

March 26, 2025

## **ANNOUNCEMENT**

### **SURROGATE CASE CONFERENCES (SCCs)**

In 2019, the Court initiated a pilot project where Justices conducted Estate Intervention Conferences to facilitate the orderly conduct and early resolution of estate litigation. In 2022, it was decided that Estate Case Conferences would be available at any stage of estate litigation, either in a one-hour or half-day format. An announcement on February 2, 2022, detailed the Court's policies and procedures for Estate Case Conferences.

This Announcement provides updated policies and procedures, including a new name for the conferences.

To avoid confusion with Early Intervention Case Conferences (EICCs) in family matters and to clarify that these conferences are available at any point in surrogate matters, they will now be known as "Surrogate Case Conferences" (SCCs).

#### **Circumstances Permitting SCCs**

The filing of a Statement of Claim in a surrogate matter or a Form C1 allows parties to apply to schedule an SCC.

#### **Availability of SCCs**

SCCs will be available in all Judicial Centres across Alberta.

#### **Conducting SCCs**

SCCs will be conducted either in-person or remotely, following the Court's current policy on in-person vs remote hearings.

#### **SCC Options for Litigants**

Litigants may seek to arrange either a one-hour SCC or a half-day SCC.

### One-hour SCC

A one-hour SCC may be helpful at an early stage in the litigation or where the parties believe that it will assist in moving the litigation forward in an efficient and cost-effective manner. It provides an opportunity to identify the parties, the issues, the steps required to move the matter forward and, on a preliminary basis, to explore alternatives for early resolution. It may also help to resolve one or more issues in the litigation.

### Half-day SCC

A half-day SCC focuses on resolution, with parties' positions clearly delineated. It is expected that the parties will have explored other opportunities for resolution but, to that point in time, will not have been entirely successful.

A half-day SCC will qualify as a judicial dispute resolution process under Rule 4.16(1)(c) of the **Alberta Rules of Court (Rules)**. As such, it will qualify as one of the dispute resolution processes which must be conducted before the parties may request a trial date in accordance with Rule 8.4 (3)(a). It is non-binding.

Choosing a one-hour SCC does not prevent parties from pursuing a half-day SCC later in the litigation process.

It is anticipated that failure to achieve resolution at a half-day SCC will lead the parties to seek to have the matter set down for a Court-imposed resolution.

### **Arranging an SCC**

To arrange an SCC, parties must submit a written request to the applicable Surrogate Co-Chair: Justice J.S. Little for Red Deer and North and Justice R.W. Armstrong for the South. Parties may jointly request an SCC, or one party may submit a request, provided all parties receive a copy of that letter.

A Justice in Chambers may also direct parties to request an SCC.

If a one-hour SCC is approved, the Surrogate Co-Chair will assign a justice to preside over the SCC send a letter identifying the assigned justice and the steps to be taken to schedule a date.

If a half-day SCC is approved, the Surrogate Co-Chair will advise the Civil Coordinator, who will work with the parties to schedule a date.

### **Information to include in SCC Requests**

Requests should identify the type of SCC sought and include a brief summary identifying the parties, their counsel, (if applicable), the issues, the type of pleading by which the action was commenced (Form C1 or Statement of Claim) and relevant limitation dates. Requests should also provide mutually acceptable dates for the SCC.

### **Consent for SCCs**

All parties must agree to conduct a half-day SCC.

If consent of all parties to conduct a one-hour SCC has not been obtained, any party can file an application with the Surrogate Clerks' Office to be heard in morning chambers. Parties or their counsel opposing the request must appear, either in person or remotely, depending on the Court's current policy, at the hearing. Parties consenting to the request for a one-hour SCC need not attend if their written consent is obtained prior to the hearing. The presiding Justice will decide if a one-hour SCC is warranted. If it is, the parties will arrange the SCC in accordance with the instructions above regarding arranging an SCC.

### **Steps After Scheduling an SCC**

Parties may take additional steps in the litigation prior to either form of SCC.

### **Material for SCCs**

#### One-hour SCC

Material should be delivered by each party to the assigned Justice, and to each other, by noon on the Friday before the SCC week. This includes:

1. Any pleadings filed in addition to the Form C1 or Statement of Claim.
2. A proposed agenda for the SCC.
3. A brief history of the litigation which identifies:
  - a. The parties and, if applicable, their counsel,
  - b. The issues,
  - c. Attempts, if any, at resolution, and
  - d. Any Orders proposed to be issued at the SCC.

One of the party or their counsel may communicate this information on behalf of all parties, provided all parties agree to the content.

#### Half-day SCC

Material should be delivered by each party to the assigned Justice, and to each other, by noon on the Friday before the SCC week. This includes:

1. A brief synopsis of the facts;
2. Relief sought by the parties, under separate headings where appropriate (e.g. removal of a personal representative, passing of accounts, performance of the terms of a will, construction and interpretation of a will, rectification, damages for breach of trust);
3. An executive summary or highlights of any expert reports, with actual reports available at the SCC. (If one party includes an expert report in their materials and another party wishes to refer to it in their brief, it is not necessary for the report to be included in the other party's brief);
4. Witness statements for all non-experts anticipated at trial;
5. Headnotes (only) of any case law relied upon, with the full cases available at

the SCC;

6. Any other information and material the parties deem relevant; and
7. A current bill of costs.

Parties attending a half-day SCC are expected to have full authority to settle and to have had at least one settlement conference in which real efforts to resolve the outstanding issues have been made. The Court will expect there to be outstanding offers as a result of this earlier settlement conference.

### **Conducting the SCC**

#### One-hour SCC

The SCC will seek to:

1. Clarify and prioritize issues requiring resolution;
2. Achieve an understanding of the scope and duration of any Court proceedings required for resolution and the potential costs; and
3. Explore possibilities for a non-court-imposed resolution.

#### Half-day SCC

The parties will actively engage in resolving all outstanding issues. The objective will be to conclude an agreement which effectively ends the litigation.

If resolution is not achieved, the matter may be set down for a Court-imposed resolution. The parties and Justice will identify the appropriate forum (special application, summary trial or regular trial) and will seek to establish a litigation plan. Efforts will be made to determine the nature of the evidence which will be provided (affidavit and/or *viva voce* evidence).

### **Conclusion**

These revised policies and procedures aim to provide greater opportunities for efficient and effective surrogate litigation, promoting early and cost-effective resolution of contentious surrogate matters.