the ability to enforce its terms. A lawyer can go through the agreement and explain any defects or risks. You should see a different lawyer from the one your former spouse / partner sees, to get independent legal advice.
3. Sign and witness
   - After you have seen a lawyer you will want to sign the agreement. The agreement is binding once it is signed by both parties. If the agreement is about property or spousal support, the signature should be witnessed by at least one other person who is an adult. The same person can witness both signatures.
4. File it
   - Once you have an agreement in place, it is best to formalize it so that it can be enforced by the courts. You may need to file it with the court to formalize your agreement, depending of the laws and rules in your province or territory. Once it is registered, the court will generally treat your agreement as if it were a court order as long as it is within the court's jurisdiction.

To prepare, fill out the ***Separation Agreement Preparation Checklist***.

4.5 Separation Agreement Preparation Checklist

Fill out the questionnaire to the best of your abilities before sitting down to negotiate with your former spouse / partner. When answering, consider the other party's position and what would realistically work for your situation. Use this worksheet while negotiating an agreement.

Basic Information

- ❑ Date of marriage or cohabitation?
- ❑ Date of separation?
- ❑ Children? (names and dates of birth)
- ❑ Issues to be discussed?

Children

- ❑ Who has day to day care, control and supervision of children?
- ❑ Where will the children live?
- ❑ Who will make decisions about the child's...?
    - o education
    - o extracurricular activities
    - o cultural, linguistic, religious upbringing
    - o health care
    - o application for passport, permits, etc.
- ❑ What will the scheduled time with parents look like? (try to be specific with dates and times)
- ❑ Where will the children spend holidays and school breaks?
- ❑ How and when are children to be picked up and dropped off?
- ❑ Who will pay what amount for child support? (use the Child Support Guidelines)

- ❑ How will extraordinary expenses be paid?
- ❑ When will payments occur? (e.g. first of each month)
- ❑ When will the payments start? (give a date)
- ❑ How will the payments be made? (e.g. cheque, direct deposit)
- ❑ How will medical expenses be covered? (e.g. under benefits)
- ❑ Any outstanding child support payments still owing?
- ❑ Agree to share financial information? (e.g. annually exchange tax returns, assessments)
- ❑ Other issues regarding children that should be discussed?

Spousal Support

- ❑ Who pays what amount?
- ❑ When will the first payment be made?
- ❑ When will payments occur? (e.g. first of each month)
- ❑ How will the payments be made? (e.g. cheque, direct deposit)
- ❑ When will the last payment be made?
- ❑ Will you meet to review and revise support payments?
    - How often?
- ❑ Other issues regarding spousal support that should be discussed?

Property and Debt Division

- ❑ Details about family home?
- ❑ How will the family home be dealt with? (e.g. put up for sale, stays with one of the parties)
- ❑ Who will pay for home upkeep expenses?
- ❑ List all other family property. How are they each to be divided?

- ❑ Other issues regarding property division that should be discussed?
- ❑ Details about family debt?
    - Who will be responsible for which debt?
    - Other issues regarding debt division that should be discussed?

Other

Any other issues to discuss:

_____

_____

_____

_____

_____

_____

_____

_____

5. Legal Research

5.1 Overview

You may wonder what legal research is and why do it? Legal research is about learning and understanding the law. A judge can only give you what you are entitled to under the law – thus, a reason to agree to things with your spouse / partner that are equitable for you, but the Court can't grant is disputed. By knowing the law, you can ask for the relief you want in your court initiating document or reply. You can also develop a stronger, more convincing argument for your interim hearing or trial. It is important to know your legal rights – what you are entitled to under the law – so that you can develop a stronger, more convincing argument.

In Canada, the law includes two elements:

1. Legislation: written laws decided by government (e.g. the *Divorce Act*).
2. Case law: decisions made in other cases.

5.2 Legislation

Finding the law

First, you will want to see what the legislation says about your legal rights. All federal and provincial/territorial legislation can be found online, usually through a government website – see also **Section 17 Research**. Search for a law using key words related to what you seek (e.g. divorce or child support).

Each piece of legislation has a table of contents to help you navigate its content. For example, if you go to the Table of Contents of an Act, you can see that it is divided into different parts, divisions and sections.

In most legislation there is a definition section under Part I. This is a great place to go when you are not exactly sure what a word means. Words that we use every day may have a different meaning under the law. For example, you might not call a 17 year old a child, but under the *Divorce Act*, they would be a child because it defines a child of the marriage as 'a child of one or both spouses who is under the provincial age of majority, or older but unable to withdraw from the spouses'.

Understanding the law

Now that you know how to find specific laws, you need to gain some skill to read the law. Generally speaking, laws are not written in a way that is easy to understand (but this is changing). The older the law is, the more likely it is going to be hard to read. Lawyers are trained to read and understand the law. You do not need to become an expert at reading law, but if you are representing yourself, you need to be able to understand the laws that apply to your case.

Laws can be tricky to understand. Consider this example of property division.

Situation: You bought a house three years ago with your spouse (note that the law may be different in some jurisdictions if the parties are not married). Now that you are separating, you want to know how to divide the house.

Law: The law might say (in some jurisdictions):

> Subject to an agreement or order...
>
> a) Spouses are both entitled to family property and responsible for family debt, regardless of their respective use or contribution, and
>
> b) On separation, each spouse has a right to an undivided half interest in all family property ... and is equally responsible for family debt.

Break it down: To understand the law better, try to break it down into simple parts.

> Unless there is a different agreement or court order,
>
> a) Both spouses are entitled to family property. Both spouses are responsible for family debt.
>
> b) On separation, each spouse has the right to 50% of family property. On separation, each spouse is responsible for 50% of family debt.

It is important to know what is "family property" as defined in the Act you are using.

> The Act might say:
>
> Unless it is excluded property, family property is property that was owned by one of the spouses on the date of separation.

Now, the last step is to find out what is excluded property as defined in the Act (e.g. the value of property held before the relationship began, a specific inheritance, etc.). Once you understand that part of the law, you will be able to determine what property is or is not

excluded property.

To help build your case, it is useful to use a worksheet like the ***Applying the Law Worksheet*** shown below. Putting information into each column in the table will help you pull all of the important information together.

5.3 Applying the Law Worksheet

Complete this worksheet to help build your case. Under "Law", write the laws that apply to your case (include the name of the Act, the section and summarize the law). Under "Facts", write the facts in your case that relate directly to the law. In the last column, combine the facts and the law to show how the law applies to your situation. Finally, in the last column you need to state how the law applies to the facts of your case. Think of this column as the argument or conclusion to the first two columns. When you apply the law to the facts, what argument can you make about your legal right to the house?

For example:

The law	**The facts**	**Applying the law to the facts**
Name and section of Act Spouses entitled to half of family property Family property is what you or spouse own when you separate, except for excluded property List of excluded property	The house was purchased 3 years ago with spouse We continued to own the house when we separated The most recent value of the house on the date of separation was $_____ (from assessment or certified appraisal)	We were in a common law relationship (as noted the law may not be the same for married and common law situations, or may differ when one changes from common law to marriage) when the house was purchased The house is family property. It is not excluded property Entitled to half the value of the house According to the most recent assessment or appraisal, we are each entitled to $_____ (50% of assessed value)

Now fill out the worksheet for yourself:

The law	The facts	Apply the law to the facts

5.4 Researching Case Law

Legislation is not always clear. Legislation can be interpreted in different ways. Judges must decide how to interpret the law. Their decision becomes "case law". Case law helps to guide judges on how to interpret the legislation and make decisions in a later case. Some cases become important because they set the standard for how legislation or facts are to be interpreted. The legal term for this is "precedent". Legally, this is when a decision made by a judge, often from a higher court (e.g. court of appeal, or the Supreme Court), becomes the standard for how other judges make decisions related to a certain area of law.

For example: Imagine there is a law saying: *You cannot ride your bike on major roads without a helmet.* If the law does not define what "major" roads are, a judge must decide. Now, imagine that a previous judge in a higher court wrote a decision saying that: *Roads with two or more lanes in each direction are major roads.* This creates a precedent. It is case law. Other judges making decisions about bike helmets and roads will use this judge's two lane definition to make decisions.

As you can see, using case law to support your case can help the judge understand how to interpret the law in your favour. The key to using case law is to be sure to use cases with similar facts that support your claim. To do this, you need to be able to research past cases. When you are representing yourself in court, this kind of legal research can be important. Imagine, for example, if you are able to find a case where the situation is like yours and the decision is the same as the one you want. Providing this information to the judge may be very persuasive and will help support your case.

At the same time, it is important not to ignore cases that clearly do not support the outcome you want. There is a good chance the other party or their lawyer will use those cases. You need to be able to say why these cases do not apply in your situation (e.g. showing that the facts are different from – distinguished from your case). If you are finding lots of cases that do not support your legal argument, you should reconsider your position and think about settlement.

Choosing the right case

Before you start your research, you have to know what you are looking for. There are 4 key factors to look for in choosing the right case:

1. Similar facts
2. Best outcome
3. Court
4. Date

1. **Similar facts**: You want to find cases that have facts or issues that are similar to those in your case. If you find these cases, you can use them in court and ask the judge to decide

your case in a similar way. Present cases where the facts are similar to your case and the decision is the same as the outcome you want.

2. **Best outcome**: You need to find cases that relate to the outcomes you want. For example, if you want the court to award you more than half the value of the family vacation home, you will search for cases that awarded more than half the vacation home to an applicant. Select cases where the outcomes of the cases are the same as the outcomes you want. However, you can't ignore case decisions that are not in your favour. Think of ways that your case is different than (distinguished from) the less favourable case or why that case should not apply in this scenario.

3. **Court**: The next most important consideration is the location and level of the court. Decisions of higher-level Canadian courts are more influential than decisions made by lower level courts. Decisions from a higher-level court are binding on lower level courts. Decisions from the same or lower-level courts may be merely persuasive – they could help convince a judge to decide the same way, but the judge is not required to decide the same way.

   The Supreme Court of Canada is the highest court in Canada. Each jurisdiction (province or territory) in Canada has its own courts. Usually these courts are broken down into a court of appeal (the highest court in each province or territory), a superior trial court and then, provincial or territorial court. If you cannot find a decision from the Supreme Court of Canada or from a court in your province or territory you can search courts from other jurisdictions. Decisions from different provincial or territorial courts may be persuasive, but they are not binding on courts outside that province. Those decisions may or may not be followed.

   When searching for case law, select decisions from the courts in this order:

   1. Supreme Court of Canada.
   2. Courts from your province or territory, in order: appeal, superior trial court, provincial / territorial court.
   3. Courts from other provinces (in order of appeal, superior and provincial / territorial courts).

4. **Date**: The date of the decision is the final consideration when selecting cases. Keep in mind that each of the other three points have a higher priority than this one.

   What happens if you find two decisions from the same level of court with similar facts and outcomes? Look at the date. Select cases where the decision is most recent, or cases which are referred to more in subsequent decisions.

Also, make sure the decision has not been overturned on appeal. The process of checking to see if the case has been overturned on appeal is called "noting up". When a decision is overturned, it means that a higher court has ruled that the decision is no longer good law.

Over time, our society changes and so does the interpretation of laws. Be careful when using any case that is more than 10 - 20 years old, unless it is the Supreme Court of Canada, and not overturned. The law may be out of date and the interpretation of the law may have been overturned.

Case Study
While not a family case, the follow example might be instructive. Imagine you are preparing for a trial in BC Provincial Court.

There is a law that states: You must have some trees in your front yard.
What does "some" mean? The law is not clear. So, you research case law. You find 2 cases.

- Case 1: Alberta superior trial court says, "some means at least 3 trees".
- Case 2: BC superior trial court says, "some means at least 1 tree".

Which case is best?

The most important case will be the BC superior trial court case. That case is binding on BC Provincial Courts. Thus, according to BC case law, you must have at least one tree in your front yard.

If you had found a BC Court of Appeal or Supreme Court of Canada case that said, "some means at least 2 trees", you would select that case because it is from a higher level of court. The judge would need to follow this case.

Where to find case law

When you go about doing your research, be sure to use the resources within your community. courthouse libraries are often able to help you locate case law. There are also online databases where you can search for cases. A good, free online case law database is CanLII. See **Section 17 Resources** for more information.

6. Building Your Case

6.1 How to Build Your Case

Now that you have learned a few legal skills, it is time to put it all together and start building your case. This is the critical step that brings together what you have learned so far about case law and evidence. Whether you are appearing in court or completing a court document, you need to be able to make legal arguments. You need to ask the court for something and provide information that supports a favourable decision. To do this, you need to build your case.

To build your case, you need to answer these four questions:

- What do I want?
- What is the law?
- What do I need to prove?
- How am I going to prove it?

What do I want?

Ask yourself: what do I want the judge to decide? You need to be realistic. You may want to keep everything, while your former spouse / partner gets nothing. But asking for an order that is not supported by law will not be successful. In fact, in some courts you may be required to pay court costs for bringing unsuccessful claims.

Deciding what you ask for depends on what you are legally entitled. A judge can only make an order that follows the law. For instance, a judge will not award you spousal/partner support if you do not meet the definition of a spouse / partner.

To figure out what to ask for you need to know:

- What the law says about your rights; and
- How the laws relate to the facts of your situation.

You must include what you are asking for (the order you seek) in your pleadings (or initiating court forms). If it is not in there, the judge may not grant you that order. For example, if your application does not include a claim for spousal support, the judge is unlikely to/may not be legally able to order spousal support.

What is the law?

Do your legal research. It is good to know the law that supports your claim. If the law does not support your claim, you may need to rethink your application. When you make your legal argument, you will want to be able to refer to the specific section of the statute law (legislation) that gives you the right to what you want, or the cases that have been decided in a way that helps support your own case.

What do I need to prove?

This next step is to determine what facts you need to prove to establish that the law applies to your situation. When thinking about what you need to prove, remember, a judge can only make orders that follow the law. For example, say you want a portion of the value of the family home, but you want to know whether a court would give you an interest in the home. The law might say (in some jurisdictions):

> *Subject to section 85 [excluded property], family property is all real property and personal property on the date the spouses separate, property that is owned by at least one spouse.*

Broken down, there are two elements you need to show you have an interest in the property:

a. That the property was owned by one of the spouses upon separation; and

b. That it does not fall into one of the exceptions of excluded property.

If you want an equal share of an asset, think of how you can prove these two elements.

How am I going to prove it?

Once you have figured out what you need to prove, you can think about how best to do this. You will need to bring to court evidence to establish the facts. For each claim or element of the claim, you are trying to make, you should have some evidence to prove it. If there is evidence you are missing (e.g. financial statement), make note of it and try to obtain it.

For example: Say you are trying to prove that the house is *not* family property:

> **Element A**: Only one spouse owned it at time of separation.
>
> **Evidence**: Ownership documents showing you acquired the home *after* your relationship ended and your own oral testimony as to the date of separation.

You are now ready to complete your own ***Case Building Worksheet***.

6.2 Case Building Worksheet

Fill in the columns. Under "What I want" state the orders you are asking the judge to make. Under "The Law" summarize the statutory and case law you are relying on. Under "Points to Prove" apply the law to your situation to find what you need to show the judge. Under "Evidence (the Proof)" state the evidence you are using to support your points. For example, hypothetically: ***What I want****: To have the majority of the parenting time with my children.* ***The Law****: Case law states that parenting time should be in the best interests of the children, and the ability of a parent to spend time with the children is an important consideration.* ***Points to prove****: Having regard to work schedule, the children would be left with a care giver rather than your spouse / partner, whereas your work is done at home, giving the children the benefit of your guidance.* ***The Proof****: Evidence of your employer or fellow worker.*

What I want	The law	Points to prove	Evidence (the proof)

7. Legal Writing

7.1 The Basics

To complete court forms correctly, you must learn some basics about legal writing. Legal writing is the style of writing used when you are writing a document that is filed or presented at court. When you think of legal writing, you may think of a phrase such as:

> *Please be advised, I am herein seeking summary judgment in the above entitled matter; as duly executed by me.*

This convoluted traditional legal style of writing, often called "legalese", is, thankfully, no longer necessary in legal writing. In fact, this style of writing is discouraged. This is not how you should write. Simple and plain language is best.

As you move through a legal case, you will likely need to fill out court forms or write other legal documents. When legal documents are poorly written, the judge has difficulty understanding your situation and your legal arguments might not be clear. The easier it is to understand your documents, the more convincing your legal arguments will be. Since you want to convince the judge to decide in your favor, it is important to take the time to write clearly and well.

15 tips for good legal writing

1. **Use plain language**. A judge wants to understand your case. The best way to ensure that they do is by writing in plain language.

Language chart

Overly complex	Plain language
• it is important to add that we own a cabin • during the month of May • adequate number of • for the reason that • in light of the fact that • in the event of • at that point in time • in connection with • despite the fact that	• we own a cabin • in May • enough • because • because • if • then • about • although

2. **Write shorter sentences**. Avoid telling your reader too much in one sentence. Shorter sentences are easier to digest. A good rule of thumb is to keep sentences under 20 words.

3. **Write one idea per paragraph**. Complicated information usually needs to be broken up into separate paragraphs to be understood.

4. **Always keep your reader in mind**. Your number one reader is the judge, but the second is the other side. When you are writing, be serious and professional. Do not be sarcastic or try to be funny. The judge needs to understand the relevant and material facts of your case. This does not necessarily mean you need to include the detailed story of your relationship breakdown (you shouldn't). Just include what is needed for this application or trial.

5. **Be clear**. A good test is to read the document out loud. If you have to read a sentence more than once to understand it, you should rephrase it.

6. **Be well organized**. Start by getting your ideas organized. Figure out what you want to write, for example "what are you asking for", "why" and "your evidence". If you think about this before you write it, your writing will have more flow and be easy to comprehend. To organize your document, number each page and number each paragraph, and identify your exhibits with letters (Exhibit A, Exhibit B etc.).

7. **Be specific**. Try to give the exact detail. Choose more specific words instead of vague ones.

    a. Instead of using "recently," use the date.

    b. Instead of using "him" or "her," use names.

8. **Be accurate**. Avoid contradicting yourself. If one statement in the document says the opposite of another statement, the reader will not know which to believe. The last thing you want is for the judge to question your honesty, so, if you do not know whether something is true; do not say that it is true.

9. **Be consistent**. You want to make it easy for your reader to understand what you are saying. If you use a term or name for something or someone, be sure to consistently use it. For instance, do not keep switching between first name, last name, and nickname – define the name, early in the document ("John Doe (Doe)", and then use a shortened version thereafter, "Doe".

10. **Provide context**. Assume the reader knows nothing about your situation. Provide a short description, one or two lines may be enough to help the reader understand the situation.

11. **What you are asking for**. A legal document should not be a mystery novel. The reader should not have to guess what this is about or wait until the end. Instead, tell the reader

your point right at the beginning of your document. You do not want your reader asking the question, "Why are you telling me this?" The strategy is to say what you are asking for and then support it with evidence and submissions. Use this strategy for every point you are making.

12. **Only what is relevant**. Do not get distracted when you are writing. Say exactly what you need to convince the reader. Irrelevant information will do nothing to help your case. You do not want the relevant facts getting lost in a pile of irrelevant ones.

13. **Type your document**. If you have the option to type your document, do so. Handwriting is usually accepted but a typed document looks much more professional and is easier to edit and read.

14. **Edit your work**. As in all professional writing, spelling and grammar are important. Be sure to read through the document multiple times before finalizing your draft. If you can, have someone else edit it.

15. **Legal review**. Getting a lawyer to review your document will help ensure that it is done properly. For example, a lawyer can point out mistakes that are not immediately obvious to people without legal training.

Things to avoid

1. **Stating accusations as fact.** Only tell the reader the facts (what you know is true). Let the reader reach their own interpretation. In other words, do not tell the reader your interpretation. Show the reader the facts so they can draw their conclusion.
   DON'T: "He is a horrible parent."
   DO: "Our son failed two of his quizzes last month, while in the fathers care, and the father was not aware of this."

