

45 Main Street East Suite 721  
Hamilton, Ontario  
L8N 2B7

Tel: (905) 645-5323  
Fax: (905) 645-5374



From: Harrison S. Arrell  
Regional Senior Justice – Superior Court of Justice  
Central South Region

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## PROTOCOL REGARDING FAMILY AND CHILD PROTECTION MATTERS IN CENTRAL SOUTH JUDICIAL REGION

### Introduction

1. This Protocol sets out how the Memo to the Bar of RSJ Arrell dated April 2, 2020 will be operationalized in Central South Judicial Region, for family and child protection matters.
2. This Protocol is supplementary to, and does not replace, the April 2, 2020 memo. The documents are to be read together. RSJ Arrell's Memo is appended hereto.<sup>1</sup>
3. This memo applies to all court sites in Central South Judicial Region.
4. **Information regarding filing of documents is set out below at paragraphs 14 and 31. Please pay careful attention to filing your materials to the correct e-mail address.**
  - a. Urgent Motions and Case Conference material will be served to a general mailbox that reaches the Trial Coordinators.
  - b. Basket motions and Motions in writing will be served to a general mailbox that reaches Court Services Division.
5. Application of the Family Law Rules is modified only to the limited extent set out in this Protocol and the April 2, 2020 Memo. All other Family Law Rules continue to apply.

### Urgent Matters

6. Urgent matters will continue to be heard as set out in the memo of April 2, 2020.

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<sup>1</sup> See *Central South Expansion Notice* <https://www.ontariocourts.ca/scj/notice-to-the-profession-cs/>

7. Urgent matters will continue to be referred to a triage judge, assigned to determine urgency. Counsel and parties are encouraged to review the case law on urgency before bringing an urgent motion.
8. If a matter is determined to be urgent, the triage judge will determine additional materials to be served and filed, timelines, and any other directions for the hearing of the matter. Parties should be aware that the judge hearing the motion may require further materials.

### **Case Conferences**

9. Case conferences continue to be a required step for matters not found to be “urgent” as set out above.
10. A case conference by tele-conference may be requested where there are one or two discrete issues with which the court can assist. Case conferences will be scheduled for 30 minutes.
11. Case conference dates and times will be set by the Court and are not negotiable.
12. Priority will be given to cases where parties have not yet had a case conference.
13. The following materials must be filed for a case conference:
  - a. **Case conference brief** of each party, maximum 4 pages, 12-point font, no attachments (except as listed below) and must be double spaced.
  - b. If **parenting issues**, a copy of each party’s Form 35.1 Affidavit;
  - c. If **financial issues**, a copy of each party’s up-to-date financial statement;
  - d. If **property issues**, a copy of each party’s net family property statement;
  - e. If **support issues**, a pre-filled Support Deduction Order;
  - f. If **seeking an Order** at the case conference, **a draft Order**, in Word, to facilitate potential changes to that Order by the judge;
  - g. A copy of any **relevant prior Order or Endorsement** (if Order not yet taken out) shall be provided with the materials.
  - h. **Contact information**, including email contact information, of all parties.
  - i. The **subject line** of your email **MUST** include the following information:
    - a. Level of court
    - b. Type of matter (family or child protection)

- c. Name of parties
- d. File number
- e. Appearance sought: case conference.

### **Filing of Documents for Urgent Motions and Case Conferences**

14. As set out elsewhere, where documents are to be filed, they are to be filed at the following email addresses which direct materials to the applicable Trial Coordinator:
- Brantford: [BrantfS@ontario.ca](mailto:BrantfS@ontario.ca)
  - Cayuga: [Cayuga.Superior.Court@ontario.ca](mailto:Cayuga.Superior.Court@ontario.ca)
  - Hamilton Family Court: [Hamilton.Family.Superior.Court@ontario.ca](mailto:Hamilton.Family.Superior.Court@ontario.ca)
  - Kitchener/Waterloo: [Kitchener.Superior.Court@ontario.ca](mailto:Kitchener.Superior.Court@ontario.ca)
  - Simcoe: [Simcoe.Superior.Court@ontario.ca](mailto:Simcoe.Superior.Court@ontario.ca)
  - St. Catharines: [St.Catharines.Superior.Court@ontario.ca](mailto:St.Catharines.Superior.Court@ontario.ca)
  - Welland: [Welland.Superior.Court@ontario.ca](mailto:Welland.Superior.Court@ontario.ca)
15. Given the volume of materials being sent to the Trial Coordinators through the email addresses listed, documents for urgent motions and case conferences must be filed as one package by each party, not in several emails.
16. The e-mail box will be checked regularly by the Trial Coordinator who is also working remotely.
17. Please do not e-mail the Trial Coordinator directly. Use only the email addresses set out above.

