







NEW “Same-day” (formerly known as “on-site”) Mediation Modified Service Protocol WHEN THE REFERRAL COMES FROM A JUDGE (HAMILTON)

For each Family Court File where parties wish to attempt to resolve narrow issues on the same day that their matter is before the court, they can again be referred to “on-site” mediation using the following protocol:

 <u>REFERRAL</u>	Are the parties in-person or appearing virtually?
If all parties are in person,	 <u>Matter is stood down.</u> Parties are directed to the on-site IRC office in the courthouse to sign up in-person as per prior on-site protocol. In-person IRC triages and in-person onsite mediator meets with all parties in-person. The Registrar telephones the IRC to advise that the parties are being sent down and may communicate with the in-person IRC by telephone (x 2516) at any time about the status of the mediation by calling the IRC office as per prior on-site protocol.
If all parties are virtual,	 <u>Matter is stood down.</u> Registrar provides the parties with instructions on how to sign up for mediation (example below). When sending the parties these instructions, the registrar will also bcc the virtual IRC at the internal/direct court@axisfamilymediation.com e-mail address (which is not to be shared with the public) so the virtual IRC has the parties’ contact information. The virtual IRC triages and virtual on-site mediator meets with all parties via Zoom. The Registrar may communicate with the virtual IRC at any time about the status of the mediation through the same internal/direct e-mail, which is continuously monitored throughout business hours and is dedicated solely for virtual on-site mediation.
<p>Thank you for your interest in same-day mediation.</p> <p>You may now reach out directly to the virtual Information and Referral Coordinator, by e-mailing info@axisfamilymediation.com. They are expecting to hear from you.</p>	
If hybrid (one or more in-person and one or more virtual)	 If parties wish to mediate, parties will: <ol style="list-style-type: none"> (a) Request that the <u>matter be adjourned to an in-person date</u>, where both will attend in-person on that date and use the same-day in-person service OR (b) Request that the <u>matter be adjourned to a virtual date</u>, where both will attend virtually Both appear virtually on that date and use the same-day virtual service OR (c) Request the <u>matter be adjourned</u>, so they may attempt off-site mediation in the interim (either in-person or through distance mediation) and provide the contact information for AXIS to do so (www.axisfamilymediation.com)

PROCESS

If all parties are in person,  The parties are asked to provide the mediation service all supporting documents which may be necessary to complete mediation. If there are documents the parties are unable to provide, the in-person IRC will request the specific court documents needed to complete mediation from the court office by e-mail to hamiltonfamilycourt@ontario.ca with the subject line “**ON-SITE MEDIATION DOCUMENT REQUEST- URGENT.**” The in-person IRC will review and ensure that everything is in order and then send the file and the parties to the in-person on-site mediator. Should the in-person mediator require further documents during the course of the mediation, the same process shall be used.

If all parties are virtual,  The parties are asked to provide the mediation service all supporting documents which may be necessary to complete mediation. If there are documents the parties are unable to provide, the virtual IRC will request the specific court documents needed to complete mediation from the court office by e-mail to hamiltonfamilycourt@ontario.ca with the subject line “**ON-SITE MEDIATION DOCUMENT REQUEST- URGENT.**” The virtual IRC will review and ensure that everything is in order and then send the file and the parties to the virtual on-site mediator. Should the virtual mediator require further documents during the course of the mediation, the same process shall be used.

Example of e-mail IRC will send to court office requesting documents (whether virtual or in-person):

Hello,

The following parties have been referred to virtual same-day mediation:

COURT FILE NUMBER

PARTY 1 NAME


PARTY 2 NAME

To proceed, please provide us with the following documents:

- Orders and Endorsements Subfile from the parties’ electronic one-drive court file
- **(IRC to insert names of any other documents requested)**

Thank you

UPON COMPLETION OF THE MEDIATION:

If all parties are in person, and the mediation IS completed by the end of the list and/or day  If parties require legal advice and are being seen that day, they will be provided the duty counsel number (289-244-6265). When the case is ready to be heard, the in-person IRC will e-mail the registrar the mediation report, SDO and NOW if applicable. The registrar will provide the in-person IRC an approximate time that parties will be called back into court.

If all parties are virtual, and the mediation IS completed by the end of the day

→ If parties require legal advice, they will be provided instructions on how to access duty counsel (289-244-6265) by the virtual IRC. When the case is ready to be heard, the virtual IRC will e-mail the registrar the mediation report, SDO and NOW if applicable and a recipe card (example below). The registrar will provide the virtual IRC (who will in turn provide the information to the mediator and the parties) the approximate time that they should call back into the same Zoom court (using the same coordinates) they used for their initial appearance that day. The virtual IRC will advise the clients that they may need to wait in the Zoom “waiting room” until the matter can be heard.