2. **Exaggerations.** Your statements should be neutral and truthful. Exaggerating can hurt your credibility.
   DON'T: "He is always late and drives like a race car driver!"
   DO: "On March 3, 2019, he dropped the kids off 30 minutes late and drove through the stop sign without slowing."

3. **Long storytelling.** The judge needs to understand the relevant facts and this is done best with clear concise sentences. Avoid personal narratives that take a long time to get to the point (your statements are not a novel).
   DON'T: "It was one of those hot spring days, so I was outside waiting for him to drop the children off. He was late. He is always been running late. When we went on vacation 5 years ago, we missed our flight because he was late."
   DO: "On March 3, 2019, he dropped the children off half an hour later than previously agreed."

4. **Slangs, idioms and acronyms.** These make your writing look unprofessional. The reader also might not understand the terms you use. Tell the reader in plain language. If you use an acronym, define it and be consistent throughout.
   DON'T: "It was raining cats and dogs!"
   DO: "It was raining heavily."

7.2 Affidavits

You might need to write an affidavit as part of your court case. An affidavit is a written statement of facts that you swear or affirm to be true. Affidavits are often used as evidence to support your case when you are applying for interim (temporary) orders or consent orders. A non-party witness may also swear / affirm an affidavit on an interim application. It is important that an affidavit be properly written as it is evidence, just as if you were in Court testifying before the judge. It should be written clearly, so it can help the judge decide.

Writing Affidavits

Since the affidavit is used as evidence in court, there are strict rules on what you can write in your affidavit. Courthouse libraries often have resources on the court rules about writing affidavits that could be helpful. Affidavits must provide information that is true and relevant.

Here are some general principles.

- **Truth**: Everything within your affidavit must be true to the best of your knowledge. Lying in your affidavit will hurt your case and may lead to a criminal charge of perjury. If you have a doubt about whether something is true, you should not include it in your affidavit. If you think something is true but are not positive, use "I believe".
- **Relevance**: Do not include facts that are not related to the issues in your case. For example, if your application is for child support, do not include facts about your former spouse's extramarital affairs.

Avoid "hearsay" evidence in your affidavit. Hearsay is information being offered for its truth, that a witness learned from someone else, but does not have first-hand knowledge of it. Hearsay is generally considered to be unreliable and not allowed as evidence in court, although there are exceptions. To learn more about hearsay, and exceptions to allowing it as evidence in court, see **Section 12.9 Hearsay**.

Do not provide your opinion in your affidavit. Generally, only experts are allowed to state their opinions for consideration by the judge. Affidavits should be statements of facts not personal opinions.

For example, an opinion statement would be, "I think she loves chocolate ice cream". You cannot include this, but you can include, "I see her eat chocolate ice cream every weekend".

Sometimes, opinions can be written to look like facts:

> "He is a bad father"

The judge will likely wonder how you can know he is a bad father. Try to just stick to the facts. Instead write:

> "I have given him many opportunities to visit the children or to have phone conversations with them, but he has refused to do so. To date he has not financially supported the children. I asked him to help pay for their hockey lessons, but he has refused."

Reading this, a judge can come to their own conclusion that he has not been a very good father.

The Dos and Don'ts of Affidavits

The Dos	The Don'ts
• **Give Personal Knowledge**: Include what you actually saw, heard, did, and said. However, if you did not see, hear, did or said, but believe facts to be true tell what you believe and the basis for that belief (e.g. s/he did not pay the mortgage, and as a result, I believe...). • **Be Truthful**: Lying in your affidavit could seriously hurt your case and potentially have criminal consequences (perjury). • **Organize your Affidavit so it Flows Logically**: Most people will have facts in chronological order (according to date they occurred) or by subject matter. For example, first few paragraphs are about the kids and the next few are about your assets and then you finish with a few paragraphs about your debt.	• **Give Opinions**: Do not state personal opinions e.g. "It is my opinion that..." "I believe that" or "I think". • **Express Feelings**: Judges will ignore statements of how you felt. For example, "I was devastated by her moving out" instead be factual and write "My roommate moved out on July 12, 2019". • **Ask Questions**: You should not use questions. For example, "What could I have done, but take the money?" Instead say "I took the money because I did not think there were any other options." • **Use Legal Arguments**: An affidavit is <u>not</u> the place to be talking about the law, e.g. "In accordance with the Act, I should be paid $200 monthly in support". • **Make Absolute Statements**: Avoid words

	like “always” or “never”. From the judge’s perspective, “always” means “100% of the time”, and “never” means “not even once”. Words such as “frequently,” “seldom,” and “not often” will give the judge a more balanced view and make you sound more reasonable.

Formatting Affidavits

The affidavit can vary in length from one or two paragraphs to multiple pages. There are often court rules as to the length, format and subject matter of affidavits – check for them. However, generally, keep your affidavit as short as possible and number your pages. Set out the facts in paragraphs and number each paragraph on the left side. It is best to keep your paragraphs short. Limit each paragraph to one idea. Spacing should be set at least 1.5 and a return should separate the paragraphs. Never use a font smaller or larger than 12 point for the main body of the text.

Some courts provide forms on their website that allow you to type directly on the form (“fillable forms”. From there, you can print your affidavit and file it with the court.

Exhibits

When you want to support a statement in your affidavit with a document, you can attach it as an exhibit. Any document that can be printed on paper can become an exhibit: income tax return, web page printouts, receipts, photographs, prescription etc.

Here are examples of facts that can be supported by exhibits:

Fact	Exhibit
As of July 12, 2019, I have $30,000 in my TD bank account.	Bank statement

I have been suffering from severe headaches for the past three months.	Doctor's note; prescription

The judge may not automatically accept the evidence shown in every exhibit as true; it will depend on the nature of the exhibit. Some exhibits may need more support to be accepted.

Attaching an Exhibit

If you want to support a fact in your affidavit with an exhibit, you must refer to it in your affidavit. Each exhibit should be given a letter and referred to in alphabetical order. The first exhibit you refer to in the affidavit will be lettered 'A', the second, 'B', and so on. References to the exhibit should be typed in bold.

For Example:

> As of July 12, 2019, I have $30,000 in my TD bank account. Attached as **Exhibit A,** is a true copy of my TD bank statement.

Attach all your exhibits at the end of your affidavit. If an exhibit has multiple pages, number the pages. When you bring your affidavit to the commissioner for taking affidavits to get it sworn, you must also bring the exhibits so they can be stamped as part of the affidavit.

Swearing / Affirming the Affidavit

To "swear" or "affirm" means that you promise the information presented in the affidavit is true. Sign it in front of a commissioner for taking affidavits who will take your oath or affirmation and will also sign it. Lawyers and public notaries are commissioners, as are some staff in lawyer's offices. Sometimes a court official (clerk) may be a commissioner. If you do not know how to find a commissioner for taking affidavits, try calling your local court house for help. Be sure to bring official identification with photo, if available (e.g. driver's licence), when you go to have an affidavit sworn.

8. Starting a Family Court Case

8.1 Overview

Being involved in a family law case can sometimes be overwhelming. You may be wondering what to expect. Here is a general snapshot of the steps in a legal matter. Each jurisdiction (province or territory) has their own set of rules or procedures. Also, within each jurisdiction there are different levels of court (e.g. provincial / territorial, superior trial court, and appeal) which have their own set of rules and procedures. Some jurisdictions have court rules that are specific to family law. So, a case in Alberta Provincial Court will look different from a case in Ontario Superior Court. You will need to check the rules and procedures for your location and case. In **Section 17 Resources**, you will find specific help resources for your jurisdiction.

You might be involved in both provincial and superior court processes at the same time (e.g. you bring an application for property division in superior court and an application for parenting time in provincial) or in a separate family court. Because each process is slightly different, it is important to understand the one in which you are involved. Check with your local legal help service providers to learn more.

Regardless of your location, there are some common rules and procedures in all family cases.

8.2 Court Documents

Completing Court Forms

You will need to use your legal writing skills when completing court forms. Court forms are the documents that the court needs you to complete and file. These forms require specific information that helps the judge understand your case.

At the start of your case, you will need initiating court forms (sometimes called pleadings). These are the documents that start or respond to an action. Pleadings are important because they set out what is your position and what you want from the court. In your pleadings, you must clearly write what you want the judge to order.

When writing your court forms:

- **Know what order you want**: Considering what your legal rights and obligations are and what you want, you can figure out what order to ask from the judge.

- **Know your legal position**: Get familiar with your legal rights and obligations. You will not want to ask for an order to which you do not have a legal right.

- **Know the "interests" and legal position of the other person**: Try to understand what the other side wants and why.

- **Know what to write**: Include everything you want the court to order. A judge can only grant you an order that you requested in your initial forms. (e.g. if you only claim child maintenance, the judge is not likely to give you an order for spousal support.)

- **Keep it simple**: For example: "I have been the principle caregiver of the children since their birth, and I want a parenting schedule that reflects that. I am seeking an order for the following parenting schedule…"

Tips for writing forms:

1. **Using names**:

   a. Use full legal names, including middle names.

   b. If you or the other party often use a name other than a legal name, include that name by adding "AKA" (also known as) before that name e.g. "John James Doe, AKA JJ Doe".

   c. You may also define the name at the beginning of the document text, e.g. John Doe ("John"). Then you only have to refer to him as John in the rest of the document.

2. **Complete**: Be sure to fill in every part of the forms that apply to your situation. In some jurisdictions, there are special requirements about crossing out sections or writing "not applicable" in sections of forms that don't apply to you. You should check with court staff if you aren't sure how to fill out a form.

3. **Accurate**: Be accurate and truthful. Being dishonest in your forms will hurt your case and lying in an affidavit is a crime (perjury).

4. **Keep it professional**: Remember that a judge and the other party will be reading this.

5. **Review**: make sure you read through your form before submitting it. Read it to make sure it would make sense to someone who knows nothing about the case. The form should clearly explain the facts and what orders you are asking for. Seek legal help if you want a professional to look over your forms.

8.3 Starting a Family Claim

Your family case starts by filing (which means to formally submit) initiating court form(s). These

are the documents that start or respond to an action. Pleadings are important because they set out what your position is and what you want from the court. In your pleadings, you must clearly indicate what you want the judge to order.

Different kinds of family cases are started with different initiating forms. The type of form you file will depend on the type of legal issue you are facing and the jurisdiction you are in. The most common forms used to start a family case are a notice of claim, a petition, application, a writ of summons or statement of claim.

This initiating form will say who you are, whom you have a claim against, and why you are bringing a claim against them. It also has important information about when the other party must reply to your family claim.

It is important to prepare the right form to make sure that everyone has all the information they need and can understand what happens next in your family case. Talk to the courthouse staff or seek legal advice on which form to use.

8.4 Serving Documents

After you have filed your initiating court form, you must deliver the document to the other party in a special way called “service”. There are very specific rules about how you can serve (give / deliver) documents, such as court forms, to other parties. The way you serve a document will depend on the type of document it is. The courts are very concerned about all parties being properly served. In normal cases, you must prove service on the other side (through an Affidavit of Service). You will need to check the court rules on how you are to serve your documents and prove service. If you are unsure ask the court registry or seek legal advice.

Most of the time, service happens when the document is handed to the other party, but it can be easier or more complicated than that. You may be able to send it through registered mail. If you are having difficulty serving the other party, you may need to seek a court order for alternative service. The other party must then file a replying court form in court within a set number of days after they have been served. If this does not happen, you may be able to apply to get a final order without the other party’s involvement (a default judgment).

8.5 Responding to a Family Claim

To reply to claim, you must file a reply. The most common forms are an Appearance, Statement of Defence, Reply and Response Form. This document tells the person who has a claim against you, which of their claims you agree and which you do not agree.

You have a set number of days to file your reply after you have received the initiating court

form. The initiating court form will usually say on it the number of days you have to reply. If you are unsure about the time limit, ask the court registry. If you do not file a reply the person who started the claim may be able to ask for a final order (a Default Judgment).

It is important to reply to the initiating court form using the right reply form. Each type of initiating court form will have a type of reply form. If you are unsure of what form to use you can check the Rules of Court or ask the court registry or a legal help provider in your area.

8.6 Counterclaim

If you have received a Notice of Family Claim and you want to ask the court for different and / or additional orders, you must file a counterclaim in court. For example, your spouse is seeking an order regarding parenting time, you might want to respond to that claim and also make a counter claim regarding the family home.

8.7 Interim Applications

Whether you are in provincial / territorial, or superior trial court, you have the option to bring an application for an interim or temporary order. This is often used for urgent or time sensitive matters. For example, if you need child support payments, but do not have a hearing / trial date until next year, you can ask for an order requiring temporary payment until the final judgement can be made after a hearing / trial. It is also used to get orders to move the process along. For example, if the other person is not giving you their financial documents, you can apply to court for an interim order for disclosure.

9. Disclosure / Discovery / Questions

9.1 Overview

Throughout your case you must exchange with the other party all of the relevant documents related to the case and all of the information you have about the case. Trials are not run like card games where you cannot see what anyone is holding. Trials are the opposite. All the cards should be on the table and everyone should know everything everyone else knows.

In every family case, each party must be completely open and forthcoming about the information they have. There are two very important reasons for this rule. First, trials must be fair for everyone. Second, settlement is always preferable to trial, and the chances of settling a family law matter before trial is much higher when each party knows has all of the relevant information.

Discovery (sometimes called "disclosure") is a legal process to obtain information. It means getting access to relevant information the other party has about the case. The basic rule is that you have to let each other know about all of the relevant documents, other records and information that you have that are related to any of the claims either of you has made. This means that if you have a document that is unfavorable but related to your claim, you must still let the other person know about it. If you do not share all of the relevant documents or information you have, the consequences can be serious. For instance, the court could make a judgement against you, or you could have costs awarded against you.

It is very important that you understand the rules about the kind of documents and information you must exchange. There are three common forms of discovery: disclosure, written discovery (interrogatories) and oral examination for discovery (sometimes called "questioning"). The type of discovery allowed in your case will depend on the jurisdiction you are in and the court your action is in. Check the Rules of Court and your local legal resources for assistance.

9.2 Financial Disclosure in Family Law

Family Law processes try to promote a just and fair resolution of family matters. Full and frank financial disclosure is key to achieving that resolution. Generally, financial disclosure is required of one or both parties where there is a claim of child support, spousal support, or property division. Financial disclosure generally includes:

- Income tax returns.
- Notices of assessment and reassessment from the Canada Revenue Agency.

- Statement of earnings, payslip or a letter stating salary or wages.
- Financial statements if self-employed.
- Other information about your expenses, assets, and debts.

You should check your Rules of Court on financial disclosure to see what disclosure is required. You may be required to provide full and complete financial disclosure even if you are not going to court. If you do not share full disclosure when required, your family law agreement may be set aside. If you fail to provide financial disclosure when you go to court, a judge may order you to provide financial disclosure, impute an income (assume your income is a certain amount) and make support orders. The judge may also order you to pay the costs of the other party or find you to be in contempt of court.

9.3 General Disclosure

You may be required to make a list of all relevant documents (sometimes called an "affidavit of records") in your control and give a copy of your list to the other party. There is often a specific court form you must use for your document list. If the other party asks for them, you must give a copy of these documents to that party and allow them to look at the original document.

Privileged documents

There are some documents that you do not have to share with the other parties: these are called "privileged" documents. In general, a document is privileged if it contains legal advice from a lawyer you have consulted for this family case. There may be other documents that are privileged. You should speak to a lawyer to see if any of your documents are privileged and do not need to be disclosed.

9.4 Written Discovery

The Rules of Court or a court order may allow another party to ask you to reply to a list of questions called interrogatories or written discovery. Interrogatories are written questions about the case that you have to answer in writing, under oath. Normally, you answer interrogatories by writing and swearing/affirming an affidavit.

You must provide your affidavit replying to the interrogatories within a certain number of days according to the Rules of Court.

You can refuse to answer questions that do not relate to the claim in the lawsuit. You can also refuse to answer questions that would require you to give privileged information. If you refuse to answer any of the questions in the interrogatories, you must explain why you are refusing.

9.5 Examination for Discovery / Questioning

Some jurisdictions allow for discoveries. This means that you and the other party can make an appointment with a court reporter to ask each other questions under oath or affirmation before trial, at a meeting called an "examination for discovery" (also known as "questioning" and "examination for questions"). Examinations for discovery are not open to the public and happen out of court at the office of a court reporter or a lawyer for one of the parties. If none of these are available, you may need to rent a meeting room. A court reporter has special training and is certified by the court or government agency. The court reporter keeps / makes a written record (transcript) of all that is said during the discovery. They do not make decisions about your case.

The court reporter will ask the party who is being questioned to swear/affirm to tell the truth, and the party who is asking the questions will begin. As with written discovery, you can refuse to answer questions that do not relate to a claim in your matter or that would require you to give privileged information.

The purpose of an examination for discovery is to find out what the other party will say at trial and what evidence they will present to the judge. Examinations for discovery can also be helpful to find out areas of agreement so the trial can be shorter and focus only on the facts and claims that are in dispute.

What to expect

- Examinations for discovery often have a time limit by law or by agreement (check your Rules of Court).
- When you examine the other side, you are responsible for making arrangements (room, booking the court reporter, paying the court reporter and the witness fee).
- Most discoveries begin by asking the person to swear or affirm that they will tell the truth.
- Then they are asked to state their name, address (if relevant), and occupation.
- You can ask questions about anything relevant or material to your case.
- The person you are examining is required to bring all of their relevant documents with them to the questioning.
- You can ask questions about documents you present to the other side, or about documents they have included in their list of documents.
- If they cannot answer a question during the Discovery, you can ask them to send you the answer by letter, often called an "undertaking".

- You can also ask the person for the names and addresses of other people who might have relevant information.

You can get the transcript of the discovery of any other party, but generally only the questioning party can use it as evidence in court. But be aware that, depending on the length, these transcripts can be expensive. Therefore, be sure to take good notes while conducting a discovery and limit your questions to issues that will help you in the case.

Tips on conducting an examination

- **Prepare**: It is a good idea to prepare a script of your questions (and potential follow-up questions) ahead of time and to organize the documents you will be presenting to the witness. Also, make sure you know your facts.
- **Ask one question at a time**: If you are asking multiple questions at a time, you will not know which question they are answering. It is better to break it down and ask shorter, more precise questions.
- **Listen**: Be sure to listen to the answers. Be flexible enough to deviate from your script to ask follow up questions when needed.
- **Move on**: Once you have a necessary admission, move on.
- **Be courteous**: Always be polite to opposing counsel and the person being examined.

Tips on answering questions at a discovery

- **Prepare**: Before attending, familiarize yourself with the facts and review your documents. It is your responsibility to know the relevant facts of your case. You will be required to bring all of your relevant documents and other records with you to the questioning.
- **Keep it short**: Answer the questions asked and only the question asked, as briefly as possible – do not volunteer more information than necessary.
- **Be honest**: Answer truthfully. Do not guess. If you do not know the answer, say so.
- **Stay calm**: Do not get upset.
- **Be courteous**: Always be polite to opposing Counsel and / or the person examining you.

9.6 Use of Disclosure / Discovery

To Settle: You may gain information about the case the other side will present/answer, and insight about your own case, which will help you to decide what a fair settlement might be. Settlement is always a good option, so you should consider settlement possibilities after

receiving disclosure or conducting discovery.

At Trial: Each party can use the documents and information they received from the other party at discovery as evidence during the trial. This includes the answers given in reply to interrogatories and the documents from each party's list of documents.

You can also use a transcript from an examination for discovery of questions you ask of the other side. You may read into evidence the relevant parts of the discovery transcript of the opposite side as proof of the statement or to challenge the credibility of witness' statement at trial. For example, if the other side is saying something different at trial than they did at their examination for discovery, you can use the transcript to ask why they are being inconsistent. You must read both the questions and answers from the transcript. Be mindful that any question and answer you read to the court becomes part of your case. So, you should avoid reading in parts of the discovery that are damaging or contradicting to your own case. You cannot read into evidence the answers you gave in discovery – you have to testify about that.

