

SUPREME COURT FAMILY RULES

TIMELINES, DEADLINES AND LIMITATION PERIODS

John-Paul Boyd
Aaron Gordon Daykin Nordlinger
July 2010

I. CALCULATION OF TIME

21-2(1) Periods of *less than 7 days* **exclude holidays**.

NOTE: “Holiday” is defined by the *Interpretation Act*.

21-2(2), 22-1(2) The court may *extend* or *abbreviate* any period of time on application, and such applications may be brought after the expiry of a period.

II. ORDINARY SERVICE

6-2(3) Documents *left* at an **address for service** are served:

1. **the day of service** where the document is served *before 4:00pm* on a day *other than Saturday or a holiday*; or,
2. otherwise on **the next day** that is not a Saturday or a holiday.

6-2(4) Documents *mailed* to a **postal address for service** are *deemed served one week later*.

6-2(5) Documents *faxed* to a **fax number for service** are served **when faxed**.

NOTE: Documents longer than 30 pages must be faxed *between 5:00pm and 8:00am*, or at such other time as may be *agreed*.

6-2(6) Documents *emailed* to an **email address for service** are served

1. **the day the document is sent** where the document is sent *before 4:00pm* on a day *other than Saturday or a holiday*; or,
2. otherwise on **the next day** that is not a Saturday or a holiday.

6-2(7) Where a party has **not provided** an address for service, documents *mailed* to the party’s **last known address** are *deemed served one week later*.

III. COMMENCING AN ACTION

4-2(1), 4-2(2) *Notices of Family Claim* expire in **12 months** if not renewed; renewed *Notices of Family Claim* expire **12 months** from the date of the renewal order.

17-1(2), 17-1(21) *Petitions* expire in **12 months** if not renewed; renewed *Petitions* expire **12 months** from the date of the renewal order

21-2(4) Where judgment has not been pronounced and no step has been taken in a *family law case* for *one year*, a party may not proceed until **28 days after** service of the party's Notice of Intention to Proceed.

IV. REPLYING TO AN ACTION

18-2(5) Applications to *strike, dismiss* or *stay all* or *part of a Notice of Family Claim* or *Petition* must be brought **within 30 days** of filing a Jurisdictional Response.

4-3(1) *Responses to Family Claim* must be filed and served **within 30 days** of service with a Notice of Family Claim.

NOTE: The SCFR do not index the time for response to the respondent's residence or the location at which service was effected. See also Rule 6-5 regarding service *ex juris*.

4-4(2) *Counterclaims* must be filed and served:

1. on *claimants* **within 30 days** of service with a Notice of Family Claim; and,
2. on *new parties* named by Counterclaim **within 60 days** of service with a Notice of Family Claim.

21-2(4) Where judgment has not been pronounced and no step has been taken in a *family law case* for *one year*, a party may not proceed until **28 days after** service of the party's Notice of Intention to Proceed.

17-1(4), 17-1(5) *Responses to Petition* must be served:

1. if the petition respondent lives in *Canada*, **within 21 days** of service;
2. if the petition respondent lives in *the USA*, **within 35 days** of service; or,
3. if the petition respondent lives in *elsewhere*, **within 49 days** of service;

V. REPLYING TO A COUNTERCLAIM

18-2(5) Applications to *strike, dismiss* or *stay all* or *part of a Counterclaim* must be brought **within 30 days** of filing a Jurisdictional Response.

4-4(5) *Responses to Counterclaim* must be filed and served **within 30 days** of service with a Counterclaim.

VI. AMENDING PLEADINGS

8-1(1), 8-1(4) Pleadings may be *amended* once without leave **before service of Notice of Trial** and must *served* **within 7 days** of filing. After service of the Notice of Trial, pleadings may only be amended with *leave* or *written consent*.

- 8-1(5) A *reply* to an amended pleading must be filed and served **within 14 days** of service of the amended pleading.

VII. JUDICIAL CASE CONFERENCES

- 7-1(8), 7-1(10) A party requesting a JCC must *serve a Notice of Judicial Case Conference* and the party's *Financial Statement* **at least 30 days** before the date set for the JCC; the original *Financial Statement* must be *filed* **at least 7 days** before the JCC.
- 7-1(11) A party served with a Notice of Judicial Case Conference must file and serve a *Financial Statement* **at least 7 days** before the JCC.