### **Motions in Writing**

18. A case conference continues to be required for non-urgent matters, before a motion will be heard in writing. If your matter has not been conferenced, see the above regarding case conferences.
19. Any motion brought under this section must be the equivalent of a “**short motion**” (ie: would previously have been heard in under 60 minutes).
20. The **following motions will NOT be heard in writing** at this time:
- a. Summary Judgment Motions (child protection or otherwise)
  - b. Long Motions
  - c. Uncontested Trials
  - d. Contempt Motions
  - e. Disclosure Motions (due to the need to have access to the complete court file).

21. When bringing a motion in writing under this section, the moving party shall be responsible for filing, in one email to the Court, all of the documents below, of both parties, copied to the other party's email address. This is essential to avoid overloading of the general email box and to ensure that no materials go astray. For clarity, do not file your motion without all of the applicable documents below:

- a. **A cover email** copying the responding party, directed to the applicable email address set out in paragraph 31, below.
- b. **Form 14 C Confirmation**, signed by both parties or both parties' counsel. That Form 14(C) must:
  - i. list all documents being filed for the hearing of the motion, with number of pages;
  - ii. containing a statement that the parties consent that the matter may be heard in writing, as follows:

**Either:**

*Counsel for the Applicant and Counsel for the Respondent hereby confirm that that this motion may be dealt with in writing and that all materials to be submitted on the hearing of this motion are attached;*

**Or** (where parties are self-represented):

*The parties hereby agree that this motion may be dealt with in writing and that all materials to be submitted on the hearing of this motion are attached*

- c. **Notice of Motion** setting out relief sought;
- d. **One affidavit** per party, maximum 10 pages inclusive of any exhibits, 12 pt font, double spaced;
- e. **One Reply affidavit**, from moving party, maximum 3 pages, 12 pt font, double spaced;
- f. If **parenting issues**, a copy of each party's Form 35.1 Affidavit;
- g. If **financial issues**, a copy of each party's up-to-date financial statement, with required income information attachments;
- h. If **property issues**, a copy of each party's net family property statement;
- i. If **support issues**, a pre-filled Support Deduction Order;

- j. **Brief summary of argument** for non-routine motions;
- k. A copy of any **relevant prior Order or Endorsement** (if Order not yet taken out);
- l. A **draft Order**, in Word, to facilitate potential changes to that Order by the judge.
- m. **Contact information**, including email contact information, of all parties.
- n. The **subject line of the email** submitting materials to the court **MUST** include the following information:
  - i. Level of court
  - ii. Type of matter (family or child protection)
  - iii. Name of parties
  - iv. File number
  - v. Appearance sought: Motion in writing

22. Materials on a written motion shall be in writing only. For clarity, there shall be no audio or video files submitted to the court in conjunction with a motion in writing.

### **Basket Motions/ Consent Motions/ Procedural Motions**

23. The following matters will be heard by Form 14(B):

- a. **Motions for Consent Orders**, such as for: parenting time, disbursement of funds held in trust, appointment of the Office of the Children’s Lawyer (OCL);
- b. **Procedural motions** such as for substituted service/ dispensing with service;
- c. **Consent motions to change** with all applicable forms as required under the Family Law Rules.

24. When bringing a motion under this section, **the moving party shall be responsible for filing**, in one email to the court, all of the documents below of both parties, copied to the other party’s email address. This is essential to avoid overloading of the general email box and to ensure that no materials go astray. For clarity, do not file your motion documents separately.