Fill out the ***Examination for Discovery Worksheet*** before you conduct one so you will not forget to ask any questions you want to ask.

9.7 Examination for Discovery Worksheet

Go through the worksheet organizing your questions by topic. (For example, What I need to know about: value of home. Questions could include: Did you have the family home assessed? When did this assessment take place? Who conducted it? What did the assessment say about the value of the home?) (Note: if there is a document you do not have, request it so it is on the record in the discovery.) Bring this worksheet to the discovery so you can write quick notes in the response area and keep track of questions you want to ask and the answers that are given.

What I need to know:

_____

Question:

_____

Response:

_____

Question:

_____

Response:

_____

Question:

_____

Response:

_____

Documents I am requesting:

_____

10. Becoming Familiar with Court Processes

10.1 The Courtroom

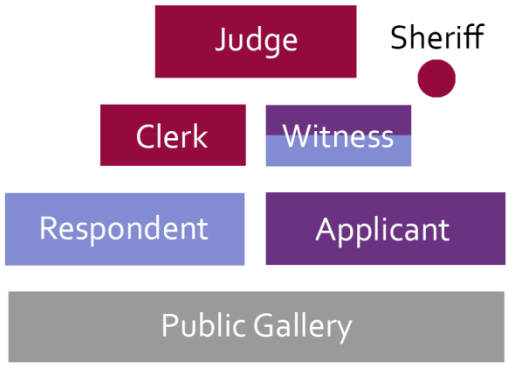
The courtroom and its processes can be intimidating if you have never been to court before. You should spend some time watching trials or hearings to get comfortable as to what you might experience. It will especially be useful to see how other people present before the judge.

Courtrooms are almost always open to the public, so (subject to usual security checks) you are free to walk in and out as you please (although, some jurisdictions do limit who can attend or be present during a family case). You will be able to find information about what hearings are happening in which courtroom in the hallway. Usually there are boards or screens with posted lists of proceedings for that day. If you need help, feel free to ask the court staff and they can help you.

It would also be a good idea to brush up on expectations of courtroom behaviour before your visit. The last thing you want to do is be disruptive when court is in session.

Courtroom layout

Courtrooms come in different shapes and sizes, but there are some commonalities.



Usually there will be a raised bench opposite from the door you use to walk into the courtroom. This is where the judge or master (a judicial officer) sits when the court is in session. The judge or master is the decision-maker.

Below the bench to the right or left is the court clerk. The court clerk is the person who helps the process run smoothly administratively. The clerk will be the person who accepts exhibits, administers oaths to witnesses, keeps track of proceedings, and helps the court stay organized

and efficient. The clerk also commands everyone to rise when the judge enters and exits the courtroom. Listen to the clerk's instructions, like you would listen to the judge.

At certain hearings a court reporter may be sitting near the clerk. The court reporter's job is to record everything that is said at the hearing for later use. Alternatively, there may only be an electronic recording being taken (operated by the clerk) to capture everything being said. A transcript of the hearing might be useful to a party who wants to launch an appeal.

There is often a raised seat or table near the court clerk. This is called the witness box or stand. If you are testifying or having a witness coming to testify at one of your hearings, this is where they will sit when they are speaking to the court and being questioned. Many court processes rely only on affidavits and not testifying witnesses, so check to make sure you are following the correct process.

In most courtrooms, the parties sit across from the judge's bench at separate tables. At your hearing / trial you will sit at one table. The other party and their lawyer (if they are represented by a lawyer) will sit together at the other.

A sheriff (in some jurisdictions called a bailiff) may be present, if required for security purposes. A sheriff / bailiff is a uniformed peace officer who maintains order and security in the courtroom. The sheriff / bailiff may be standing or sitting somewhere in the courtroom and they will keep track of who is entering and exiting the courtroom. Listen to the sheriff's / bailiff's instructions, like you would listen to the judge.

Some courtrooms may have another section of seating to the side of the room. This is called the jury box. This is where jurors sit when they are part of the proceedings. However, juries are not involved in family cases.

Finally, the general public and people interested in your case, such as friends or family, are usually welcome to sit in the public seating at the back of the courtroom unless restricted by the judge. This section is called the gallery.

The gallery is separated from the rest of the courtroom by a railing called the "Bar". The only people that can pass through the Bar into the inner part of the courtroom, are lawyers and people who are directly involved in the case. If you are not involved in the case, you may not cross the Bar.

10.2 Behaviour in Court

Court can be a stressful experience for many people. It is a formal place that puts a strong emphasis on process. If you are going to court, there are some things you need to keep in mind.

Be courteous and respectful at all times

It is your responsibility to be respectful and courteous to everyone in the courtroom at all times, no matter what happens. You can expect to be treated with the same respect and courtesy by the judge and court staff during the process.

Everyone will have a chance to speak in court. Be patient and attentive. Never interrupt anyone when they are speaking, unless you have an objection to what is being stated (in which case you can stand and make your objection, and the judge will rule on it – See **Section 13.4 Witnesses** for more detail).

Keep your emotions in check

Whatever happens at your hearing, you are going to be better off if you remain calm at all times. Court can be highly emotional. During your trial, you might hear evidence or arguments, or be asked questions that make you feel uncomfortable. If you are asked an uncomfortable question, try your best to give the most truthful, professional reply you can give.

Arrive early

You should arrive at court at least fifteen minutes before your trial / hearing, so that you have enough time to get to the right courtroom. Many courthouses have security checks that take time to get through – similar to going through security at an airport. Make sure you are not late for court.

Dress appropriately

You should dress as professionally as possible. You should be neat, modest, and well-groomed for your court appearance. Jeans, hats, shorts, low-cut tops or short skirts are not appropriate.

Dressing in a neat and professional way will help show the judge that you are serious about your case and respectful of the court process. You want to make a good impression.

Speaking in court

While it differs in each province and territory, generally when you are in provincial / territorial court, the proper way to address the judge is “your Honor”. When you are in superior trial court, the proper way to address the judge is “my Lord” or “my Lady”. If in doubt you can use “Judge” (for Provincial Court) or “Justice” (for superior courts). You should call everyone else by their title and last name, e.g. Mr. _____ or Ms. _____.

Do your best to speak clearly and calmly when it is your turn to speak. Take your time. Do not

use slang, never swear or insult anyone in the courtroom and be mature about the way you address the court.

Only one person should speak at a time in a hearing / trial, because everyone has to be recorded. Do not interrupt the judge or the other lawyer / party when they are speaking. However, if you have an objection that is proper in the court's procedure, stand and the judge will recognize you and hear your objection.

Court Protocols

There are expectations for how people act in court. You should stand whenever the judge enters or leaves the courtroom. You should also stand whenever you wish to say something or raise an objection. You should address all of your comments to the judge. You should never be disruptive or engage in bad behaviour of any kind. Moreover, you should make sure any cell phone is muted.

10.3 Presentation Skills

Learning how to be an effective presenter will help you present your case in front of a judge. Here are some tips:

Preparation

You usually only have one opportunity to present your case. To make good use of your opportunity, think about what you want to say beforehand.

You should be prepared to inform the judge about the relevant facts and issues, and to make convincing legal arguments. You will also want to be flexible enough to answer any questions the judge has and to address any unexpected issues that arise, or to abandon any part of your preparation that is not necessary or only marginally relevant, or too lengthy. The best strategy is somewhere in between improvising and reading a script. Ideally, you should have a list of points that you need to cover. These points can be keywords or short phrases. You should refer to this list while you are speaking. But you should have practiced enough to not stare at the list all the time.

Be organized

Make sure that you are organized and ready for your chance to tell the relevant evidence that tells your side of the story. You should know where all of your paperwork is and you should not waste time fumbling around in a folder. It is a good practice to organize all of your paperwork with tabs that can be easily referenced by you and the judge.

Practice

Practice makes perfect. Try to imitate what it is going to be like in court, speak in a clear voice while standing. Practice in front of a friend or family member. You can also videotape yourself or practice in front of a mirror. Seeing how you present may reveal some of your habits, such as distracting hand gestures. The more you practice, the less nervous you will get.

Be Clear

Speak slowly and audibly. You want the judge to understand what you are saying. Do not be afraid to pause a few seconds between ideas instead of barreling through your presentation. You should not be yelling at the judge. But you want to make sure that the judge and the other party can hear every word you are saying. In court, it is important to make eye contact with the judge when you can. If the judge is looking through paperwork to get to evidence you are talking about, you should pause your speaking until the judge has found the right place and is able to pay attention to what you are saying.

Be Truthful and Professional

When you are giving evidence under oath, tell the judge the whole truth. Do not be misleading by telling half-truths, exaggerations, or by leaving out relevant and material details. The danger with half-truths, exaggerations, and omissions is that you might contradict yourself. If this happens, your credibility will suffer. The judge might not trust you even when you are telling the truth, because you've not been completely truthful before. Be professional when you speak. Do not use sarcasm or derogatory language.

Be Confident and Direct

Try to avoid starting every sentence with "I think" or "I believe". These words make you sound uncertain. Generally, use "I submit". Also, avoid verbal fillers. These are the "um" and "ah" that we tend to say during a casual conversation. But in court, these fillers are distracting. Overall, when you sound confident, you are more credible.

Having good posture makes you look confident and more credible. Try not to slouch, fidget, or lean against the table. When you are speaking, keep eye contact with the judge. This will help you engage the judge. But, it is okay to look at your notes from time to time.

Be Calm

Court can be highly emotional. During your hearing / trial, you might also be asked questions that make you feel uncomfortable. If you are asked an uncomfortable question, try your best to

give the most professional reply you can give. Emotional outbursts will not work in your favor.

Be Respectful

Even though you are trying to put forward your argument, it is important to be respectful to everyone in court, including the other side. This makes you look professional. Never make a personal attack on anyone in the courtroom.

Answer the Judge's Questions

If the judge asks you a question, stop speaking immediately and listen to the question. If the judge has a question, that means they need clarification. The judge needs to fully understand your story to be convinced. Listen to the entire question before you answer. Feel free to pause and think about the question before answering.

If you cannot hear the entire question or if you do not understand what the judge is asking, you can ask the judge to repeat or clarify the question. It is critical to make sure that you are answering the right question.

Even if your answer weakens your position, give your truthful answer anyway. The judge will respect you for telling the truth, but the judge will not be impressed if you ignore or avoid a question. Remember, do not argue with the judge. Always be respectful, even if the question weakens your position.

Make Notes

It is often useful to take notes as the hearing / trial is proceeding, when others are talking. This will help you respond if and when appropriate, and assist in your argument at the end of the hearing / trial. It will also be important to take down information that the judge tells you – such as other information that the judge requires or the details of future proceedings.

10.4 Managing the Stress of Trial

Going through a trial can be very stressful. At times it may feel frustrating and emotional. It is vital that you take care of yourself. Here are a few tips to keep in mind:

- **Stick to the plan**: Remind yourself what is important to you. Revisit your goals. Try not to get caught up in a battle mentality. It is not about revenge.
- **Be professional**: Stay collected and objective. Keep calm.
- **Stay calm**: Take deep breaths or write notes on your page to remind yourself to relax. Do not let your emotions control you.

- **Have support**: Bring someone you trust to court with you. They cannot talk to you while court is in session, but during breaks and lunch they can give you encouragement and support. In most jurisdictions, if you want to have the person sit with you in court, you can ask the judge permission to have a "McKenzie Friend".

  A McKenzie Friend is allowed to sit with you during the trial, and may provide moral, emotional and practical support like organizing documents and taking notes. They can make quiet suggestions to you, but they cannot address the court or give you legal advice.

- **Believe in yourself**: Tell yourself you can do it. You have worked hard to get here, so be confident.
- **Fuel your body**: Make sure to eat something nutritious for meals. When in the courtroom, you cannot eat or drink anything except water.
- **Rest**: Get a good night sleep before trial. It will benefit you more to be well rested then to stay up all night preparing the night before.
- **Stretch**: There will be an opportunity to walk around during the court's breaks. Make sure you stretch out your legs at this time.
- **Breathe**: Take deep quiet breaths to help you stay calm and focused.

To help you prepare fill out the ***Before Court Checklist***.

10.5 Before Court Checklist

To be sure you are ready for Court, review the following checklist:

- ❑ Reviewed and disclosed all the court documents, including the initial documents that started the claim, and the responses.
- ❑ Clearly understand the timeline of the case. Able to tell the judge, in chronological order, the relevant history of the court proceedings if the judge is not aware of them.
- ❑ Prepared all witnesses. They have been served with a subpoena / summons which lets them know where and when to come.
- ❑ Organized all documents and case law.
- ❑ Have the original document evidence (to be handed to the clerk) and 3 copies (for the other party, judge and yourself) of all document evidence.
- ❑ Prepared strategy for trial, opening statement, and questions for the witnesses.
- ❑ Wear appropriate clothing in court.
- ❑ Eat a healthy meal before court.
- ❑ Had a good night sleep before going to court.
- ❑ Know the time and place of your court appearance and plan to arrive early.

11. Pre-Trial Court Appearances

11.1 Conferences

Here are some common types of conferences:

Case Management Conferences

Some courts have mandatory or voluntary case management or pre-trial conferences. These conferences help try to resolve your dispute or deal with procedural issues, such as making sure that documents have been disclosed or that you are ready for trial. Before you attend one of these conferences, be sure to do your research so you are prepared for the meeting.

How to prepare for a conference:

- Be sure proper Court forms have been used to start the case, or application.
- Be ready to tell the judge what order you are seeking or opposing.
- Don't speak out of turn – generally the procedure is for the applicant to present evidence or make submissions, the other side to respond, and the applicant to reply (only to new matters raised by the other side) – follow this process and don't otherwise interrupt.
- Understand your case (your rights and responsibilities).
- Make sure you have given copies of all relevant documents and other evidence to the other parties before the conference.
- Consider any procedural matters that still need to be dealt with (such as disclosure you have not received yet or a request to be referred to mediation).

Pre-trial conferences

A pre-trial or case management conference is usually a short meeting between you, the other party and a judge.

The purpose of this meeting might be to:

- see if the matter is ready to proceed to a hearing / trial;
- review the proceedings that have taken place to date, such as pleadings, exchange of documents, discoveries, motions;
- discuss what steps need to be taken in order to move the case ahead to hearing/ trial and who will take those steps and when;

- discuss evidence including whether there can be an agreed statement of facts, exhibits, witnesses, and expert witnesses;
- expected duration of the hearing / trial, and time required for each party (including argument after the evidence is presented); and
- orders required before trial.

Settlement Conferences

The purpose of a settlement conference is generally to provide a way to resolve your dispute with the assistance of a judge or judicial officer. Settlement conferences are only available in some jurisdictions, and in others are mandatory (unless exempted) before a hearing / trial. Settlement conferences are meant to provide a more informal setting to discuss, narrow, and try to settle, issues. They are without prejudice, meaning that what is discussed cannot be used at the hearing / trial, unless agreed otherwise by both parties. Settlement conferences might include:

- discussing what you are really seeking;
- addressing outstanding issues such as the exchange of documents;
- finding common ground;
- settling some issues;
- the judge / judicial officer providing an opinion on what may happen if the parties go to hearing / trial (this judge or judicial officer will not be presiding at the hearing / trial); and
- other procedural issues

A judge might make an order during a conference, such as ordering one party to provide the other party with certain documents. Make sure to take a pen and paper in order to take notes of what was discussed or ordered.

11.2 Applications / Motions

The procedure for applications and motions (these terms are typically used interchangeably, but for consistency the former will be used here) may differ between jurisdictions. As such you should check the Rules of Court for your jurisdiction or ask the courthouse staff for help.

Before a case goes to trial, issues may come up that require the court to decide. These issues are handled through applications, which are a request(s) to the court for an order to deal with one or more issues in advance of a hearing / trial.

Procedure

To request a court order for certain relief, you will need to apply through an application in the correct court form. These forms need to be filed with the court and served on the other party. Some courts require replies to applications, much like the initiating court forms that started the family claim. In that case, the other party has a limited amount of time to reply to the application, and serve their reply to the application.

To avoid wasting time unnecessarily, it is a good idea to discuss the date of the hearing with the other party to choose a date when you are both available and the court has an opening hearings date and time. Of course, if you cannot agree on a date, you can unilaterally choose a date for the hearing, but the judge may adjourn it so the other side can attend.

Some applications are about procedural issues that must be resolved so the substantive hearing / trial can proceed, like the exchange of documents.

You can get interim (temporary) orders if something needs to be decided before it can be dealt with at a hearing / trial. For example, if there is a dispute over property, but, in the period before the hearing / trial, the utility bills need to be paid or issues that need a temporary solution such as paying for childcare costs or parenting arrangements for children. If you cannot agree with the other party about something that needs to be done before the substantive hearing / trial, you can request an interim court order about how to deal with things until the matter is dealt with at the hearing / trial. Interim applications are for short term orders that will be in effect only until a final order is made at your substantive hearing / trial or by consent.

Here are some examples of matters that are dealt with in interim orders:

- A non-final order about the care of children;

- Temporary spousal or child support;
- Order about how special child expenses are to be divided;
- Orders about who is allowed to live in the family home;
- Orders regulating communication;
- Orders restraining a person from doing something (e.g. selling the car or visiting the home);
- Ordering one person to share financial documents.

Some applications can be made to the registry or the judge without having to appear in court (desk applications). Seek legal advice or assistance on which application is appropriate in your situation.

Hearings

For most applications you and the other party must attend a hearing before a trial, or to make substantive decisions instead of a trial (in some courts called Special Applications or Special Chambers Applications). A hearing is often before a judge or court officer who will decide whether or not to grant the order you are requesting. Both sides will be able to argue why the order should or should not be made. For some hearings you can only provide evidence through affidavits (sworn written statements); in some limited cases you may be able to call witnesses to give evidence in person. You will need to check with your legal help services or the court rules to know what type of evidence you are allowed.

Although an application may determine the course that a trial will take, it is not the trial and will not normally result in a final order. Normally, but not always – check the rules in your jurisdiction, all a judge at your hearing can do is make an interim decision on the issues raised in the application. They will usually not make other or final decisions about your case.

At the start of the hearing of the application, the person applying will need to explain what orders they are asking for and why the judge should make them. Be as clear as possible. You do not need to tell the judge all the details of your case. Focus on the issues relating to the application. Then the other party will be allowed to explain which orders they think the judge should make and which they should not. They will need to explain why they think the judge should not make the order you seek. The party applying for the order will then be given a chance to reply.

Hearings are a lot shorter than trials. The judge may only give you a few minutes to present your position to them (often as little as 20 minutes total for all parties). Be sure to stay on topic

and keep your arguments short and to the point. Be sure to prepare a lot ahead of time.

Chambers Applications

The court in which preliminary applications are heard is often called "chambers". Either a judge or a "master" may preside over chambers. Masters are like judges but are limited in the types of issues they can decide. They typically hear matters related to pre-trial and procedural matters.

Chambers is normally reserved for brief applications. If your application will take more time the court scheduler may set a special time and date for the longer hearing.

In Quebec, "chambers" is called "practice court" and is used for *ex parte* applications like seizures, or injunctions, or special modes of service.

Evidence by Affidavit

The evidence that the judge will consider in an application is sworn affidavit evidence that you must submit in advance of the hearing.

Adjournment

If you need to have the hearing adjourned (postponed) to a later date, you can ask the judge for an adjournment. Before granting an adjournment, the judge must be satisfied that there is a good reason to do so. They must consider all of the relevant circumstances to decide whether an adjournment is necessary or appropriate. If an adjournment is granted, costs may be assigned against you or conditions set on the adjournment.

In cases where both parties consent to an adjournment, they can make a very quick appearance or often just file a consent form and not have to make an appearance at all. This might happen if one party is not available or if the evidence required is not available yet.