If all parties are in person, and the mediation is NOT completed by the end of the list and/or day but the parties wish to continue mediation

→ The in-person IRC will advise the registrar. The parties and the in-person on-site mediator will be called back into court and the parties shall EITHER elect to adjourn to another day and attempt same-day on-site mediation again OR advise that they wish to continue their negotiations in off-site mediation, and how much time they believe they will need to do so, whereupon an adjournment date will be provided for either the same type of appearance or a regular TBST. If off-site mediation is successful, the in-person IRC will either:

- (A) Ensure the mediation report, SDO and NOW if applicable, and recipe card (example below) are sent to the court office by e-mail to hamiltonfamilycourt@ontario.ca with the subject line “**MEDIATED FILE RETURNING TO COURT: DOCUMENT SUBMISSION – (STYLE OF CAUSE FILE #)**” prior to the appearance date (with an indication that the parties wish to address their mediated issues on consent on their scheduled return date and have a CSR upload all attached documents to their court file in the folder “Orders, MOS and Mediation Documents”) OR
- (B) Advise the parties how to return before the court (on an earlier date) using the **EXPEDITED MEDIATION TBST PROTOCOL** for the sole purpose of having their mediation report ordered on consent. If parties require legal advice prior to returning, they will be provided instructions on how to access summary legal advice through LAO advice counsel (905-645-6276) by the virtual IRC.

If all parties are virtual, and the mediation is NOT completed by the end of the list and/or day but the parties wish to continue mediation

→ The virtual IRC will advise the registrar of the parties’ preferences to EITHER elect to adjourn to another day and attempt same-day on-site mediation again OR advise that they wish to continue their negotiations in off-site mediation, and how much time they believe they will need to do so, whereupon an adjournment date will be provided for either the same type of appearance or a regular TBST. If off-site mediation is successful, the virtual IRC will either

- (A) Ensure the mediation report, SDO and NOW if applicable, and recipe card (example below) are sent to the court office by e-mail to

hamiltonfamilycourt@ontario.ca with the subject line “**MEDIATED FILE RETURNING TO COURT: DOCUMENT SUBMISSION – (STYLE OF CAUSE FILE #)**” prior to the appearance date (with an indication that the parties wish to address their mediated issues on consent on their scheduled return date and have a CSR upload all attached documents to their court file in the folder “Orders, MOS and Mediation Documents”) OR

- (B) Advise the parties how to return before the court (on an earlier date) using the **EXPEDITED MEDIATION TBST PROTOCOL** for the sole purpose of having their mediation report ordered on consent. If parties require legal advice prior to returning, they will be provided instructions on how to access summary legal advice through LAO advice counsel (905-645-6276) by the virtual IRC.

Regardless of physical appearance type

- ➡ If no counsel appears with the party(s), in lieu of the previously required ILA form, the presiding Justice may make direct inquiries of the parties regarding their ILA elections. Should the presiding Justice be satisfied that the order can be made, they may do so pursuant to the relevant sections of the mediation report. Close attention should be paid to the “Whereas” clauses in the mediation report as it will contain any impediments to the order being made that the mediator was able to identify in advance, without referencing the court file.
- ➡ If neither party has retained counsel, the CSR responsible for issuing the order may use the body of the mediation report to cut-and-paste into the body of the order (adhering to any special instructions or limitations indicated by the presiding Justice) to save time when taking the order out without needing to e-mail the mediator as the report will already have been uploaded into the virtual court file.
- ➡ If the mediated settlement resolves all issues, the recipe card (example below) will indicate any future court appearances that should be vacated.



For those who have more complex matter, or who cannot dedicate the time necessary to complete their negotiations on the same day, they should be directly referred to off-site mediation (for either in-person or distance mediation services) via the court Information and Referral Coordinator or through the website at www.axisfamilymediation.com and be provided a return date dependant on how complex the issues are (e.g. complex cases requiring multiple meetings may require up to 3 months).

The following clients are requesting to have their attached mediation report endorsed as a Consent Court Order:	
Court Location:	Court File:
Hamilton	FC-XXXXX
Applicant	Respondent
XXXXXX, Xxxx address Hamilton, On XXX XXXX 905-XXX-XXXX xxxxx@xxxxx.xxx	XXXXXX, Xxxx address Hamilton, On XXX XXX 905-XXX-XXXX xxxxx@xxxxx.xxx
Applicant's Counsel	Respondent's Counsel
XXXXXX, Xxxx 905-XXX-XXXX xxxxx@xxxxx.xxx	XXXXXX, Xxxx 905-XXX-XXXX xxxxx@xxxxx.xxx
The mediator would like to report that with regards to the following documents, which are required for the order on consent to be made: (Indicate as missing, parties claim filed but not verified, verified as filed, or parties will bring to court)	
<input type="checkbox"/> Applicant's Form 35.1	
<input type="checkbox"/> Respondent's Form 35.1	
<input type="checkbox"/> Applicant's financial disclosure	
<input type="checkbox"/> Respondent's financial disclosure	
<input type="checkbox"/> Other _____	
<input type="checkbox"/> Other _____	
<input type="checkbox"/> Other _____	
Mediator	Type of order sought:
Xxxxxx Xxxxxx xxxxx@axisfamilymediation.com	<input type="checkbox"/> Temporary <input type="checkbox"/> Final
Special Notes:	
↓ For EM-TBST only ↓	
Preferred 4 dates for EM-TBST:	Triage IRC
1. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	On-duty Virtual IRC court@axisfamilymediation.com
2. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	Future dates to be vacated:
3. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	1. xx XXXXX, 2022
4. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	2. xx XXXXX, 2022
Type of Appearance requested:	<input type="checkbox"/> virtual <input type="checkbox"/> in-person