25. In addition to the documents otherwise required under the Family Law Rules, the following documents must be filed:

- i. For **parenting matters**:

1. Both parties' Form 35.1 affidavits must be filed;
2. Brief updating affidavit setting out how the proposed arrangements are in the best interests of the child(ren);
3. If seeking the appointment of OCL, include a brief affidavit setting out the basis of the request, and the type of involvement requested (s. 89 or s 112 of the *Courts of Justice Act*). Note that Voice of the Child Reports are not available at this time.

ii. For **support matters**:

1. SDO and SDIS must be filed if parties are represented;

26. The **subject line of the email** submitting materials to the court **MUST** include the following information:

- i. Level of court
- ii. Type of matter (family or child protection)
- iii. Name of parties
- iv. File number
- v. Appearance sought: 14 B Basket Motion/Consent Motion/Procedural Motion

27. The email must indicate that the parties confirm that all of the materials served by both parties for the motion are being filed. A responding party who does not agree that all materials have been filed by the moving party must advise the court immediately, by email to the applicable email address set out below in paragraph 31.

28. **Be sure to provide contact information**, including email contact information, of all parties.

29. At this time **divorce applications** and **adoption applications** are not being processed, unless the divorce is urgent, in which case the matter may be addressed as an urgent motion.

30. Documents for Basket Motions/ Consent Motions/ Procedural Motions are to be filed at the following court addresses at paragraph 31 (NOT at the addresses set out in paragraph 14, above).

**Filing for Motions in Writing, and Basket Motion/ Consents/ Procedural Motions**

31. Documents for Motions in Writing, and Basket Motions/Consents/ Procedural Motions are to be filed through the applicable **Court Services Division** for each courthouse as follows:

- Brantford: [BrantfordSCJCourt@ontario.ca](mailto:BrantfordSCJCourt@ontario.ca)
- Cayuga: [HaldimandCountyCourt@ontario.ca](mailto:HaldimandCountyCourt@ontario.ca)

- Hamilton: [HamiltonSCJCourt@ontario.ca](mailto:HamiltonSCJCourt@ontario.ca)
  - Kitchener/Waterloo: [Kitchener.Courthouse@ontario.ca](mailto:Kitchener.Courthouse@ontario.ca)
  - Simcoe: [Simcoe.SCJ.Courts@ontario.ca](mailto:Simcoe.SCJ.Courts@ontario.ca)
  - St. Catharines: [SCJStCatharinesCourthouse@ontario.ca](mailto:SCJStCatharinesCourthouse@ontario.ca)
  - Welland: [SCJWellandCourthouse@ontario.ca](mailto:SCJWellandCourthouse@ontario.ca)
32. Given the volume of materials being sent to the Court Services Division through the email addresses listed, documents must be filed in one package by each party, not in several emails.
33. The e-mail box will be checked regularly by the Court Services Division.
34. Please do not e-mail the Trial Coordinator about matters sent to CSD at the email addresses in paragraph 31. Any follow up should be directed to the applicable email address in paragraph 31.

#### **Information from the Office of the Children’s Lawyer**

35. The court has been advised that the Office of the Children’s Lawyer will continue to respond to urgent family matters where there has been an appointment to provide legal or clinical services for a child or children, including matters designated as urgent by the court.
36. The Office of the Children’s Lawyer has advised that it is not accepting requests for Voice of the Child Reports at this time.
37. The Court is advised that the Office of the children’s Lawyer is prioritizing high conflict and complicated custody and access matters at this time for both section 89 representation and section 112 reports. The usual timelines for the delivery of section 112 reports do not apply at this time. Efforts are being made to provide the reports in a timely manner recognizing the challenges in the current COVID-19 context.
38. If the parties are requesting the appointment of the OCL, the applicable draft Order shall be completed before the appearance.
39. If the Court makes an Order for OCL appointment, the parties remain responsible for completing the applicable intake forms:

#### **Information from the Family Responsibility Office**

40. The Family Responsibility Office has advised the Court that the agency is not sending new notices of drivers’ license suspension at this time and that they are in the process of cancelling notices previously sent. It is hoped that this will reduce the need to bring refraining motions at this time.



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