Decision

Once the judge has all the evidence and everyone has explained their positions on the issues raised, the judge will decide the application. They may dismiss the application, make some or all of the orders requested, or make other orders. Usually the judge will give oral reasons of their decision right then. In some (few) cases, the judge will give written reasons. Make sure to take notes of the reasons given and the decision. One of the parties (usually the successful party) will need to prepare a written order of the judge's decision, for the judge to sign.

Costs

A judge will also consider whether the unsuccessful party should be required to pay some money to the successful party to compensate them for having had to bring the application. In most cases, the amount of money (called "costs") they will order is based on a chart of costs in the Rules of Court or may be discretionary. Things a judge might consider include whether it was necessary to make the application and whether it was reasonable to oppose.

If the judge decides that the application was not necessary or was not reasonable or successful, or opposing it was not reasonable, the judge may make an award of costs against the party who was not being reasonable. This means the unreasonable party will have to pay the other party's costs of making the application. The amount of costs will be decided either immediately or at a later date.

If the person who is required to pay the costs does not pay, a judge may, on application:

- dismiss or put on hold that person's case;
- require the person to pay security into court; or
- make some other appropriate order.

12. Evidence

12.1 Overview

In this chapter you will learn what evidence to bring forward, how to organize it, and how to use it in court. This is an important step in building your case. Evidence is defined as "the facts used to support a conclusion". The judge will decide based on the evidence, relevant to the law, that is presented at trial.

Only evidence that is relevant and material to your case is allowed.

Relevant: evidence that relates directly to the issues in your case.

For example, if you are arguing that you should have the majority of the parenting time:

Relevant Evidence: evidence showing the history of the children's care, evidence of parenting styles, and the wishes of the older children.

Not Relevant Evidence: evidence of your spouses' personal failings (unless you can show that this affects the best interests of the children).

Material: evidence that either proves or disproves facts at issue in your case.

For example, if you are divorcing and are only in court to divide assets:

Material Evidence: when you purchased your house.

Not Material Evidence: evidence that your spouse cheated on you.

Take inventory of both documentary and oral evidence and fill out the ***Evidence Inventory Worksheet***. This will help you keep track of your evidence so you can be sure you have evidence of all of the elements of your case and can present a stronger case.

12.2 Evidence Inventory Worksheet

Fill in the worksheet organized by issues. Identify the issue the evidence falls into, what the evidence is and any identifying details about it, and why the evidence is important to your case. (For example, Issue: Extraordinary Child Support, Evidence: Hockey lessons receipt, Specifics: the child's 2020 lessons for $300, Relevance: Claiming it as a special expense, want my former spouse to pay for his share of it since I paid it in full.)

Issue:

_____

Evidence:

_____

Specifics:

_____

Relevance:

_____

Issue:

_____

Evidence:

_____

Specifics:

_____

Relevance:

_____

Issue:

_____

Evidence:

_____

Specifics:

_____

Relevance:

_____

12.3 Types of Evidence

In legal matters, there are three types of evidence:

- **Documents**: This can be any physical or electronic record that provides information. (e.g. – contracts, receipts, emails, pictures, videos, etc.).
- **Oral evidence (witnesses testifying)**: This is testimony given in court (by a witness, a party, or an expert witness allowed to give their opinion).
- **Physical**: An actual object relevant to your case (e.g. jewelry, etc.).

The evidence you use should support your claim and allow the judge to make the conclusion that the order you requested should be granted. For example, if the conclusion you want to reach is that you have been the primary caregiver of the children, your evidence to support this might be statements from yourself and others familiar with your family stating that you generally take care of the children, pick them up from school, and drive them to their activities.

12.4 Documents

Document evidence is not just paper documents. Document evidence could include pictures, videos, sound recordings, text messages, emails or something else. You will most likely need a range of document evidence to prove your case.

For example, in a family lawsuit, the document evidence might include the marriage certificate, an assessment of property value, a report from a counselor, and email communications. To be successful in court, you need to have your document evidence organized.

Using documents at court

Any document, photograph or object that you wish to use to prove a fact at trial may be used as evidence. Things that have been entered into evidence are called “exhibits” and each exhibit is logged in the court’s record. Each exhibit is numbered for easy reference. You should make a list of the things that are entered into evidence and their exhibit number.

Entering an exhibit

In most courts, if you wish to enter a document, photograph or object as an exhibit, you must either have the agreement of the other party to use that evidence in court or have a witness identify the thing. “Identify the thing” means that the witness is present in court and says under oath / affirmation that they made, saw, or had possession of the thing and recognize it.

You must then show it to the other party, and then ask that it be entered as an exhibit. The

judge will consider whether the thing should be allowed as evidence, and will then enter it or refuse to enter it as an exhibit. If entered, the court clerk will then assign a number to the exhibit.

To have a written document entered as an exhibit, you must prove that:

- It is accurate;
- It fairly represents the facts and is free of any intention to mislead; and
- It can be verified under oath/affirmation by the author or creator, or another person capable of doing so.

To have an object, rather than a document, entered as an exhibit, you must prove that:

- it is relevant to an issue in the case;
- it is authentic or real (for example, that it is the original object and that it has not changed in any way that could be misleading); and
- you must be able to account for everything that happened to the object since you acquired it.

To have a photograph, videotape, audiotape or any other kind of recording, like a computer file entered as an exhibit, you must prove that:

- it is accurate;
- it fairly represents the facts and is free of any intention to mislead through, for example, editing or camera angles; and
- the person who made the recording can verify it on oath.

Ideally, it is best if you can put the original document or recording into evidence. However, if you cannot produce the original, you may be able to enter a copy. If authentication is required, you may need to get someone to authenticate the copy.

Steps of preparing document evidence

- **Gather**: Collect all the documents you have that might be relevant to your case (for example, receipts, assessments, emails, medical records, etc.).
- **Organize**: You need a system for sorting all of the document evidence you gather. It will be helpful to have a series of containers to hold the document evidence. Some people use envelopes, file folders, boxes, and / or filing cabinets. The key is to have a system that will help keep you organized, relevant to the issue to which they apply.

Sort your documents according to the issues. Create separate files for each issue. For example, have one file for child support and extracurricular activities (such as hockey equipment receipts) and have another for property division.

As you gather document evidence, you will find it helpful to create sub-categories for some of the key issues. For example, with the property division file, you might have individual files for documents related to the house, debts, cars and household items. Whatever works for you, have a system and stick to it.

- **Assess**: Consider each document. Is it really helping your case? How? Be specific. Judges do not like reading through stacks of irrelevant information. Moreover, they do not want "dirty laundry" stories about matters that are likely legally irrelevant. Include only relevant and material evidence that supports the point you are trying to prove.

12.5 Oral Evidence

The other type of evidence presented in court is oral evidence. This is when a person provides verbal information in court. To testify means to provide oral statements in court that the witness swears / affirms are to be true.

There are two types of oral evidence:

1. **Testimony of parties**: This is when you or the other party named in the case gives sworn / affirmed oral statements in court.

2. **Testimony of a witness**: This is when a person who is not a party in the case comes to court to answer questions under oath / affirmation.

12.6 Testimony of Parties

During the trial you will be able to take the witness stand and testify in support of your own position, if you wish to do so. When doing this you will be testifying just like any other witness. You will have to take an oath or affirm (promise) to tell the truth, you will give your evidence (it need not be question and answer, but may be a narrative), and the other party(ies) will be able to cross-examine you (ask you questions that you will be required to answer). Often, it is helpful to testify because you have first-hand knowledge of the facts. If you testify, you will need to truthfully answer the questions asked by the other party as well as the judge.

You will not be allowed to argue your case while you are testifying. This means that you cannot explain the legal issues or why you believe the court should decide in your favour. The time to make your argument is when the evidence is finished and you and the other party give your closing arguments.

When you are testifying

The Dos	The Don'ts
• Tell the truth. • Come prepared, practice what you will say beforehand. • Answer questions asked of you by the judge and the other party. • Talk only about facts that relate to the issues in your case.	• Lie or exaggerate. • Argue your case. • Try to explain your legal issues.

12.7 Witness Testimony

You and the other party may each decide to ask people to come to court to give evidence to help prove your case. These are witnesses. This is not mandatory; you can decide not to call witnesses. Witnesses will need to take an oath or affirm to tell the truth. They will need to answer questions asked by both parties and the judge. When you call a witness to court you will get to ask them questions first.

When questioning your own witnesses, you can only ask open-ended questions that do not suggest an answer – that is, questions that are not leading (e.g. did anything unusual happen at the birthday party?). The other side may then ask questions, but because it is not their witness, they may ask leading questions (cross-examination) (e.g. you saw a fight break out at the birthday party did not you?). Once the other party is done their cross-examination questions, you can re-examine the witness i.e. follow-up with any questions that arise from their evidence, that have not already been addressed – those questions must also be non-headings. A witness cannot lie when they answer (that would be perjury). If they do, there may be serious penalties, such as a fine or jail time. See **Section 13.4: Witnesses** for more information.

Some people will decide not to call a witness because they believe the other party cannot prove their case. However, a judge can make inferences about what did or did not happen if you decide not to call relevant and material witnesses.

Who to call as a witness?

You may call witnesses to give evidence on any issue related to the claim. You should only call a witness if they can give evidence that will help you strengthen your position or weaken the other party's position. If you have documents you want to present to the court, you may need

to have a witness explain them or verify their authenticity. Witnesses can also give evidence about things they heard or saw. For example, if your neighbour told you about seeing a fire in your backyard, you couldn't testify about what your neighbour told you (that would usually be inadmissible hearsay), but you could have your neighbour provide this information that they observed directly in court.

It is important that the witnesses you choose are credible, articulate, and sincere. You cannot tell your witnesses what to say other than to tell the truth. But it is helpful to review with them the questions that you will ask and to understand the information they will provide. It is also helpful to consider what questions the other party or the judge might ask them. Remember that it is not the number of witnesses you call that counts, but the relevance and materiality of what they have to say.

Requiring a witness to attend

A witness is notified that they need to attend court when you serve them with a court form called a subpoena or summons to witness. A blank form may be obtained from the courthouse. You may be required to file the form in court before you serve it on (deliver to) your witness. You will fill out the name and address of the witness and the date and time of attendance, and serve it on the witness. Keep copies for you to use to prove service.

It is a good idea to serve all witnesses with a subpoena or summons, even if they promise they will come. If a witness has been summoned but fails to come to the trial, the court may allow you time to get them to attend or may issue a warrant for their arrest. The witness may be ordered to pay the costs caused by their failure to come to court. If you did not give a witness a subpoena or summons, and they do not come to court, the judge might go ahead with the trial and you would not have that witness' testimony to help you prove your case.

Each witness gets a certain amount of money as compensation for the time spent in coming to court, along with travel and meal expenses. You are responsible for paying this cost for the witnesses you call. Witness fees are usually set out in the Rules of Court.

Expert witness

In certain situations, you may want to call an expert witness to present opinion evidence. An expert witness is a person who has special knowledge about a subject, like child psychology or accounting. An expert witness is called to shed light on issues that are complex and outside of common knowledge. They may give their opinion about issues in which they have expertise.

Usually witnesses are not allowed to present their opinions at court. An exception to this rule is expert witnesses. Experts are allowed to give their opinion on something if they have special

knowledge about that thing. Experts cannot offer opinions outside of their area of expertise. For example, a child psychologist cannot provide an opinion on how to divide your pension but can talk about what might be positive parenting time for the child.

If you want to present expert evidence in court, you must:

- Get the expert to prepare a written report and their resume;
- Deliver this report and resume to the other party before the trial; and
- Have the judge accept that the witness is qualified (based on education and / or experience) as an expert.

Expert report

For an expert to testify at a trial, you will need to serve the other party with a report and resume from that expert. This must be done well before the trial. The exact number of days before the trial that you must give an expert report to the other party will depend on the Rules of Court for your court, and any orders that a judge might have made in your case.

The requirements for expert reports vary across Canada so you should review your own jurisdiction's Rules of Court. Usually, however, the expert report should set out the expert's name, address, qualifications and describe what the expert will say at trial. The report must state the expert's findings, opinions and conclusions. It usually should also state the documents, calculations and data that they used in reaching their opinions or conclusions.

The trial judge will usually not accept a summary of the report prepared by you or another party; the full report by the expert must be used at trial. In most cases, the expert will also have to be at the trial to explain their opinion and answer questions about it.

Once the report is produced and the witness is established as an expert, that expert may be examined and cross-examined at trial about their opinions, including any discussions between the expert and the person who hired the expert.

Establishing the witness as an expert

Before an expert witness can give their opinion to the court, the judge will decide whether the witness is a qualified expert. If you are calling the expert, you have to establish three things:

1. That the expert will offer relevant information regarding the case, beyond ordinary knowledge;

2. That the expert is a qualified expert in their field; and

3. That the evidence they will provide cannot be excluded for any legal reason.

To show that your witness is a qualified expert you must first establish that they have the right training and experience to give an opinion on a particular subject. You do this when you first call the witness to give evidence in the trial. This is done by filing the expert's resume with the court. Then you ask the expert about their education, qualifications and work experience in the area of their evidence.

If you do not agree that an expert called by the other party is qualified, you may cross-examine the expert about their qualifications, before the judge decides if they will be qualified as an expert.

If the other side calls an expert witness and the judge accepts that they are properly qualified to give their opinion as an expert, you still have the right to question the expert about the facts they relied on to form the opinion. You can still disagree with the expert's analysis or conclusions. When you cross-examine the expert, you might focus on trying to show that the facts used by the expert in forming the opinion are different than the facts in the case, or that the opinion itself is wrong.

If the judge decides that the witness is not qualified as an expert, that witness may still give evidence about facts of which they have personal knowledge. But they may not give opinion evidence. For more information on questioning witnesses at trial, see **Section 13.4: Witnesses**.

Using witnesses before trial

Witnesses are usually called to give their evidence at trial. However, you may need to provide this evidence to court before trial, such as at an interim application or in court documents. You can use witness evidence by getting written statements that they swear/affirm are true. This type of evidence is presented to the court in an affidavit. For more information on affidavits see **Section 7.2: Affidavits** on drafting affidavits. For now, just keep in mind that you can use written statements from a witness as document evidence.

To help you prepare fill out the ***Oral Evidence Worksheet***.

12.8 Evidence Worksheet

For each issue of your case write out the main points you want to show, what evidence you have to support it and any specific documents you will be presenting.

Issue 1:

_____

Main point you want to establish:

_____

_____

Oral Evidence by:

_____

_____

Supporting Documents:

_____

_____

Issue 2:

_____

Main point you want to establish:

_____

_____

Oral Evidence by:

_____

_____

Supporting Documents:

_____

_____

12.9 Objecting to Evidence

If the other party thinks that any evidence that you introduce is not material or relevant, they may object and ask the judge to exclude that evidence. Likewise, you too have the right to object to any evidence introduced by the other party if you think that it is irrelevant or

immaterial. To object, simply stand up and let the judge know why you object. This is one of the few times that it is acceptable to interrupt another party when it is their turn to talk. However, it's a technique that should not be used very often—and only when you truly think another party is trying to introduce improper evidence. Some TV shows make it look like good lawyers frequently object to evidence the other side is trying to introduce. In reality, objections are not very common.

You can also object if the other person wishes to introduce evidence that may be protected by privilege. Evidence may be privileged if it concerns legal advice from a lawyer you have consulted or hired to represent you for part of this lawsuit or without prejudice and unsuccessful settlement negotiations.

Sometimes, the identity of the person who made a document or made a statement may be in doubt. As a result, the evidence may be unreliable. Unreliable evidence may be excluded, so if that arises, you should raise an objection for the judge to consider.

For more information on making objections, see **Section 13.4: Witnesses**.

12.10 Hearsay

One type of evidence that is generally not allowed in most courts is "hearsay" evidence. Hearsay is information being offered for its truth, that a witness learned from someone else, but for which the witness does not have first-hand knowledge.

For example, if you want to prove Jane rode her bike yesterday:

- "Jane Smith told me she biked to work yesterday" is hearsay because you learned this from Jane, so it is second-hand knowledge – however, she could testify to this herself.
- "I saw Jane Smith arriving at work on her bike yesterday" is not hearsay because you observed this yourself and have first-hand knowledge.

Exceptions to hearsay:

Sometimes, hearsay can be introduced as evidence under rules of exception. The principle exception is that the evidence is both reliable *and* necessary. The following are some common exceptions:

- **Necessity**: Hearsay evidence may be necessary, such as if a witness has died and therefore cannot testify.
- **Business Records**: Another exception to the hearsay rule is business record evidence. Statements and records prepared in the usual course of business, by a bank, for example,

are generally admissible as proof of the information set out in the statements or records, as long as:

- the statements or records were made in the ordinary course of a witness' duties;
- the witness has personal knowledge of how the statements or records were made;
- the witness had a duty to make the statements or records; and
- the witness has no reason to misrepresent or lie about the contents of the statements or records.

- **State of mind**: Hearsay evidence may be introduced in order to demonstrate the speaker's intentions or state of mind when they made the statement (i.e. because of what x said, I decided to do y), but not as proof of what is said. You can introduce evidence of statements made by the other person for this purpose. However, when you introduce such evidence, you cannot take the statement out of context and provide only the parts that support your case, and you cannot unfairly edit the other person's statements. You must put the whole of the statement to the court.

If you want to introduce hearsay evidence under one of the exceptions noted above, you must show that it comes from a reliable person or show that the person who made the statements had no reason to lie. Judges will carefully consider how reliable hearsay evidence is when they decide how much weight to put on that evidence in making their decision in the case.

13. Trial

The trial is where you will be able to present your full case and will bring in evidence to support it. Your trial might be as short as an hour or as long as many days, depending on how complex the issues are and how many necessary witnesses will give evidence.

13.1 Overview & Summary of Steps in a Trial

Summary of steps in a trial

1. **Opening statement of person who started the claim**: If you started the claim, you will start by giving an opening statement. In the opening statement, you can tell the judge the important facts you intend to establish during the trial and the orders you are seeking. Think of it as a short summary of what is to come (not a complete description of all the evidence that will be heard) and how it will help your position in the case. This is not the time to give evidence, you will have an opportunity to do that.

2. **Calling of witnesses by person who started the claim**: Your witnesses should wait outside the courtroom until they give their evidence, so they aren't influenced by what others have said or argued. You will call your witnesses one by one to give their evidence. If you are giving evidence, you will normally be the first witness (so that the opposite side can't argue that you tailored your evidence to accord with what your earlier witnesses said). You do not make your legal arguments when you are giving evidence as a witness. Your opportunity to tell the court of the things you witnessed and experienced is when you are a witness. If you give evidence, the other side may cross examine you once you are finished giving the relevant and material evidence you want to give.

   When you are calling witnesses (other than yourself – yours will not be questions and answers, but rather a narration), you get their evidence by asking your witness questions. Their answers to your questions are their evidence. The process of you asking your witness questions, and them answering your questions is called the "direct examination". When you are done asking a witness questions, the other party gets to ask them questions. This is called the "cross-examination". Once the other side is done their cross-examination, you have the option to ask questions if this is necessary to clarify the witness' answers or address any issues that were raised in cross-examination that you didn't previously ask them questions about. This is called the "re-examination". Once that process is finished for your first witness, you will then call your next witness and the questioning process begins again.

3. **Opening statement of other party**: Once you have called all your witnesses and you have testified (if you wish to), the other side will give their opening statement. That is the most

common order of things, but the process can sometimes vary. In some trials for example, in the discretion of the judge, both opening statements are done one after another, before any witnesses are called.

4. **Calling of witnesses by other party**: The other party will then call their first witness and start with a direct examination of that witness. You will then be able to cross-examine that witness. The other party may re-examine the witness if necessary.

5. **Rebuttal evidence**: The party who initiated the case might be able to present evidence to address anything new that came up during the other side's evidence. This is "rebuttal evidence" and is not a chance for the party who started the case to repeat the evidence they gave earlier. The procedure is the same regarding calling witnesses.