VIII. FINANCIAL STATEMENTS

- 5-1(11) A party *making a claim* requiring a Financial Statement must file and serve Financial Statement **within 30 days** of service of the claim.
- 5-1(11) A party *responding to a claim* requiring a Financial Statement must file and serve Financial Statement
1. if resident in *Canada* or *the USA*, **within 30 days** of service of the claim
 2. if resident *elsewhere*, **within 60 days** of service of the claim

NOTE: The SCFR ties the parties' initial and ongoing obligation to produce Financial Statements to *procedural steps taken under the Rules*, not to service of a demand by one party upon the other

- 5-1(14) If *particulars* of a Financial Statement are not produced **within 7 days** of a *demand for particulars*, the court may order the production of particulars or a new Financial Statement.
- 5-1(22), 5-1(24) Demands for documents relating to a party's business interest must be complied with **within 21 days** of the demand; applications for exemption from a disclosure demand must be made **within 21 days** of service of the demand.
- 5-1(15), 5-1(16) Where there is a *material change* in a party's circumstances:
1. which makes the information in a Financial Statement incorrect, the party must **promptly** notify the other party of the change or provide a revised Financial Statement; or,
 2. which requires the production of additional documents, the additional documents must be served **within 28 days** of the change
- 5-1(18) Where a party's *most recent Financial Statement* will have been served **more than 91 days** before hearing or trial, the party must produce an *updated Financial Statement* **63 to 28 days before** the trial or hearing.

IX. INTERIM APPLICATIONS

10-6(7) The applicant must serve filed copies of the *Notice of Application* and supporting materials **at least 7 days** before the date of hearing.

NOTE: For *summary trials*, the Notice of Application must be served **at least 14 days** before the date of hearing; for applications to *vary a final order*, the Notice of Application must be served **at least 28 days** before the date of hearing. [10-6(7)]

10-6(8) A person wishing to *respond to an application* must file an *Application Response* and supporting materials **within 5 days** of service of the Notice of Application, and *serve* those materials **at least 2 days** before the date set for the hearing.

NOTE: For *summary trials*, the Application Response must be filed **within 11 days** of service of the Notice of Application. [10-6(8)]

10-6(12) An applicant wishing to *respond to a response* must file and *serve* any responding affidavits **by 4:00pm on the day that is one full day** before the hearing.

10-6(14) Where an application is *opposed*:

- 10-6(15)**
1. the *Application Record* must be filed **by 4:00pm on the day that is one full day** on the day before the hearing; and,
 2. the *Application Record Index* must be *served* **by noon on the court day** before the hearing.

10-3(7) Applications *adjourned generally* may be set for hearing on **3 days notice**.

10-6(20) Where an applicant does not *set an application for hearing* **within a reasonable time**, an *application respondent* may apply for directions on **2 days notice**.

X. DISCOVERY AND DISCLOSURE

LISTS OF DOCUMENTS

9-1(1) A party serving a *Notice of Family Claim* must serve a List of Documents **within 35 days** of being served with a *Response to Family Claim*.

9-1(1) A party replying to a claim must serve a List of Documents **within 35 days** of serving his or her *Response to Family Claim* or *Response to Counterclaim*.

NOTE: The SCFR ties the parties' initial and ongoing obligation to produce a Lists of Documents to *procedural steps taken under the Rules*, not to service of a demand by one party upon the other

- 9-1(6) If a List of Documents becomes *inaccurate* or *incomplete*, the party must **promptly** serve a *Supplementary List of Documents*.
- 9-1(9), 9-1(10) Demands for *Supplementary Lists of Documents* or *additional documents* must be complied with or refused with an explanation **within 35 days** of receipt of the demand or the requesting party may apply for an order for compliance.

EXAMINATIONS FOR DISCOVERY

- 9-2(12) *Appointments to Examine for Discovery* must be served, with fees, **at least 7 days** before the examination for discovery.

PRE-TRIAL EXAMINATIONS AND DEPOSITIONS

- 9-4(7), 9-7(13) *Subpoenas* for examination must be served **at least 7 days** before the date of the examination.

INTERROGATORIES

- 9-3(4) An *affidavit in answer to interrogatories* must be served **within 21 days** of service of Interrogatories.
- 9-3(11) A party learning that his or her answer to interrogatories is *inaccurate* or *incomplete* must **promptly** serve a correcting affidavit.

NOTICES TO ADMIT

- 9-6(2) A party must serve a written response **within 14 days** of service of a *Notice to Admit* or the admission will be deemed.

