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## MEMORANDUM

**TO:** The Profession and Self-Represented Litigants

**FROM:** Regional Senior Justice Turnbull  
Local Administrative Justice McLaren

**RE:** Family Court Schedule

**DATE:** February 11, 2016

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This year's Memorandum addresses some scheduling changes and several other issues of importance. For access to previous annual Memoranda to the Profession please go to the Hamilton Law Association website.

### 1. JUDICIAL CONFERENCES

The conference dates for 2016 are:

May 4<sup>th</sup> – 6<sup>th</sup>, 2016

June 8<sup>th</sup> – 10<sup>th</sup>, 2016

November 2<sup>nd</sup> – 4<sup>th</sup>, 2016

Motions on these weeks will be held on the **Tuesday** of the week instead of Friday and the Child Protection administrative list will also be heard on **Tuesday**, instead of Wednesday.

### 2. MOTIONS

Motions will be held on Thursday, March 24, 2016 instead of March 25, which is Good Friday.

Motions will be heard on Thursday, June 30, 2016, instead of July 1, which is Canada Day

Motions will be heard on Thursday, November 10, 2016, instead of Nov. 11, which is Remembrance Date

## **DOCUMENTS FOR A MOTION**

Rule 14 (9) states that “A motion, whether *made with or without notice*, (emphasis is mine)

(a) Requires a notice of motion (Form 14) and an affidavit (Form 14 (a); and ....”

Rule 14 (10) states that “If a motion is limited to procedural, uncomplicated or unopposed matters, the party making the motion may use a motion form (14B) instead of a notice of motion and affidavit.”

14B Motions would typically be for the following:

- a) Matters with a written consent;
- b) Matters where the time to respond has expired; and
- c) Most requests for substituted service unless a third party or agency needs to be served with the motion returnable on a Friday.

### **3. TRIAL SCHEDULE**

Attached please find the trial schedule for 2016.

### **4. TRIAL SCHEDULING ENDORSEMENT FORMS (TSEF)**

These forms were developed and distributed by the Chief Justice’s Office and must be used by the Family Courts in all family proceedings that are adjourned to a trial date. These forms are to be used in all family cases and are available in the court rooms and also at the Litigation counter.

## **FAMILY MATTERS:**

### **Part 1:**

This form is handed to the parties by the court at the completion of the case conference when the hearing has been adjourned to a settlement conference. Each party will complete Part I and file it paper clipped to the front on their Settlement Conference Brief.

### **Part 2**

This form will be handed out at the completion of the case conference when it is adjourned to a Settlement Conference to those clients who do not have lawyer and to lawyers who have not already received it. Lawyers will receive a copy of the form with this memo. All parties will be advised to review the form prior to the settlement conference and submit it to the Court as complete as possible. In the event that a Trial is set at the Settlement Conference the case management justice will then review and sign Part 2 and it will be inserted into the endorsement volume of the file with Part 1.

The party who is responsible for filing the trial record will include in the Trial Record a copy of the Trial Scheduling Endorsement form as well as any other orders that have been made prior to trial

## **CHILD PROTECTION MATTERS:**

TSE forms are optional in Child Protection matters. When a Child Protection matter is adjourned to the trial list, the settlement conference judge will give instructions to counsel as to whether to file a TSE or a Trial Management Brief for the Trial Management Conference

There is only one part to the Trial Scheduling form for Child Protection Matters. When a case has been adjourned to the trial list the parties will be asked to complete the form with the assistance of the case management Judge. The form will then be inserted into the endorsement record of the file.

The Society will then ensure that a copy of the form is inserted into the trial record along with any other orders that have been made in the file that pertain to the trial. If the list of witnesses required for trial by either party is longer than the form allows, the names of the witnesses can be listed on a separate sheet of paper which will be attached to the form.

## 6. **FINANCIAL DISCLOSURE**



Changes to Rule 13 state that when a financial statement is required to be filed, that three years income tax returns and notices of assessment/re-assessment be filed with the application, answer or motion.

**If an applicant** does not have all three years tax returns and/or notices of assessment/re-assessment, they may also file a Notice of Motion for leave to file their pleadings without the necessary accompanying documents, which would be served on the responding party with the application. At the return of the motion the motion judge would then set a timeline for filing.

**If a responding party** does not have all the financial disclosure they may serve and file a motion for leave to allow them to file their documents. At the return of the motion the motion judge would then set a timeline for filing. With a consent, this could also be done by way of a 14B motion.

Rule 13 also states that

- a) If the only financial claim being made is for the table amount of the child support under the child support guidelines and there is no claim for extraordinary expenses, spousal support or equalization of property, then a financial statement is not required.
- b) If arrears are being dealt with, income tax returns for all affected years required, not just three years.(R 13 (5.0.1)
- c) If arrears are being dealt with a current statement of arrears from the Family Responsibility Office is required. (R 13 (5.0.1.)

## 7. **SERVICE BY EMAIL**



Rule 6 (2)(e) allows regular service by email in certain circumstances. In order to comply with this rule you need

- a) a court order allowing this method of service, or
- b) a consent signed by the recipient that must be filed with the Affidavit of Service.

## 8. **CONTACTING THE TRIAL OFFICE**

You should only be contacting the trial office when arranging conference dates or trial dates. If calling to find out the next court date on a file or information regarding a judicial endorsement, you should be attending at the litigation department counter.

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Regional Senior Justice Turnbull

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Local Administrative Justice McLaren

**SCHEDULE OF TRIAL SITTINGS FOR 2016**

**JANUARY 4, 2016 – 4 WEEKS**  
*PURGE COURT: DEC. 21, 2015*

**FEBRUARY 1, 2016 – 4 WEEKS**  
*PURGE COURT: JAN. 25, 2016*

**FEBRUARY 29, 2016 – 3 WEEKS**  
*PURGE COURT: FEB. 22, 2016*

**MARCH 21, 2016 – 3 WEEKS**  
*PURGE COURT: MAR. 14, 2016*

**APRIL 11, 2016 – 4 WEEKS**  
*PURGE COURT: APR. 4, 2016*

**MAY 9, 2016 – 4 WEEKS**  
*PURGE COURT: MAY 2, 2016*

**JUNE 6, 2016 – 4 WEEKS**  
*PURGE COURT: MAY 30, 2016*

**JULY 18, 2016 – 2 WEEKS**  
*PURGE COURT: JULY 11, 2016*

**AUGUST 1, 2016 – 2 WEEKS**  
*PURGE COURT: JULY 25, 2016*

**AUGUST 15, 2016 – 3 WEEKS**  
*PURGE COURT: **AUGUST 8, 2015***

**SEPTEMBER 5, 2016 – 4 WEEKS**  
*PURGE COURT: AUG. 29, 2016*

**OCTOBER 3, 2016 – 4 WEEKS**  
*PURGE COURT: SEPT. 26, 2016*

**OCTOBER 31, 2016 – 4 WEEKS**  
*PURGE COURT: OCT. 24, 2016*

**NOVEMBER 28 , 2016 – 4 WEEKS**  
*PURGE COURT: NOV. 21, 2016*