6. **Closing statement by person who started the claim**: Once the other party has finished calling witnesses and giving evidence, you will be asked to explain why the evidence that was presented in court supports your position. This is called a closing statement or legal argument. This is when you can talk about the cases and laws that are relevant to the issues in your claim.

7. **Closing statement by other party**: The other party will then present their closing statement and make an argument about the evidence and the law. If necessary, you may reply to their closing statement to respond to new issues that have been raised for the first time in their argument.

8. **Judge's decision**: After the closing arguments are completed, the judge may decide right away or, if they need more time to think about the evidence or the law, you will get a written decision later. This is also called the judgement.

13.2 Opening Statement

The opening statement gives you a chance to explain to the judge what the case is about and explain what order you are asking for or opposing (this is often clearer if you hand up to the judge a draft of the order / decision you wish them to grant). The other party will also have a chance to give an opening statement. However, in all but the most complex cases, your opening statement should only be a few minutes long, so you want to be direct and to the point. In simple cases, opening statements may be very brief (on occasion not be necessary at all).

An opening statement allows you to summarize what has happened in the case up to that point. For instance, you should inform the judge of any interim orders in place. You are basically providing a map of where you have been and where you want to go. You will want to outline the basic framework of your case, leaving the details to be filled in by the witnesses and exhibits.

Your opening is not the time or place to give evidence or make arguments. You should outline the main points of your position, describe the issues in the lawsuit, and briefly explain how you will prove or disprove each issue. Make sure that you include the facts necessary to establish the main points of your position in this lawsuit.

What to cover?

1. **Inform the Judge what has happened**: Summarize any relevant interim orders, including when they were made, and any issues that have been settled. If your case is very complicated, it might be helpful to prepare and present a written chronology of events.

2. **Inform the Judge why you are here**: Clearly state what orders you are seeking or objecting to (and, as noted, perhaps provide a draft order).

3. **Inform the Judge what you will be doing**: State what you believe are the most important issues, how you intend to support your claims, the witnesses who you will be calling, and what key documents that you will be presenting to the court. Remember to keep it short. Briefly explain who your witnesses are and what you expect they will be saying.

To help you prepare fill out the ***Opening Statement Worksheet***.

13.3 Opening Statement Worksheet

Fill in the blanks to help you prepare for your opening statement.

Decision you seek / oppose (draft order):

_____

_____

Chronology of your case:

- Brief overview: (e.g. date of marriage and separation, number of children)

_____

_____

Brief court overview: (e.g. when relevant court documents were filed, any relevant orders made, previous hearings or conferences attended and their outcomes or settlements you reached)

_____

_____

Theory of the case: Briefly state the reasons for your claim and why you want what you want: (e.g. you seek an order for spousal support and child maintenance because the relationship breakdown has put you in a financial disadvantage, you plan to bring evidence of how your earning capacity has been negatively affected and how you are unable to support the children in the family home)

_____

_____

The Witness: who and what they will say (in a sentence or two)

_____

_____

13.4 Witnesses

Calling witnesses

After you have presented your opening statement you will be asked to call your witnesses.

Your witnesses should be outside of the courtroom until it is time for them to give evidence, so other evidence and submissions doesn't taint their evidence. After they are called to give their evidence, you should not discuss the case or their evidence with them. When you are ready to call a witness, tell the court clerk the name of the person you wish to call. The clerk will page the witness to come to the courtroom or ask you to go get them. The witness will then go into the witness box and make an oath or affirm to tell the truth, and you can begin your direct examination. The judge may ask questions of the witnesses every now and then. Those questions will normally be to clarify the evidence that the witness has given or to fill in gaps. You cannot discuss a witness' evidence with them during a break at court.

Questioning witnesses

Before your trial you will want to think about what questions to ask the witnesses so that they answer questions that help prove your case There are 2 ways to question witnesses:

1. Direct examination (when you ask questions of a witness you have called), and
2. Cross-examination (when you ask questions of a witness the other side has called).

You must also be careful that your questions are questions rather than statements or arguments. Save your arguments for your closing statement, not during cross-examination.

Direct examination

You will need to question the witnesses you call. This type of questioning is called direct examination. For a direct examination, you will need to ask "open-ended" questions (questions that allow for explanations and do not suggest the answer i.e. are not leading.) Open-ended questions usually begin with words like who, what, why, where, how, tell me about, or describe. Open-ended questions usually call for longer answers and do not restrict the witness to saying *yes* or *no*.

The opposite of an open-ended question is a "leading" question. Leading questions, as the name indicates, leads the witness to a particular answer. They are usually answered with a "yes" or "no". Leading questions allow you to control what the witness talks about and often helps you get the witness to give a specific answer. In general, you will usually not be permitted to ask leading questions of the witnesses you call. However, leading questions are allowed

when you are asking your witnesses about introductory things that aren't in dispute. For example, "Your name is John Doe?", "You signed an Agreed Statement of Facts?".

Here are some examples to show you the difference:

Open-ended Question: "can you describe your car for us?"

Leading Question: "you own a green car, don't you?"

Opened-end Question: "at what time did you get home?"

Leading Question: "you got home at ten o'clock, didn't you?"

Questions for your witnesses:

The Dos	The Don'ts
• Start by asking background questions (e.g. what is your name? how do you know the parties? Etc.). • Let the witness finish answering before you ask the next question (do not interrupt). • Keep your questions simple and clear. • Organize your questions according to chronology or issue. • Be precise with questions.	• Ask leading questions: questions with answers in them (except on non-controversial issues). • Ask long questions. • Ask complex or confusing questions. • Asking 2 questions at the same time (it will be unclear which one the witness is answering). • Be too broad or vague. • Ask them to give their opinions: unless they are an expert witness.

Once you have finished examining your witness, the other party will be allowed to cross-examine them, meaning the other party is allowed to ask them leading questions. Be sure your witnesses know in advance that this will/may happen.

Cross-examination

Once the other party has finished questioning a witness they have called, you can question that witness. Asking questions of the other party's witness is called cross-examination. When cross-examining a witness, you are allowed to ask leading questions. Leading questions are questions that suggest the answer, such as "you have never taken the children to swim lessons, right?" or "you agree that you made $78,000 in income last year?"

During cross-examination, you are allowed to try to put the witness in a bad light. You can ask questions that challenge their credibility and the accuracy of their testimony. However, you cannot try to discredit the witness by challenging their credibility on issues that are not directly related to the issues in the case.

Cross-examination allows you to:

- Challenge or test the truthfulness or reliability of the other side's witness and evidence.
- Get more details about their evidence.
- To get evidence that supports your case, you will want to get the witness to agree to facts you present.
- To discredit the witness. This approach is used so the judge will minimize or disregard evidence or comments that do not support your case. You can do this by bringing into question their memory or their truthfulness. You can try to show that they may be biased or that they are inconsistent with their story.
- Cross-examination may help you to get useful information, bring out facts that the witness has not explained, and introduce facts that weaken the witness' evidence or the other person's position.
- Cross-examination may help you to show that the other side's witness is not truthful, sincere, and credible.

If you intend to challenge or contradict the evidence of a witness later in your case, you must confront them with the evidence you intend to present so they have an opportunity to talk about it. Otherwise, you may not be allowed to contradict them (this is called the *Brown v Dunn* rule).

When you are cross-examining, you may wish to challenge a witness' credibility or reliability. Make note of the following and you can bring any issues up in your closing argument (see **Section 13.6: Closing Argument**):

- the attitude and behaviour of the witness in the witness box;
- the ability and opportunity that the witness had to observe the things they say;
- the ability of the witness to give an accurate account of what they saw and heard;
- whether the witness has any reason to be biased or prejudiced, or has an interest in the outcome of the case;

- whether the witness attempted to answer questions in a forthright manner, or whether they were argumentative or evasive; and
- whether the testimony given by the witness was impartial and objective or whether it was slanted.

Cross-examining the other side's witness

The Dos	The Don'ts
• Ask leading questions. • In your questioning, move from general to specific. • Be clear and brief. • Use simple language. • Listen to the answers given and note important ones. • Treat the witness with respect. • Ask only one question at a time. • Be precise with questions. • Ask questions that may discredit their testimony.	• Argue with the witness or try to tell your story. • Repeat a question asked during direct examination that hurt your case. • Ask them to give their opinions, unless they are an expert witness. • Comment about their answer. You can do this during your closing argument.

Remember, your questions are not evidence. The witness's answers are evidence.

Objecting to questions

The judge can disallow any question that is unnecessarily rude or is irrelevant to the issues.

Either party can object to a question the other party is asking of the witness. They will need to explain to the judge why they are objecting. The judge will then decide whether to allow the question or not. A judge may also stop a question if it is unnecessarily harassing or embarrassing a witness.

Common reasons for objecting include:

- leading question where only an open question is appropriate;

- multiple questions before allowing the witness to answer;
- irrelevant questions;
- argumentative questions;
- repetitive questions;
- vague or ambiguous questions;
- hearsay;
- speculative questions; and
- opinion – asking someone to provide an opinion when they are not an expert.

If you want to object to a particular question that the other party is asking, simply stand up to let the judge know that you object. Be sure to explain why you object.

The purpose of an objection is to have the judge decide whether the question that is being asked of the witness can be admitted. You cannot object just because you do not like the answer the witness may give. Review **Section 12.8: Objecting to Evidence** to learn more of what evidence is allowed.

Re-examining witnesses

Once your cross-examination is complete, the other party can re-examine his or her witness. This re-examination (sometimes called the redirect) is very restricted. The re-examining party can only ask about new things that were raised in your cross-examination, not things that were not raised before. They can only ask questions that clarify the witness' evidence in cross-examination.

In your redirect examination, because you are examining your own witness, you may only ask non-leading questions. Once re-examination is completed, that is the end of that witness' testimony.

Witness introducing a document

If you want a document to become evidence, you must either have the other party agree to introduce the document without a witness or you must have a witness identify the document. "Identify the document" means that the witness is able to say that they made the document, or had it in their possession, and confirm it accurately represents the truth. You should have the original and at least three copies of each document with you. It is best if you can produce the original document, which will be kept by the clerk, marked as an exhibit in the case and referred to by the witness. You must have at least three copies of each document so that you,

the other party, and the judge, each have a copy.

Fill out the ***Witness Worksheet*** to better help you prepare if you plan to call witnesses.

13.5 Witness Worksheet

If you plan to call witnesses, you should fill out the witness worksheet to better help you prepare.

Fill in each column. For example,

- Witness: Your child's daycare worker.
- Points: 1. You pick up and drop off your child at daycare, 2. You are the principal contact for the daycare.
- Documents you will use: the drop off and pick up records kept by the daycare.

Witness	Points you want them to get across	Document you are putting to them

13.6 Closing Argument

The closing argument (also called closing statement) is when you will make your argument. You will describe what decisions you wish the judge to make and why they should make them, based on the evidence heard during the trial. If there is legislation or case law that supports your position, you should explain how the law applies.

The closing argument is not another chance to give evidence. You may only refer to evidence that has already been given during this trial. You cannot refer to any documents or talk about anything not already seen or heard as evidence.

You want to show that the evidence supports your position, and the law supports the order you seek. Here are the steps you want to take for your closing argument:

- **Summarize the law**: Very briefly state the law you are relying on and any case law you are using to support your claim (unless it is obviously elementary). If you are going to rely on any cases or statutes, you must have copies available for the other party and the judge. Highlight in colour and point out the sections of the case law that support your claims.
- **Summarize your evidence and how it relates to the law**: Outline the points you are trying to prove. Refer to the evidence you presented to the court such as witness statements or documents that show the points you are trying to prove.
- **Go over any issues with a witness' credibility or reliability**: Summarize the ways that the witnesses that helped your case were credible and reliable, and the ways a witness who did not help your case was not credible or reliable. See **Section 13.4: Witnesses** for more on what to consider regarding credibility and reliability.
- **Address any arguments by the other party**: If you can show how their points do not apply to you, do so.
- **Conclude**: Restate the decision you seek. When the evidence or the law is complicated, you can ask the judge if you can give a written summary of your closing arguments.

It is sometimes possible to submit your closing statement in written form. Ask the judge in advance if you can submit your written closing statement to them so they can follow along as you present it. A judge does not need to accept your closing statement in writing, so ask to see if they will. If you are submitting a closing statement in writing, make sure all key elements of your legal argument are included.

Fill in the ***Closing Statement Worksheet*** before the trial to help you prepare but be sure to continue to fill it in with more detail during your trial.

13.7 Closing Argument Worksheet

Fill out this worksheet to help prepare for giving a closing statement. You might need to leave blanks to be filled out during the trial as evidence is brought forward.

Orders you seek / oppose (draft copy)

_____

_____

Theory of the case: Briefly state the reasons why you want what you want

_____

_____

_____

Relevant Statutory laws:

_____

_____

Supporting Case Law:

_____

_____

Relevant Facts (supported by evidence presented at trial):

_____

_____

Additional Comments (address arguments made by other party or the credibility of witnesses):

_____

_____

13.8 Decision / Order/ Judgment

After a hearing or a trial, the judge will state their decision in writing or orally. The results of their decision will be called a judgement or order and, in most cases, will be written down. A court order is created (usually drafted by the successful party) that describes what the judge has decided. Orders apply to both parties for a defined or undefined period of time.

If all the parties to a case agree to resolve (settle) all or part of a case in a certain way, they can also tell the court that they agree to an order or judgment. If the judge agrees, they can issue a "consent order" showing that everyone has agreed to that judgment.

It is important to know that just because there is a court order, this does not mean that it will always be followed. You may need to take actions to enforce the order.

14. Appeals

Appeal deadlines for filing and service are very short. Depending on the jurisdiction and type of matter, you may only have a few weeks or even days to file an appeal, so you must act quickly. Failing to meet a deadline could limit your ability to appeal an order or judgment.

Appeal deadlines, forms and procedure vary so it is vital that you check the Rules of Court in your jurisdiction as soon as possible after you receive a judgment on your case, to determine your appeal deadline.

14.1 What is an Appeal?

Once you have received the judge's decision / judgment, you might want to appeal it. An appeal is where you argue in a higher court that the court that made the decision in your case made an error (usually in misapplying the law to the facts of your case). The decision to appeal should not be taken lightly. Making an appeal can be time-consuming and costly, due to the cost of transcripts, preparing your written appeal arguments and the risk of cost orders if the appeal court decides that it was not reasonable for you to appeal. It is important to get legal advice. A lawyer can help assess your chances of success if you were to appeal a decision, and, if so, how to be as successful as possible.

In almost all cases, an appeal is not a new hearing or a new trial, but rather is a hearing on the record from the original trial. There are no affidavits or witnesses. The job of the appeal court is to decide if the trial judge made any legal errors at the trial / hearing or in the judgment.

It is not enough to be unhappy with the result of a trial. In order to successfully appeal, you must show that the judge's decision was unreasonable or cannot be supported by the evidence, the judge made a mistake about the law, or there was a miscarriage of justice. You have to show that the judge made a mistake, and it is important that you are able to explain the mistake you think the judge made, for example by applying the wrong law or by applying the right law incorrectly.

Mistake about the facts: This is when the evidence given at trial was misunderstood by the judge. Appeals on mistake of fact are seldom allowed and a decision may only be overturned where it is found to be unreasonable or cannot be supported by the evidence. Generally,

appeal courts will not overturn a lower court's decision regarding which witnesses were credible or telling the truth.

Mistakes about the law: Not every error made by a judge will lead to a successful appeal. Generally, if the judge's decision about the law is clearly wrong, the case can be successfully appealed.

14.2 Process of Appealing

You can appeal the decisions of a judge by applying for an appeal to a higher-level court. For example:

- A decision from a provincial / territorial court will usually be appealed to the next level of court: the superior trial court, although sometimes appeals will go directly to the Court of Appeal.
- A decision from a superior trial court will be appealed to the Court of Appeal, although you may have to apply for permissions to file an appeal.
- Some decisions from the court of appeal may be appealed to the Supreme Court of Canada.

To successfully make an appeal you must:

1. Show that your appeal involves a mistake of law or a misunderstanding of the facts. In other words, show that the judge misunderstood the law, or applied the law incorrectly, or that the judge made an unreasonable decision on the evidence.

2. Show that the judge's mistake affected the outcome of your case.

Leave to appeal

For some appeals, you may have to ask permission to appeal the judgment of the lower court. This is called "applying for leave to appeal". The Registrar or court staff may be able to provide some guidance, but you should check the Rules of Court to see if your matter requires leave to appeal or not.

To succeed with a leave application, you will need to show that you have an arguable case that the judgment that you appeal involves a mistake of law or facts, in other words that the judge applied the wrong law, or applied the right law in the wrong way. Alternatively, you must show that the judge's decision is unreasonable given the evidence. However, even if you are able to show that there is a mistake of law or fact, the leave judge will still have to decide whether this is the kind of mistake that affected the outcome of your case.

Documents

If leave to appeal is granted, an appeal is started with a "notice of appeal" (usually filed with any application for leave). The notice of appeal should set out the errors of law or fact on which the appeal is based. Generally, the court will only deal with the grounds set out in the notice of appeal. It is possible to later amend the notice of appeal to set out new grounds of appeal, but that should be done as soon as possible and well before the hearing of the appeal itself.

You will also need to file an appeal book which will generally include the notice of appeal, the pleadings (originating document), the trial transcript and the list of exhibits from the original trial.

You will also have to write a "factum" which is your written argument. There are rules for how each of these documents should be formatted.

14.3 At the Appeal Hearing

The person who started the appeal will go first. Then the other side is given an opportunity to speak. After that, you will have an opportunity to address any new issue the other side raised.

In most appeals, judges will have:

- Written arguments (factums) of both parties, and
- The transcript of the proceedings before the lower-court judge / tribunal.

The judges (appeal courts usually sit with three judges or more) may ask you questions during your presentation to make sure they understand the case and what you are saying. If you submitted written arguments, you do not need to read out your written submission at the appeal hearing. Instead, you should just briefly comment on why you think the lower court judge made a mistake and what order you are asking for. The judges will either give a decision at the end of the appeal or will reserve their decision to a later date.

New Evidence

Generally new evidence is not allowed to be presented on appeal. Most appeal hearings are based on the record of the previous trial or hearing. If there is evidence you think the court should have which was not presented at the trial or hearing, you must ask for permission to refer to that new evidence. You must show that the evidence you want to present could not have been presented at the trial or hearing (e.g. you didn't know about it) and that it would have affected the outcome.

You should prepare:

- A notice of motion / application, and
- An affidavit explaining why the evidence was not presented and why you think it would have been important to the outcome of the trial or hearing.

You should attach the new evidence to your affidavit. In general, the judges hearing your appeal will also hear your application to present new evidence and will decide on both your application to present new evidence and the appeal at the same time.

Time limits

There are strict deadlines that say when an appeal can be made. If you are outside those deadlines, and if you want to appeal the judgment in your trial / hearing, you may be able to apply for an extension of time. Applications for the extension of time can be difficult. You should speak to a lawyer about your application.

15. Family Violence

15.1 What is Family Violence

Family violence is any form of abuse, mistreatment or neglect that a child or an adult experiences from a family member or from someone with whom they have an intimate relationship. Family violence can be:

- physical;
- sexual;
- emotional; or
- financial.

Neglect is also a form of violence.

15.2 The Effect of Violence on Children

If you or your children are experiencing abuse by your spouse / partner (or anyone else), it is important to take steps to protect yourself and your children even if you do not want to end the relationship. Even if you think you are hiding the violence from your children, it is likely they know more than you think. Children can be harmed by the effects of violence even if they do not directly witness it.

The Courts will consider any history or risk of family violence when deciding on parenting arrangements. Furthermore, if you subject your children to family violence child protection services may have grounds to intervene.