XI. EXPERT EVIDENCE

- 13-1(2) A party wishing to *cross-examine the expert who prepared a custody and access report* must serve a Notice to Cross-Examine on the expert and the parties **at least 49 days** before the trial date.
- 13-4(6) A party applying for leave to *introduce the evidence of an additional expert* must serve the Notice of Application and supporting materials **within 21 days** of receipt of the *joint expert's report*.
- 13-6(3) *Expert's reports*, except for the reports of experts appointed by the court, must be served **at least 84 days** before the trial date.
- 13-6(4) *Rebuttal reports* must be served **at least 42 days** before the trial date.

- 13-6(8) A party serving the *report of the party's own expert* must **promptly** provide information requested by the other party about the preparation of the report, and must make the expert's file available to the other party **at least 14 days** before the trial date.
- 13-6(10) A party *objecting to the report of the other party's expert* must serve notice by the *earlier* of the **date of the trial management conference** or **21 days** before the trial date.

XII. DISCONTINUANCE AND WITHDRAWAL

- 11-4(1) A *claimant* may *discontinue* all or part of a family law case at any time **before a Notice of Trial is filed**.

XIII. SUMMARY TRIALS

- 11-3(3) Summary trials must be *heard* **at least 43 days before** the scheduled trial date.
- 10-6(7), 11-3(8) The applicant must serve filed copies of the *Notice of Application* and supporting materials **at least 14 days** before the date of hearing.
- 10-6(8) The application respondent must file an *Application Response* and supporting materials **within 11 days** of service of the Notice of Application, and *serve* those materials **at least 2 days** before the date set for the hearing.

XIV. TRIALS

PRE-TRIAL MATTERS

- 14-2(6) A party *objecting to a trial date* set out in a Notice of Trial must *apply* for an order rescheduling the trial **within 21 days** of service.
- 14-3(1), 14-3(3) A *trial management conference* must be held **at least 28 days** from the trial date; *Trial Briefs* must be filed and served **at least 7 days** before the trial management conference.
- 14-4(3) The party filing a Notice of Trial must file a *Trial Record* **28 to 14 days** before the trial date.
- 14-5(1), 14-5(2) Each party must file a *Trial Certificate* **28 to 14 days** before the trial date.

EVIDENCE AT TRIAL

- 14-7(8) A party may require the other party to *bring a document or an object* to the trial by serving a *Notice to Produce* **at least 2 days** before the trial date.

- 14-7(10) No plan, photograph or object may be introduced unless the other parties have been given the opportunity to inspect it **at least 7 days** before the trial date.
- 14-7(21) A party wishing to call a person *adverse in interest* must *serve* the *adverse party* with a Notice of Intention to Call Adverse Party as Witness, with fees, **at least 7 days** before the attendance of the witness is required.
- 14-7(60) A party wishing to *introduce evidence by affidavit* must *serve* the affidavit on all parties **at least 28 days** before applying for leave to introduce evidence by affidavit.

XV. APPEALS

- 18-3(5) Applications for *direction on the conduct of an appeal* from the *Provincial Court* must be brought **at least 7 days** after service of the Notice of Appeal
- 18-3(8) A person *opposing an appeal* from the *Provincial Court* must file a *Notice of Interest* **within 7 days** of service of the Notice of Appeal.
- 22-7(9) Notice of Appeal from the decision of a *master, registrar* or *special referee* must be filed **within 14 days** of decision appealed.
- 22-7(10) There must be **at least 3 days** between service of the *Notice of Appeal* of a master, registrar or special referee and the hearing date

XVI. POST-JUDGMENT MATTERS

ENFORCEMENT

- 15-4(18) *Writs of Execution* expire in **12 months** if not renewed; renewed *Writs of Execution* expire **12 months** from the date of the renewal order
- 15-6(3) A *Subpoena to Debtor* must be *served* **at least 7 days** before the date of the examination of the debtor.
- 15-8(5) *Certificates of Result of Sale* of real property must be *filed* **promptly** after completion of the sale.

COSTS

- 16-1(20) *Appointments* for the assessment of *costs* must be *served* **at least 5 days** before the appointment date.
- 16-1(26) Applications to *review an assessment of costs* must be made **within 14 days** of the assessment.

16-1(23) *Appointments* for the assessment of *sheriff's fees* must be *served* **at least 5 days** before the appointment date

16-1(26) Applications to *review an assessment of costs* must be made **within 14 days** of the assessment.