15.3 Cycle of Violence

Abuse by a spouse / partner often occurs in a cycle. Initially, there may be no conflict but then tension increases leading to an abusive event. Afterwards, the abusive partner might ask for forgiveness, present you with gifts, and promise it will never happen again. Things might deescalate back to low conflict, but eventually the cycle may start again.

Leaving an abusive relationship is statistically the most dangerous time for victims of family violence. If you can, work with a local organization or friend to implement a safety plan. If you, your children, or someone you know is in immediate danger, call 911. If you or someone you know is experiencing family violence, see **Section 17 Resources**.

15.4 Protection Orders and Peace Bonds

If there is risk of family violence, including the risk of kidnapping, you can seek a Protection Order from the family court or a Peace Bond through the criminal court. These types of orders are different and can have different effects, but both are meant to protect you from another person and you can pursue both options at the same time.

Peace Bond

A peace bond is a type of court order that can protect you against anyone, even someone you only dated or hardly know. To get a peace bond, you must show that you have a reasonable fear that the other person will hurt you, someone in your family or your pets; damage your property; or share an intimate image or video of you without your consent.

If your spouse / partner is charged with a crime, in relation to family violence, such as assault, the Crown may offer them a Peace Bond under section 810 of the *Criminal Code*. You can also call the police and tell them you want a peace bond against someone. If the police decide to pursue the matter, your spouse / partner may be arrested or given a promise to appear in court. If the police do not decide to pursue the matter, you can apply for a peace bond yourself. You can ask the criminal registry staff for the forms and ask duty counsel to help you fill them out.

While they will not receive a criminal record from a peace bond, the other person will have to follow certain conditions such as not contacting you for up to one year. A peace bond can be enforced anywhere in Canada. If they breach these conditions, they could face new charges or have to face trial for the original crime.

It may take weeks or even months to get a peace bond. If you are in immediate danger, call 911. If your spouse / partner is arrested they may be detained in jail or released from jail on conditions not to contact you or go near you. You can also apply for a family law protection order.

Protection Order

A family law protection order or restraining order does not require the involvement of the police or the criminal justice system. Generally, family law protection orders can only be made against family members or someone you were in a relationship with. You can apply to court and seek an order that restrains your spouse / partner from stalking you, possessing weapons, attending at your home or place of work, and how they can communicate with you. The protection order can also order the police to seize your partner's weapons. You will have to prepare an affidavit stating your concerns and the judge may ask you questions about them.

You generally do not need a lawyer to apply for either of these. However, if possible, you should seek community resources or legal advice to see if a Protection Order or Peace Bond is right for your situation. Both types of orders can be enforced by the police.

15.5 Parental Child Abduction

Parental child abduction is when a spouse / parent (or guardian) takes or conceals a child from the other spouse / parent (or guardian) and it is illegal in Canada. If you are concerned the other parent may abduct your child, you can take some steps to prevent it such as applying for an order for supervised parenting, an order that a guardian cannot remove the child from the jurisdiction, or an order with a clearly defined parenting schedule to eliminate confusion.

15.6 Harassment Through the Courts

Unfortunately, some people try to use the court system to further abuse their ex-spouse / partner. Harassment through the courts can take many forms but will often include:

- Making multiple court applications, often frivolous, in the wrong court or for an issue that has already been litigated and decided.
- Embarrassing or threatening to embarrass their ex in court by, for example, talking about irrelevant health issues or infidelity.
- Taking advantage of their ex's lack of representation or purposely causing their ex's legal fees to increase.
- Isolating their ex from legal support by putting pressure on support workers or filing complaints against their lawyer.
- Making false accusations of abuse or say that they were denied access to the police or child protection workers.

If you find that you are being harassed through the court system, it is important to get representation, if you can. You might be eligible for free legal representation.

A judge can make an order to stop the other person from making any more court applications without the permission of the court or for a certain period of time. The other person may also be ordered to pay you back for the money you spent responding to the applications by ordering them to pay "costs".

15.7 Help

Every region has resources to help people experiencing violence. Here are the types of resources you can access:

- Call 911 or your local police emergency number if your area does not have 911, if you, your children, or someone else is in immediate danger.
- Victim Services are organizations that can help you develop a plan and find ways to protect yourself. See the Victim Service Directory for services in your area.
- Community Organizations often provide social services and may be able to refer you to a lawyer and services in your first language. See 211 and the Ending Violence Association of Canada to find a variety of resources in your area.
- Tell your doctor or public health nurse as they can give you advice on what to do if you are abused and assist you with physical and psychological injuries.
- Tell friends, family, members of your place of worship, or neighbours who you trust.
- Helplines and Crisis Lines exist to help people experiencing abuse 24 hours a day for free. DAWN Canada provides a list of crisis hotlines across Canada.
- Hospitals can help you if you have serious injuries and may have special knowledge about family violence.
- Legal services, such as legal aid and lawyer referral services may be available to give you legal advice on how to protect yourself legally and financially.
- Police can help you even when you are not in immediate danger. They may have special units with expertise in domestic abuse, can help you get a peace bond and refer you to victim's services.
- Women's Shelters can provide temporary and medium-term shelter to women and children experiencing abuse and can also provide resources. See Shelter Safe to find shelters in your area.

See the Department of Justice website for more information about family violence.

Glossary

Abuse: The emotional, financial, physical, psychological, sexual or verbal maltreatment of a person.

Act: An Act is a written law that has been passed by the federal or provincial/territorial legislature. Also called legislation or statute.

Admissible Evidence: Evidence that may be received by a trial Court to aid the judge or jury. Generally, evidence must be both relevant and material to be admissible, as well as not barred by any specific rule. In addition, the inclusion of the evidence should not be significantly unfair or prejudicial to a party.

Adjournment: The postponement, suspension or interruption of an ongoing hearing, proceeding, or trial, to resume at some future date. This may be at the request of one of the parties, or directed by the Court. It is always the Court who decides whether or not to adjourn the proceedings.

Admissible Evidence: Evidence that may be received by a trial Court to aid the judge. Generally, evidence must be both relevant and material to be admissible, as well as not barred by any specific rule. In addition, the inclusion of the evidence should not be significantly unfair or prejudicial to a party.

Affidavit: A document that contains facts that a person swear or affirm to be true. A lawyer, notary public, or commissioner for affidavits must witness the person's signature and sign it.

Agreement: In family law, parties may create a written document that sets out how spouses have agreed to deal with things like parenting, support, and property. You can make an agreement before you move in together, while you are living together (a cohabitation agreement), or after you separate (see *separation agreement*).

Alternative Dispute Resolution (ADR): Alternative Dispute Resolution is the use of arbitration, negotiation, mediation and out-of-court settlements (as opposed to court litigation) in the resolution of legal disputes. In family law, the purpose of ADR is to offer a less conflict-oriented and often less expensive way to resolve a dispute than litigation.

Appeal: When a party to a court action, or counsel (lawyer) on their behalf, asks a higher court to review the decision of a lower court because they believe there has been a serious error.

Applicant: The person who is applying for a court order.

Application: In some courts, called a Motion – a request to a Court to decide on a matter relevant to the case.

Arrears: Past child or spousal support payments that have not been paid.

Asset: Any item worth money that is owned by a person, especially if it could be converted to cash.

Bailiff / Sheriff: The Bailiff's / Sheriff's responsibilities are to make sure the courtroom is safe, and to look after witnesses, jurors or prisoners.

Balance of Probabilities: The burden of proof in a civil or family trial. The court must be convinced the evidence shows it is more likely than not that the person asking for an order is entitled to the order, or the court will not give the order.

Best Interests of the Child / Children: The test that judges use when they make parenting arrangement decisions about children. The needs and well-being of the children are the most important factors. The judge must decide what is best for the children in priority over what is best for the parents.

Burden of Proof: The party who must prove something, on what ever standard (e.g. on a balance of probabilities) has the "burden of proof".

Case Law: Decisions of courts relating to a particular matter or issue. Case law from the same level of court or other jurisdictions may be persuasive, but the court does not have to follow it. Case law from a higher court in a jurisdiction is binding on the lower court.

Chambers: A courtroom at the superior trial court level where applications (not trials) are heard. In Quebec, "chambers" is called "practice court" and is used for ex parte applications like seizures, or injunctions, or special modes of service.

Chambers Applications: In a proceeding started by notice of civil or family claim, chambers applications usually deal with pre-trial procedural issues that come up as the case progresses.

Child Support: Parents have a legal responsibility to financially support their minor or dependent children, whether they live together as a family or not. After separation or divorce, child support is the amount a parent pays to the other parent to help support the children.

Child Support Guidelines: The Child Support Guidelines are the rules for calculating the amount one parent must pay to the other parent to help support their child or children. The Child Support Guidelines apply to all parents who are not together, whether they were married, lived in an opposite-sex or same-sex common-law relationship, or never lived together at all. The

Child Support Guidelines also apply to stepparents who meet the legal requirements for being responsible to pay child support, and include a special rule for calculating the amount a stepparent must pay.

Collaborative Family Practice: A process where you and your lawyer, and your former spouse and his or her lawyer, agree in writing to resolve family disputes outside the court process.

Common-Law Relationship: Not a legal term, but often used to describe unmarried couples who live together in a marriage-like relationship for some time.

Contact Order: An order that sets out time for children to spend with important people who are not in a parental role, such as grandparents.

Costs: In a superior trial court, a master or judge's order that the losing party in an application or trial pay an amount of money to the other party based on the time or money the other party spent to go to court. This may include all or part of court fees, disbursements, and legal fees.

Counterclaim: A document that sets out any claim the defendant might have against the plaintiff or another party related to the lawsuit started by the plaintiff. It is an independent action raised by a defendant that can heard at the same time as the plaintiff's claim. The counterclaim acts as the defendant's statement of claim against those parties.

Court Order: A legally binding direction by the Court to do something. There are serious legal consequences for disobeying a court order.

Court Reporter: A trained professional who creates official records of things said during examination for discovery / questioning, and court proceedings. This may also be done electronically.

Cross Examination: The questioning of a witness by a lawyer or party on the other side - who did not call the witness to testify. Cross-examination takes place after the lawyer or party who called the witness to testify has finished asking question in direct examination (or examination in chief). The purpose of cross-examination is to test the witnesses' truthfulness or reliability. Questions in cross-examination are allowed to be leading, that is, to suggest a certain answer.

Default judgment: If you do not file a response to a notice of claim or application, the judge may decide and grant judgment in your absence and without your input.

Desk-Order Divorce: When a judge makes a divorce order without the parties appearing in court – called a "divorce by affidavit" in Quebec. This can be the process for both sole and joint applications.

Direct Examination: The questioning of a witness in court by the person who called the witness to court. The questions must be open ended and must not suggest a specific answer – i.e. they cannot be leading questions. Direct examination is also called examination in chief.

Disbursements: Out-of-pocket expenses incurred in legal claim (e.g. court filing fees, the costs of registry searches, or the costs to obtain medical evidence, or obtain expert evidence, etc.).

Disclosure: The process of exchanging information (for example, financial statements) required to settle or decide legal issues with the other party. Failing to disclose required documents can have serious consequences. Also called Discovery.

Dispute Resolution: A process in which two people work through their family law issues with a trained professional, like a mediator or a judge. The process is usually confidential and is meant to help you settle some or all of your legal issues without going to trial.

Division of Property: After a relationship breakdown, a decision needs to be made on how property owned by the couple is divided. This can be done by agreement or by a judge.

Divorce: The legal end of a marriage.

Duty Counsel: Lawyers paid by Legal Aid or otherwise publically funded, or pro bono, who may help unrepresented persons, generally at courthouses or places of detention, in providing brief, summary services, related to various civil, family, criminal, or immigration law problems, depending on the jurisdiction, Duty counsel provide free legal advice for a specific court appearance, but do not take on your whole case or represent you at trial. Examples include: in civil court, assisting parties in presenting pre-trial civil applications; in family court, assisting parties in presenting pre-trial family laws, including in relation to obtaining or maintaining restraining orders in family violence cases; in immigration court, providing basic advice and release on first appearances; and in criminal court, providing basic advice and release / bail on first appearance: see **Section 17 Resources**.

Emergency shelters: Emergency shelters provide temporary shelter, food and other services to people who are homeless for a variety of reasons. Abused spouses/partners may use emergency shelters to receive short term housing for themselves and their children.

Emotional abuse: Emotional abuse is a form of family violence, that includes acts and statements designed to control, degrade, humiliate or punish a spouse / partner, child or family member such as threatening, name calling, stalking, isolating, and intimidation. It may also include the withholding of life-sustaining nurturing.

Evidence: Oral or written statements under oath or affirmation by a witness, or "real" evidence,

such as documentation or objects (which become exhibits), presented to the court by agreement of all parties, and the judge, or under evidentiary rules, to prove the facts that are necessary to establish a claim or defence in a civil or family case, or to determine the guilt or maintenance of innocence of an accused in a criminal case.

Examination for Discovery or Questioning: In civil and family proceedings, a process by which the parties to an action question one another, or another person, under oath or affirmation on the facts and issues. A transcript of the questions and answers is produced. The term "questioning" is used in some jurisdictions.

Exhibit: A document or object admitted as evidence in court.

Expert: A witness who gives evidence to help the court understand technical and scientific issues in the legal action. He or she may give opinions in areas that would not normally be within the judge's knowledge. The expert must be shown to possess the necessary skill and qualifications in the area in which their opinion is sought. An expert can give evidence in person, and / or by writing a report called an expert report

Facts: Something that can be shown to be true, to exist, or to have happened. In a legal case it is based on or related to the evidence presented. Matters of fact are issues for a judge in a family proceeding to decide.

Family Violence: Family violence (also known as domestic violence), includes physical, sexual, psychological and emotional abuse of a family member. In the case of a child, it includes witnessing or being exposed to family violence perpetrated on other family members. Family violence does not include acts taken in self-defence.

Filing Documents: This is the process of adding documents to a court file by giving the original to the court registry. There is often a fee to file documents.

Final / Closing Arguments or Submissions: At the end of the trial, you will present your argument to the court (judge alone in civil and family trials and judge and jury in some criminal trials). It is a summary of your position based upon the evidence that has been presented to the court about the decision that the court should make.

Financial Statement: Forms that set out a person's income, expenses, property, debts and liabilities.

Hearing: In law, a proceeding before a judge or master (only in some civil and family cases) to determine questions of law and / or questions of fact, whether the hearing of an application or the hearing of a trial.

Hearsay: Inadmissible testimony that is given by a witness for the truth of its contents, who relates what others have said rather than what they personally witnessed or observed. There are a number of exceptions to hearsay being inadmissible – it is a complex legal area.

Imputed Income: When a person ordered to pay child or spousal support does not give the court all the required evidence of their income, the judge can use the available evidence to assign an income amount, in order to make decisions about support.

Initiating Court Forms: Forms that begin a court process (also known as *pleadings*).

Interim Application: One party asks the court to make an order, which in most cases is not a final one. These applications often deal with issues that arise in the course of a civil lawsuit or family claim that require a court order before a trial.

Interim Order: Order made by the court that serves as a temporary measure until something more complete and permanent can be decided.

Interrogatories: Pre-trial written questions sent to the other party in a civil lawsuit or family claim, and for which a reply is mandatory.

Issues: Factual or legal matters in dispute between the parties in a legal case.

Jurisdiction: A court's power or authority over people, territories, or subject matter.

Leading Question: A question that prompts or encourages a desired answer. Usually allowed in cross examination but not allowed in direct examination (or examination in chief).

Leave of the Court: The court's permission to proceed with certain types of applications or appeals or to proceed in a certain way.

Legal Advice: Advice from a lawyer about the law as it applies to a particular case. It usually includes information about whether, why and how a party should do something.

Legal Aid: Free legal information, advice and representation for people who cannot afford a lawyer and who qualify for the services.

Limitation Period: The period of time that a party is allowed to wait before starting a case. After a limitation period has passed a lawsuit cannot be successfully started.

Limited Scope Retainer: See *Unbundled Services*.

List of Documents: A list of all the documents that relate to the issues in a case and are in a

party's possession or under a party's power and control. The list also includes a list of any documents that may be privileged. This list is provided to the other parties in the discovery process and tells them where the documents can be examined (unless privileged).

Master: A judicial officer of a superior trial court in a province or territory (called "Special Clerks" in Quebec), who may decide certain matters before or after a trial. Masters hear many chambers applications. In some areas of the law (it may vary from jurisdiction to jurisdiction), a master has powers as a judge to make interim or temporary, or, in some cases, final orders, but cannot make final orders in divorce matters.

Material Fact: A fact that is important or essential to proving your case.

McKenzie Friend: A McKenzie Friend may be allowed in some jurisdictions to sit with you during a hearing or trial, and may provide moral, emotional and practical support like organizing documents and taking notes. They can make quiet suggestions to you, but they cannot address the court or give you legal advice.

Mediation: A non-binding process in which a neutral third party with no decision-making authority attempts to facilitate a settlement between disputing parties. Mediation is usually a private, voluntary dispute resolution process.

Motion: In some courts, called an Application – a request to a Court to decide on a matter relevant to the case.

Negotiation: Any form of non-facilitated (no third party) communication that allows the parties to discuss the steps they need to take to resolve a dispute. Negotiations can take place between the parties directly, or through others (such as lawyers) acting on behalf of the parties.

Objection: A statement made by a party during a hearing or trial for the purpose of challenging any specific evidence sought to be introduced. Common objections during trial include when a party inappropriately asks leading questions, when a party asks multiple questions at once, when a party asks vague or confusing questions, when a witness gives inadmissible hearsay evidence or opinion evidence, and when a party tries to introduce privileged information as evidence. The judge determines whether the objection succeeds or not, and may suggest a different form of question. See also *Hearsay*.

Onus: The burden of proof – who (which party) has to prove something.

Open or Open-ended Questions: Questions that cannot be answers with a simple yes or no. They usually begin with who, what where, why, and how.

Order: A ruling made by a judge or master that tells a party to do something or not do something. It can also be the document that sets out the decision of the judge or master (in some civil and family cases).

Parenting Order: An order for parenting time and decision-making responsibility.

Parenting Plan: The arrangements made by the parents or the court for the care of the children, including living arrangements and who is responsible for making decisions about important aspects of the child's upbringing.

Partner: A partner is a person living in a marriage-like relationship with another person for a duration of time. The length of time may affect rights of the parties under provincial or territorial legislation. Partners are also referred to as common-law partners/spouses.

Partner Support: Financial support paid to a former common law partner under some provincial or territorial legislation by way of a court order or agreement.

Peace Bond: A protection order made by a judge in court as part of criminal proceedings to help protect one person from another. Peace bonds list certain conditions, based on individual requirements that the person named in it must follow. Peace bonds are made in criminal court and may be made against anyone facing a criminal charge. Police will apply for a peace bond and Crown counsel will handle the matter in court.

Petition: In some jurisdictions, a document that starts some court cases. It sets out the basic facts of the event or transaction, the legal consequences and the remedy or relief the petitioner is asking for.

Pleadings: A statement in writing of material facts and law on which a party to a dispute relies in support of a claim or defence – the documents that start a lawsuit or explain a party's defence to a lawsuit.

Precedent: An earlier decision of a court or a higher court that should generally be followed in subsequent similar cases.

Privileged Document: A document the other party is not entitled to see or use in a court case because it was created during confidential communications between a lawyer and his or her client, or was created to help conduct or settle the litigation.

Pro Bono Legal Services: Legal services donated to individuals, free of charge.

Process Server: A professional document server.

Protection Order: An order (such as a Peace Bond or a Restraining Order) made by a judge to protect one person from another. The order lists certain conditions the person named in it must follow – usually that he or she can have no direct or indirect contact with the other person.

Re-Examination: Questions asked by the party or counsel who called the witness, after cross-examination by the other party or counsel. Re-examination happens if the cross-examination has brought out new facts, or if something raised for the first time in cross-examination was unclear.

Regulations: Laws that usually set out practical information or procedures relating to a particular statute. They provide specific instructions about how to implement the statute and tend to change more often than the statute itself**.**

Release: A document signed by the parties to acknowledge that they are giving up all or some part of claims in connection with the civil or family dispute. It is usually signed as part of a settlement.

Restraining Order: A protection order made by a judge to help protect one person from another. Restraining orders list certain conditions that the person named in it must follow. Restraining orders are made in family court and there must be a family connection. They differ from peace bonds in several elements.

Retainer: An agreement with a lawyer for legal work is called a "retainer". A written retainer agreement sets out the work that the lawyer has agreed to do, and what the lawyer will not do, and how the lawyer's pay will be calculated. The retainer agreement sets out the scope of the lawyer's involvement in the file.

Rules of Court: Rules that govern the practice and procedure of the Court. They provide guidelines for each step in the litigation and set time limits for when certain steps must be completed. Additional guidance with Rules of Court type effect include, Practice Notes, or Practice Directions, or Notices to the Profession and Public.

Safety Plan: A means to ensure the safety of an adult or child in a potentially dangerous situation. They can help by preparing people to reduce the potential for violence, get help in an emergency, get away safely, keep children safe, and safely get clothes, pets and other personal items.

Separation: When two people who have been living together in a marriage, or marriage-like relationship, decide not to live together any more with the intention of living separate and apart. There is no such thing as a "legal" separation except by a Separation Agreement. If a

couple is living apart, they are separated. Sometimes a couple may be separated but living under the same roof.

Separation Agreement: A document that separating or separated spouses/partners can draw up to put in writing those matters that are settled between them.

Service: Delivering a document to another person in whatever way the law requires. The Rules of Court set out certain procedures that must be followed when serving a document.

Settlement: An agreement between the parties in a dispute. A settlement can end or avoid or reduce the scope of a court proceeding. It usually involves the payment of money, and / or the release of rights.

Sheriff / Bailiff: The Sheriff's / Bailiff's responsibilities are to make sure the courtroom is safe, and to look after witnesses, jurors or prisoners.

Special or Extraordinary Expenses: Special expenses are over and above the regular cost of living for a child, such as the cost of childcare or post-secondary education, and so are not included in the regular amounts of child support. A special or extraordinary expense must be reasonable in relation to the economic situation of the parents and necessary to promote the best interest of the child.

Spousal / Partner Support: Financial support paid to a former spouse / partner under a court order or agreement.

Statute: see *Act*.

Subpoena: A subpoena (pronounced sub-pena) is an official court document, which orders a witness to come to Court to give evidence and to bring relevant documents, and that failure to do so could have serious negative consequences.

Superior Trial Court: Hears civil and criminal cases. Depending on the province or territory, they may be called the Supreme Court, the Court of Queen's Bench, or the Superior Court of Justice.

Testify: To declare or say something in the witness stand under oath / affirmation in a court of law.

Trial: A trial is the court proceeding where a claimant presents their evidence against another person, and the other person may present evidence in their defense (or may elect not to). The judge then decides if, based on the facts and law, the claimant will be successful in what it claims.

Unbundled Services: This is a method of legal representation in which a lawyer and a client agree limit the scope of the lawyer's involvement in a legal action, leaving the responsibility for those other aspects of the case to the client in order to save the client money and give them more control and responsibility.

Without Prejudice: This principle will generally prevent statements, whether made in writing or orally, in a genuine, but unsuccessful, attempt to settle or resolve an existing dispute from being put before the court as evidence of admissions against the interest of the party who made them. If they are used to successfully settle or resolve the dispute, they become "with prejudice", and are admissible.

Witness: A person who gives evidence in a court proceeding orally under oath or affirmation, in person or by affidavit. Witnesses are persons who testify in court because they have some information about the case. A witness may volunteer to testify or may receive a subpoena (a legal document which orders them to come to court at a certain time to testify).

Resources (in alphabetical order)

(Note: Many changes have been made to court procedures by reason of COVID-19. Thus, it is recommended that you check the current website of the Court before which you are or may be appearing.)

National Resources

The Canadian Judicial Council An organization created to maintain and improve the quality of judicial services in Canada's superior courts. Includes guides to the judicial system and the role of judges.

- Statement of Principles on Self-represented Litigants and Accused Persons

Federal Court

Federal Court Website The website, updated in April 2019, includes a section entitled "Representing Yourself", which includes checklists, procedural charts, practice guides and important information such as where to find legal help. The site also includes Notices, links to key statutes and rules, recorded entries, decisions, hearing lists, and information on Registry services and locations.

Deadlines Calculator The Deadlines Calculator helps calculate the due date for service and filing of documents according to the Court Rules and practice directions.

Centre for Access to Justice The Centre for Access to Justice (CAJ) is a public legal information centre for self-represented litigants consisting of a resource centre and a three-station computer laboratory in the Toronto Registry. Other centres will eventually be rolled out across the country.

E-Filing Resources A number of Guides, Videos and FAQs are available to help parties navigate the E-Filing System.

Online Fillable Forms Forms can be completed online and then submitted through the E-Filing System or printed to file in person.

Your Day in Court This resource provides a general overview of what a self-rep needs to know before

National Resources

going to court.

Federal Court of Appeal

- Court Etiquette and Procedures
- Requirements and Recommendations for Filing Electronic Court Documents
- Frequently Asked Questions (FAQs)
- Registry Information
- Hearing Schedule
- Court Costs
- Request for Interpreter

National Self-Represented Litigants Project (NSRLP) The National Self-Represented Litigants Project (NSRLP) is an organization that researches the challenges and hard choices facing the very large numbers of Canadians who now come to court without counsel. NSRLP creates resources for self-represented litigants.

- Resources for Self-Represented Litigants
- National and Provincial Resources The national and provincial resources directory lists organizations, websites, and resources, categorized geographically, that may be helpful for self-represented litigants.

Criminal Code Full document of the *Criminal Code* available online.

Parenting Plan Tool Justice Canada Family Law Guide to making a parenting plan (Parenting Plan tool), information about family violence and abuse, and family justice resources.

Families Change This national website provides age-appropriate information to guide children, teens, and adults through separation and divorce. Information and resources are provided for each region.

CanLII Database of Canadian case law and legislation in both French and English.

- The Canadian Legal Research Writing Guide

Federal Child Support Guidelines: Step-by-Step The Department of Justice has a guide on understanding the Child Support Guidelines and steps for calculating support.

- Provincial and Territorial Child Support Information

Child Support Calculator Free online calculator tool for basic child & spousal support costs.

The Canadian Criminal Law Notebook A free resource of Canadian criminal law. Contains articles on Criminal, evidence, search and seizure, procedure and practice, and sentencing.

Pro Bono Students Canada A law student program that provides legal services without charge to organizations and individuals in need in Canada. You may have a law school with a Pro Bono Students Canada program near you where you can ask for assistance.

- Resources Provides a list of legal help resources by region.

Alberta

Alberta – Law and Justice Government of Alberta website with family law resources, legislation, forms, and guides.

- Family Law Assistance Family court and mediation, family law kits, and how to respond to *Divorce Act* or *Family Law Act* application.

Alberta Court Calendar and Indigenous Court Worker and Resolution Services Programs The Court Calendar and Indigenous Court Worker and Resolution Services Programs booklet contains an overview of the sitting dates for Alberta Courts. It includes a listing of Judges, Justices, Masters and Alberta Court personnel, as well as information on the numerous Court Services Programs available.

Resolution and Court Administration Services RCAS staff work to help find solutions for legal issues, offer programs at no cost or a nominal charge, provide services across Alberta, and provide administrative support to all the courts within the province.

Centre for Public Legal Education Alberta (CPLEA) Is a public legal education organization dedicated to making information about the law available in readable and understandable language for Albertans.

- Family Resources

Legal Aid Alberta Assists eligible Albertans facing legal issues.

Alberta Courts

- Alberta Provincial Court Help for self-represented litigants in Provincial Courts.
- Court of Queen's Bench Information about the Family Law court system, including the rules of the Court, relevant court forms, practice notes, and resources.

Criminal Law in Alberta A guide developed to provide general legal information on Criminal Law in Alberta.

LawCentral Alberta Is a portal or collection of links to law-related information and educational resources on justice and legal issues of interest to Albertans. Our purpose is to create an educated public who understands their rights and responsibilities under the law, and who knows where to go for legal help and referral.

Alberta Law Libraries Facilitates access to legal information for the Alberta community, including its judiciary, lawyers, citizens, libraries, and government agencies. There are 11 public library locations across the province, one Crown and 4 Judicial libraries. Their website contains subject based research guides, extensive tools to help understand the world of legal information, an Ask A Law Librarian service, various eResources for patrons, and identifies Alberta-centric organizations that provide specific legal resources for the public.

University of Alberta Libraries: Divorce and Separation This guide is a starting point for individuals seeking legal information and self-help materials they can use on their own. It identifies a number of law-related resources and services on the web.

Alberta

Student Legal Services of Edmonton Law students provide legal information, assistance for certain civil, criminal, and family issues.

- Family Project: (780) 492-8244.

Student Legal Assistance (SLA) – Calgary Is a pro-bono legal clinic that provides legal information and representation to low-income residents
of Calgary and the surrounding area.

Grande Prairie Legal Guidance Provides free legal information and advice to low to moderate income people who have a legal issue but do not qualify for legal aid.

Calgary Legal Guidance Offers free and confidential legal advice at evening clinics and outreach clinics to low income Calgarians who do not qualify for legal aid.

Edmonton Community Legal Centre (ECLC) Provides free legal information and advice to low to moderate income people in the Edmonton area. ECLC assists with legal issues related to family, landlord and tenant, employment, human rights, debt, small claims, income support, and immigration matters. Volunteer lawyers provide free legal advice at evening clinics and provide legal information at presentations across the city. Pro bono services are supplemented by the work of paid staff lawyers who will further assist clients in some situations. ECLC also manages a legal clinic in Grande Prairie.

ECLC partners with the Association des juristes d'expression française de l'Alberta (AJEFA) to offer francophone services. Bilingual lawyers who are members of AJEFA meet with francophone clients at ECLC's clinics. Volunteer bilingual lawyers also present ECLC's legal information workshops to francophone communities.

Lethbridge Legal Guidance Provides free legal assistance, information and advocacy to individuals experiencing financial difficulties who need legal services and representation, and who do not qualify for legal aid. Volunteer lawyers at evening clinics provide free legal assistance, information, and advocacy in matters relating to family law, civil law, employment law, immigration law, personal injury law, and criminal law.

Medicine Hat Legal Help Centre Provides free legal information and advice to low to moderate income people who have a legal issue but do not qualify for legal aid.

Central Alberta Community Legal Clinic Offers free legal services to people who financially qualify and who do not qualify for legal aid. The Clinic is headquartered in Red Deer and partners with other agencies in Ponoka, Medicine Hat, Fort McMurray, and Lloydminster to provide widespread legal support to smaller communities in Alberta. Volunteer lawyers give legal advice at evening clinics on matters related to family law, civil law, criminal law, wills, and other legal issues. Clients can chat with a lawyer for 30 minutes, following which they may receive further support from a paid staff lawyer.

Fort McMurray Community Legal Clinic

BearPaw Education Produces and distributes culturally relevant legal education resources for Indigenous people in Alberta. We are a department of Native Counselling Services of Alberta.

Alberta

Pro Bono Law Alberta (PBLA) Volunteer lawyers, through the clinics, also present legal education workshops to the public to inform individuals of their rights, hopefully before a legal issue arises. PBLA promotes access to justice by fostering a pro bono culture in the legal profession. PBLA creates volunteer opportunities for lawyers and works with law firms to develop pro bono policies and projects. In Calgary and Edmonton, PBLA administers the Civil Claims Duty Counsel project and the Queen's Bench Court Assistance Program. Volunteer lawyers staff these programs and support litigants dealing with civil matters at the courthouses in each city.

Alberta Court of Appeal Related Information

Court of Appeal locations and contact information

Frequently asked questions

How to start an appeal, including required documents, filing deadlines and fees

Checklists for ensuring your appeal request documents are completed correctly before filing

Detailed information on all required documents and processes of the Court of Appeal

Filing your documents at the court registry

Electronic filing

Ordering court transcripts and preparing your appeal record

Contact a Case Management Officer with questions about court rules and processes

How to prepare an application before the Case Management Officer

Alberta
Court etiquette for in-person hearings How to prepare for an electronic hearing a. Etiquette and best practices b. Logging in and other technical tips c. Troubleshooting common technical issues

British Columbia

The Courts of British Columbia Information and guides on specific court processes. Links to court rules, practice directions, administrative notices and forms:

- Provincial Court The Court's plain language website offers practical information and guides on preparing and conducting family court cases. Also podcasts, a blog, and Guidelines if you wish to bring a Support Person to help you at a trial.
- Supreme Court Information and guides on specific court processes for self-represented litigants.
- Court of Appeal The Court's website contains information and resources for litigants in the Court of Appeal including Court Forms, Rules, Practice Directions, and announcements.

British Columbia Government BC government website includes information regarding BC's justice system, Courthouse services, and legal help resources, including BC's Justice Access Centres.

Legal Information and Services

Access Pro Bono Coordinates lawyers providing pro bono (free) legal services. It operates:

- **Lawyer Referral Service** Connects individuals to lawyers for a 30-minute consultation free of charge and the possibility of retaining the lawyer for representation or other services.

Alternative Dispute Resolution Institute of BC and **Mediate BC** Provide information on arbitration and mediation and have services to help in finding an arbitrator or mediator.

Atira Women's Society Runs a Legal Advocacy Program for low-income women (inclusive of transwomen) in the Downtown Eastside to obtain free legal advocacy in a safe and confidential, women's only space.

Clicklaw Provides legal information, education and help with a British Columbia focus. It has information on specific topics and how to perform legal research.

- JP Boyd on Family Law Written in plain language, with rollover definitions for legal words and phrases, JP Boyd on Family Law provides practical, in-depth coverage of family law and divorce law in British Columbia.

Community Legal Services Society Provides free legal assistance to people facing issues concerning housing rights, workers rights, human rights, and mental health rights. It produces self-help guides, including:

- **Judicial Review Self Help Guide** on how to bring a petition for judicial review to the British Columbia Supreme Court from the Residential Tenancy Branch, the Human Rights Tribunal, the Employment and Assistance Appeal Tribunal, the Employment Standards Tribunal, and the Workers' Compensation Appeal Tribunal.

Courthouse Libraries BC Website that provides links to a number of digital resources that can help with legal research and information on the services available at the courthouse libraries throughout the province.

British Columbia

Dial-a-Law Organization that offers legal information and free resources. A starting point for information on the law in British Columbia.

- Family Relationships
- Divorce & Separation
- Resolving Disputes

Disability Alliance BC Employs advocates who can help apply for and appeal the denial of provincial and federal disability benefits.

Elizabeth Fry Society Advocate Program Is a free legal clinic providing support to individuals in need of assistance with situations such as rental disputes, evictions, debt collection, bankruptcy, mental health and employment standards, and accessing income programs.

Employers' Advisers Office Provides free help and assistance to employers dealing with WorkSafeBC, including assistance in relation to registering a business, dealing with injury claims, health and safety issues, and appealing a decision.

Family Law LSS A comprehensive website covering all areas of Family Law including do it yourself guides, resources, and factsheets.

Indigenous Legal Clinic Provides free legal services to the Indigenous community and education to Allard School of Law students.

Justice Education Society A wide array of resources aimed at teaching the public about legal issues, including a live chat feature from 11 am – 2 pm PST providing members of the public with help on legal issues. It produces:

- Small Claims Online Help Guide
- Supreme Court of BC Online Help Guide
- Court of Appeal Online Help Guide
- Family Law Legal Help Guides

Law Students' Legal Advice Program Is a non-profit run by law students at the Peter Allard School of Law at the University of British Columbia. It provides free legal advice and representation to clients who would otherwise be unable to afford legal assistance at clinics located throughout the Lower Mainland and produces the LSLAP Manual.

Legal Services Society (Legal Aid BC) Provides free legal representation in cases involving serious family issues, child protection matters, criminal law issues, and some mental health and prison law issues. It produces:

- **MyLawBC** Provides information concerning separation and divorce, abuse and family violence, missed mortgage payments, and wills and personal planning through do-it-yourself guides, resources, and factsheets.

Native Courtworker and Counselling Association of BC Provides Indigenous accused persons with information about the criminal justice system and court procedures, as well as referrals, where

British Columbia

appropriate and available, to legal and social resources.

People's Law School Offers information concerning an array of common legal problems relating to consumer issues, home and neighbours, money and debt, wills and estates, employment, transport, health, planning, business, and dispute resolution. Among its resources is:

- **Dial-a-Law** A repository for plain language written and audio information.

PovNet Find an Advocate Is an online anti-poverty community that connects poverty and family law advocates and pro bono lawyers from across British Columbia on issues concerning housing, income, workers' rights, Indigenous peoples, immigration, and more.

Rise Women's Legal Clinic Is a community legal centre providing accessible legal services that are responsive to the unique needs of self-identifying women. Most of the services offered at Rise are provided by upper-year law students, under the close supervision of Rise's staff lawyers.

Society for Children and Youth of BC Is dedicated to improving the well-being of children and youth in British Columbia through various resources and services including the Child and Youth Legal Centre, which advocates on behalf of vulnerable children and youth in BC.

Tenant Resource & Advisory Centre Promotes the legal protection of residential tenants across British Columbia by providing information, education, support and research on residential tenancy matters. For eligible clients, the Tenant Resource & Advisory Centre offers direct advocacy by negotiating resolutions with problem landlords or providing representation at Residential Tenancy Branch dispute resolution hearings.

The Law Centre Run by the University of Victoria, focuses on assisting people in the Capital Regional District and provides legal education programs to the public. Staff lawyers are supported by law students to provide representation, information and advice on a range of legal issues.

VictimLinkBC A toll-free, confidential, multilingual telephone service available across B.C. and the Yukon 24 hours a day, 7 days a week at 1-800-563-0808. It provides information and referral services to all victims of crime and immediate crisis support to victims of family and sexual violence, including victims of human trafficking exploited for labour or sexual services.

Workers' Advisers Office Provides free advice and assistance to workers and their dependants on disagreements they may have with WorkSafeBC decisions.

Manitoba

Community Legal Education Association Resources for self-represented litigants. Resources for family law, criminal law, and civil law. Resources include a province-wide telephone legal information service (Law Phone-In & Lawyer Referral Program) with a toll-free number, print resources and online resources

Manitoba

(unrepresented litigants section on website).

- Family Law

Manitoba Justice – Family Law Government website with general information about Family Law, including child support and information for grandparents.

- Family Justice Resource Centre The Family Justice Resource Centre is a service provided by Manitoba Justice. Staff can direct you to the services you and your family may need to deal with family law issues.
- Family Law in Manitoba – 2014 Public Information Booklet A booklet with information on Family Law and the legal system in Manitoba.
- Family Conciliation Provides a range of free conflict resolution services to families going through a separation or divorce.

Manitoba Courts Provides Information about the province's different courts, procedures, rules and forms.

- Manitoba Courts Information for Self Representing Offers general information about the province's different courts and their procedures, rules, and forms.
- Court of the Queen's Bench – Family Law Offers information about the Family Division of the Court of the Queen's Bench.

Legal Help Centre The Family Law Clinic is a service that is geared towards those individuals who are representing themselves in a family law proceeding. The Clinic is staffed by law students under the supervision of a family law lawyer. This clinic provides assistance with the procedural steps involved in family law. Family Law Clinic appointments are only available by referral from our Drop-In Clinic.

Infojustice Manitoba Is a legal information centre whose purpose is to promote access to justice in French by providing legal information services to francophones. Through workshops and one-on-one meetings, the staff of the information centre seeks to educate francophones and to provide tools to those who choose to represent themselves before the courts.

A Woman's Place A Woman's Place Domestic Violence Support and Legal Services provides supportive counselling and legal services for women who have exited/are exiting an abusive relationship.

Manitoba Justice – The Criminal Case A step-by-step guide through the criminal justice system in Manitoba.

Legal Aid Manitoba Provides services, representation, and resources for qualified individuals with criminal, family, and immigration issues.

University of Manitoba Community Law Centre Primarily handles summary conviction offences. In addition, it may provide assistance for *Highway Traffic Act* offences, small claims cases that involve consumer problems and individual disputes with Manitoba Public Insurance. The Centre is staffed by 50-100 second and third year law students who volunteer their time. Although students have primary responsibility for their file, they are supervised by a LAM staff lawyer. Members of the faculty and other

Manitoba

Legal Aid staff are available to provide information or advice when matters require special expertise.

New Brunswick

Public Legal Education and Information Service of New Brunswick Self-help guides touching on family law, civil law, criminal law, and more. Available in French and English.

- Family Law Guides, resources, and information on Family Law in New Brunswick.
- Family Violence in New Brunswick (PLEIS) A series of pamphlets dealing with family violence. The purpose of these pamphlets is to provide some basic information about family violence in New Brunswick. It does not contain a complete statement of the law in the area and laws change from time to time.
- Civil Law Guides, resources, and information on Civil Law in New Brunswick.
    - Small Claims Court Guide

Family Law NB Offers general information and resources about Family Law in New Brunswick.

New Brunswick Courts Information on the New Brunswick court system.

Legal Aid – Family Law Services An overview of the services Legal Aid provides and for what type of family matters.

- Resources

Legal Aid – Criminal Law Services An overview of the services Legal Aid provides and how to apply.

Law Society of New Brunswick Law Library The Law Society allows the public to access their law library.

Newfoundland and Labrador

The Law Courts of Newfoundland and Labrador

Information on court procedures and help for self-represented litigants

- Supreme Court (Superior Court in NL) Hears matters involving serious criminal charges as well as appeals from the Provincial Court. All jury trials are held in Supreme Court, although some criminal cases will be heard before a judge-alone.
    - Supreme Court Family Division Specialized and unified family law courts on the Avalon Peninsula and West Coast areas of the Province.
    - Supreme Court, General Division Handles family law matters for areas not covered by the

Newfoundland and Labrador

unified Family Division.

- Provincial Court (Inferior Court in NL) Court of first instance; handles family law matters relating to support and family violence for areas not covered by the Supreme Court, Family Division. Also handles Traffic, Youth, Small Claims, and other matters.
    - Family Violence Intervention Court Specialized criminal court with the goal of preventing and reducing family violence through various programs. The court focusses on victim safety and offender responsibility.
- Small Claims Court For most civil matters where value does not exceed $25,000.00.
- Court of Appeal Highest court in the province. Hears appeals from Supreme Court, Family and General Division; some decisions of the Provincial Court and decisions of certain administrative tribunals.

Court Information & Publications

- Court of Appeal The Court of Appeal website provides information on representing yourself, access to Guidebooks, frequently asked questions and answers, access to the Court of Appeal Legal Assistance Clinic.
- Supreme Court Family Division Information Court website resources providing information on duty counsel, court docket, and general topic information on divorce, separation, children's matters, property, support enforcement, adoption, ISO, and settlement conferences.
    - Family Justice Services (FJS) Webpage under the Family Division Website provides resources for families going through separation and divorce. It also includes a link to the course Living Apart Parenting Together helps parents make decisions which will take into account the best interests of their children.
- Supreme Court Family Division Information Sessions Information about free Family Law Information Sessions which offers assistance to the public who wish to learn about family law proceedings at the Supreme Court, Family Division.
- Supreme Court Resources for Self-Represented Litigants Court website resources including information on finding a lawyer, videos on what to expect when attending family court, and other helpful resources.
- Provincial Court Information Court website resources providing information on family law matters in Provincial Court.
- Provincial court publications
- Court Etiquette and Procedures
- Supreme Court: A Guide to Accessing Proceedings and Records For the Public and Media

Family Justice Services A division of the Supreme Court. FJS offers services that assist families in resolving custody, access and/or child support issues outside of court. FJS offers free services to residents

Newfoundland and Labrador

of Newfoundland and Labrador that are involved in family law matters. Some of their services include: parent education sessions on family law and parenting after separation; dispute resolution in cases of parenting and child support; and counselling services.

Government of **Newfoundland and Labrador – Justice and the Law** General information and guides for self-represented litigants.

Public Legal Information Association of Newfoundland and Labrador (PLIAN) An independent non-profit that provides general information, legal education, and lawyer referrals to all Newfoundlanders and Labradorians, with the intent of increasing access to justice. Guides for family law services, victim support, bail, legal aid, probation and pardons. Services include:

- List of Community Resources available to help people navigate the court system.
- Family Law Forms Builder An online program that assists self-represented litigants with filling out court forms. Provides guidance on what forms to fill out and how to fill out the forms.
- Legal Information Phone Line and Lawyer Referral Service A service offering referrals to lawyers from across the province registered with the Lawyer Referral Service. These lawyers will offer a 30-minute consultation for a small flat fee.
- Pro Bono Clinics.
- Legal Publication / Information Distribution.

Law Society of Newfoundland and Labrador Law Library The Law Society's Law Library is an important component in the administration and continuing education of the legal profession. Its comprehensive collection of both primary and secondary print and electronic media resources is available for use by both lawyers and members of the public.

Newfoundland and Labrador Legal Aid Commission Independent organization that provides legal counsel for criminal and family matters either for free or on a subsidized basis.

Newfoundland and Labrador Legal Aid Clinics Independent organization that provides legal counsel for criminal and family matters either for free or on a subsidized basis.

- Application Form
- Application Checklist

Note: Applications must be physically mailed or dropped off to an area office.

Northwest Territories

NWT Family Law Guide The Department of Justice publishes a guide to family law in the Northwest Territories called Family Law in the NWT as part of its mission to provide public legal education and information. This comprehensive guide is designed to help you understand these legal processes.

Northwest Territories Government Information about laws and legislation, courts, and government resources.

- Family Law – General Information Government website with information, resources, and programs for Family Law issues.
- Family Law Mediation Program Voluntary, free service to help families agree on issues such as child custody and division of property.
- Legal Aid Information about Legal Aid services and how to apply.

Family Law Mediation Program Voluntary, free service to help families agree on issues such as child custody and division of property.

Northwest Territories Courts Information about the court system in the NWT.

- Wellness Court An alternative to regular criminal court that offers supervised program designed to address the conditions that may contribute to re-offending.

Law Society of the Northwest Territories Legal information and resources for the public.

NWT Law + Victim Services Laws and legislation, the legal system, police, emergency, victim services.

Nova Scotia

Family Law Nova Scotia Information about the law, processes, and courts of Nova Scotia. It will help you understand your legal issue and navigate the legal system.

The Family Law Information Program (FLIP) and FLIP Centers The Family Law Information Program includes the Nova Scotia Family Law website at www.nsfamilylaw.ca and the Family Law Information Program Centres (FLIP Centres).

See in particular the **Going to Court: Self-Represented Parties in Family Law Matters** workbook.

The Courts of Nova Scotia Information about the Nova Scotian court system for litigants.

- Self-represented litigants
- Free Legal Clinics The Courts offer free legal clinics in Halifax, Sydney, Truro and Yarmouth for certain types of Supreme Court and Court of Appeal matters

Legal Information Nova Scotia To find easy to understand legal information to help you deal with everyday legal problems. You are also in the right place for referrals to legal help resources in Nova Scotia, including finding a lawyer or mediator.

- Small Claims Court App Frequently Asked Questions, self-help videos and step-by-step instructions for representing yourself on small claims court matters, all in one place. LISNS also has Small Claims Court navigators who provide guidance and support at the locations in Bridgewater and Halifax.
- Online Wills App A simple process to help you gather the information you need to prepare a will in Nova Scotia. It will help you decide what to put in your will.

Legal Aid Nova Scotia Provides legal information, legal advice to all Nova Scotians (no financial qualification), and legal representation for those who meet certain qualifications.

Nova Scotia

Summary Advice Counsel Is also a service of Legal Aid Nova Scotia.

Dalhousie Legal Aid Service Does community outreach, education, organizing, lobbying and test case litigation to combat injustices affecting persons with low incomes in Nova Scotia. Community groups and community-based agencies with mandates to fight poverty and injustice may apply for legal advice, assistance, and community development and education services. The Service offers advocacy workshops and legal information sessions and works with other groups to lobby the government on social assistance policy and other policies negatively affecting persons with low incomes.

Nova Scotia – Self Represented Litigants This website is designed to offer you resources about how to prepare for court if you are not represented by a lawyer.

Association des juristes d'expression française de la Nouvelle-Écosse (AJEFNE) An organization that aims to improve access to justice for French-speakers. You may speak to one of their legal professionals for free, in person or by phone.

***Note**: Only available in French*

ReachAbility Association Offers form-filling clinics and legal referral services for people representing themselves. These services are temporarily unavailable due to COVID-19.

Halifax Refugee Clinic Provides free legal services for refugees and can include full service for the entire refugee determination procedure or assistance in preparing various applications.

Judges in Canada Videos The Canadian Superior Courts Judges Association (CSCJA) has launched a new educational video, available in English and French, and a related YouTube channel, entitled Judges in Canada. The video teaching tool, aimed at new and young Canadians, as well as the public in general, illustrates what people are entitled to expect from judges in Canadian Courts. The video covers principles fundamental to the justice system, concepts such as Judicial Independence and the Rule of Law.

Nunavut

Legal Services Board of Nunavut As the territory's legal aid plan, LSB is responsible for providing legal services to financially eligible Nunavummiut in the areas of criminal, family and civil law.

- Law Line General information about family law in Nunavut.
- Criminal Law Information about criminal law in Nunavut.

Nunavut Courts Provides information about Nunavut's Courts, which includes the Nunavut Court of Appeal, Nunavut Court of Justice, Youth Justice Court of Nunavut, Justice of the Peace Court, as well as the Court Services Division of the Government of Nunavut.

- How to Basic information on civil, criminal and family processes.

Government of Nunavut Family Services Information about the Department of Family Services programs and services, including Family Violence, Child Protection, and Adoption.

Ontario

Steps to Justice Step-by-step information about legal problems to help people understand and exercise their legal rights. Includes referrals to services that provide in person help, and links to resources such as relevant court forms and guides. Topics covered include separation and divorce; child protection; partner abuse; and restraining orders. The Law Society of Ontario has also launched an emergency family law referral telephone line to assist with urgent family court matters during the covid-19 pandemic.

Community Legal Education Ontario (CLEO) Produces clear, accurate and practical legal information to help people understand and exercise their legal rights in a variety of areas of law including family law, the legal system, and family violence.

- Steps in a Family Law Case This is a set of three interactive flowcharts that take people through the family law court process to learn about what happens at each step and what is required.

Ontario Ministry of the Attorney General – Family Law Information about Ontario's legal system, including finding a lawyer, lawsuits and disputes, family and criminal law, and wills and estates. They also provide Family Law Information Centres in family courts across Ontario.

Ontario Ministry of Attorney General – Applying for probate Information on confirming or securing legal authority to deal with the property and will of a deceased person.

Court Services from the Ministry of the Attorney General Covering a variety of areas including, guides to procedure in civil, divisional and small claims court, and information on court fees, estates and civil case management.

Community Legal Clinics A network of 73 legal clinics funded by Legal Aid Ontario provides legal assistance for low-income people living in Ontario in the areas of employment, housing, and social assistance law.

Legal Aid Ontario Provides legal assistance for low-income people living in Ontario.

- Family Law Services Centres Provide eligible clients a range of legal resources and support for family matters.
- Summary Legal Advice Telephone Services 1-800-668-8258.
- Student Legal Aid Services Societies (SLASS) Operating out of Ontario's seven law schools, volunteer law students provide legal advice and representation.

Ontario Courts Information for litigants in Superior Court cases and Ontario Court of Justice cases.

Ontario

Specific resources for Divisional Court, Small Claims Court and preparing for Simplified Procedure Trials.

- Court of Appeal – How to Proceed in the Court of Appeal for Ontario
- Superior Court of Justice – Going to court? Information for people involved in a case such as information about how to find a lawyer or legal information, and information about court proceedings at the Superior Court of Justice.
- Ontario Court of Justice – Guides for self-represented parties.

Family Law Limited Scope Services Project Provides a directory of lawyers in Ontario who are willing to provide "unbundled" legal services so that people do not have to retain a lawyer to help with their entire case.

Pro Bono Ontario Hotline People who need help with a civil law matter can call the Hotline and get up to 30 minutes of free legal advice or assistance. The Hotline does not cover family or criminal law issues.

Ontario Legal Information Centre People who need help with a civil law matter can call the Centre and get up to 30 minutes of free legal advice or assistance (or if in Ottawa, can meet with a lawyer for 30 minutes).

Prince Edward Island

Courts of Prince Edward Island Information about the PEI court system, forms and resources.

Representing Yourself in Supreme Court

Prince Edward Island Court of Appeal Procedures and Practices Contains information necessary in preparing for an appeal.

- How to Commence and Respond to a Civil Appeal
- How to Commence and Respond to a Criminal Appeal

Prince Edward Island – Family Law Centre The Family Law Centre provides child-focused programs and services for families. These family justice programs and services promote and emphasize the best interests of children.

Community Legal Information Provides free legal information through the phone line, website, e-mail, publications, and outreach efforts. They provide lawyer referrals for Islanders who need legal advice and would like to connect with a lawyer.

- Lawyer Referral
- Family Law

Legal Aid PEI Provides legal representation and assistance to people living on a low income.

Pro Bono Legal Advice Clinic for Self-Represented Litigants Free summary legal advice is offered to self-

represented litigants in the areas of family law and civil law.
PEI Public Law Library The law library at the Sir Louis Henry Davies Law Courts Building contains materials for legal research.

Quebec

Courts and Tribunals of Quebec Information about the Quebec court system.

The Court of Québec is a court of first instance with jurisdiction in civil, criminal and penal matters as well as in matters relating to young persons, such as adoption, youth protection and emancipation cases. It also hears administrative matters and appeals, where provided for by law.

The Superior Court of Quebec has jurisdiction throughout Québec and sits in all judicial districts.
In civil matters, the Superior Court hears:

- Cases in which the amount at issue is at least $85,000;
- Divorce and support cases;
- Class actions;
- Cases involving the probate of wills and the homologation of mandates given in the event of incapacity;
- Applications for injunctions to stop harmful activities;
- Except in certain cases provided for by law, cases involving the judicial review of decisions made by courts in Québec other than the Court of Appeal, or made by public bodies in Québec.

The Superior Court hears any application that does not come under the exclusive jurisdiction of another court. It may hear criminal cases such as:

- Criminal cases heard automatically before judge and jury, such as those involving murder or treason;
- Other cases in which the accused elects trial by judge and jury;
- Matters of extraordinary recourse, for example when a person is unlawfully detained in custody, or when the legality of a search warrant is challenged.

Like the Court of Appeal, the Superior Court hears some appeals from decisions:

- Rendered under the *Criminal Code* by a judge in the Youth Division or the Criminal and Penal Division of the Court of Québec, by a municipal court judge or by a justice of the peace;
- Concerning summary offences such as

Quebec

- Theft,
- Prostitution,
- Driving while impaired;

- Made under other federal and provincial statutes.

Superior Court of Québec Information about court process, rules, forms and other resources.

The Court of Appeal of Quebec is the general appeal court for Québec and as such is the province's highest court.

In civil matters, the Court of Appeal hears:

- Appeals from judgments of the Superior Court or the Court of Québec that terminate a proceeding, where the value of the subject matter of the dispute in appeal is $60,000 or more;
- Appeals from certain other judgments, including those that pertain to personal integrity, status or capacity;
- Appeals concerning the special rights of the State or contempt of court;
- Appeals from all other judgments of the Superior Court or the Court of Québec, with leave from a judge of the Court of Appeal.

In criminal and penal matters, the Court of Appeal hears appeals from verdicts of guilt or acquittal and sentences imposed under the *Criminal Code* or the Code of Penal Procedure.

Specialized tribunals of Quebec are:

- Human Rights Tribunal
- Professions Tribunal
- Administrative Tribunal of Quebec

Justice Québec General information on various areas of the law and the functioning of the justice system in Quebec, and on the programs and services available to the public; as well as forms and templates.

Justice Québec – Couples and Families (Separation and Divorce)

Barreau du Québec – Access to Justice Resources List of access to justice organizations (non-exhaustive).

Bar of Montreal (public)

SOQUIJ – Services aux citoyens Free access to judgments from courts and tribunals in Quebec, as well as the Supreme Court of Canada; access to Quebec and federal laws.

Quebec

***Note**: Only available in French*

Young Bar of Montreal – Public services Call-in legal clinic; hearing preparation services; Small Claims Court mediation services.

Educaloi A starting point for legal information about the law in Quebec, including Family Law.

- Separation and Divorce
- Families and Couples

Fondation Barreau du Québec – Seul devant la cour A series of publications to help self-represented litigants through the court process in the Superior Court.

***Note**: Only available in French*

Centres de justice de proximité Centres located in various locations throughout Quebec and provide legal information, support, and referrals.

Justice Pro Bono Provides resources, legal information and legal clinics in Quebec.

Québec Legal Aid Offices Eligibility and service information for Legal Aid.

University Legal Clinics Free and confidential legal information and/or consulting services in various areas of the law:

- Clinique juridique de l'UQAM
- Cliniques juridiques de l'Université de Sherbrooke
- Clinique juridique de l'Université de Montréal (Legal Aid Clinic)
- Clinique d'informations juridiques à McGill (Legal Information Clinic at McGill)

***Note**: Only available in French*

Juripop Legal assistance, court representation, document drafting and accompaniment in negotiation and mediation. Services are intended for low-income individuals not eligible for Legal Aid.

Boussole juridique Directory of free or low-cost legal services in Quebec.

Mile-End Legal Clinic Legal information, consultation and accompaniment services for low-income individuals who are not eligible for Legal Aid.

Saskatchewan

The Public Legal Education Association of Saskatchewan (PLEA) Is a non-profit, non-government organization that exists to educate and inform the people of Saskatchewan about the law and the legal system. PLEA offers programs and services to the general public as well as to school communities.

Saskatchewan

- Family Law Saskatchewan Detailed legal information to help you navigate a separation or divorce and everything that follows.

Courts of Saskatchewan Information about court processes, rules, legislation, and resources.

- Provincial Court - Adult Criminal Court
- Court of Queen's Bench – Criminal
- Court of Queen's Bench – Civil Law
- Court of Queen's Bench – Family Law
- Small Claims Court
- Civil and Family Matters

Government of Saskatchewan Find services and information for Saskatchewan residents and visitors.

- Family Matters: Assisting Families through Separation and Divorce The Family Matters program aims to minimize the impact of separation and divorce on all family members – especially children, by providing information and resources to deal with a changing family situation; and assistance to resolve urgent and outstanding issues.
- Represent Yourself in Family Court A Self-Help Kit is a package of court forms and instructions that has been prepared by the Family Law Information Centre of the Ministry of Justice. The kits are to be used by parties who intend to represent themselves in court on several different types of proceedings.
- Courts and Sentencing Find services and information for Saskatchewan residents and visitors.

Law Society of Saskatchewan – Legal Resources Resources and legal research guides.

Yukon

Department of Justice – Family Law Information Centre (FLIC) Is a legal resource for separating or divorcing couples and families in transition. FLIC is an office of the Court Services branch of the Yukon Department of Justice that provides information on family law issues and court procedures.

Yukon Public Legal Education Association (YPLEA) Is a non-profit organization devoted to providing legal information to the public and promoting increased access to the legal system.

Department of Justice – Law Library Resources, research guides and information to help prepare your legal case.

A Guide to Representing Yourself in the Yukon A general guide to help people without a lawyer prepare for court.

Yukon Legal Services Society Information about eligibility requirements for legal aid and other resources.