



The Arms of Canada, 1957

THE COURT OF QUEEN'S BENCH OF ALBERTA
CONSOLIDATED NOTICES TO THE PROFESSION
(REVISED AS AT JUNE 1, 2010)

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THE COURT OF QUEEN'S BENCH OF ALBERTA

CONSOLIDATED NOTICES TO THE PROFESSION

(REVISED AS AT JUNE 1, 2010)

These **Consolidated Notices to the Profession, Revised as at May 1, 2010**, are issued in accordance with the undertaking to update them periodically, as set out in the initial issue of September 15, 2004, the content of the introductory page of which is produced below for reference and background.

This document replaces the September 15, 2004 initial issue and the January 31, 2005 and September 30, 2005 revisions to the Consolidated Notices to the Profession. Note that in this Consolidation some previous Notices (e.g. Gowning, and JDR) have been moved to a more appropriate place, and some renumbering has taken place.

To assist readers we have ***bolded and italicized*** the text of revisions since the revision on September 30, 2005 on the consolidation posted on the Court's website. The bolding and italicization will be removed from the publication version. ***Moreover, at the end of 2009 we started to provide more specific dates and numbers so as to manage the Notices. The changes in this Revision relate primarily to:***

CIVIL: Pre-Trial Conference Requirements; Reminder Regarding Practice Note #6; Calgary Chambers Adjournments; Judicial Dispute Resolution; Calgary Case Management; and Appeals from the Decisions of Masters in Chambers;

COMMERCIAL: Scheduling Emergency Insolvency Matters;

CRIMINAL: Pre-Trial Conference Requirements; and Criminal Appearance Court;

FAMILY: Pre-Trial Conference Requirements; Master Fiat Regarding Maintenance Enforcement Program File Transfer; Resumption of Publication of Family Law Judgments; Edmonton Family Law Special Applications;

GENERAL: Forms of Address; Updated Lethbridge/MacLeod Sittings - 2010; Updated Medicine Hat Sittings - 2010; Video Courts Pilot Project Protocol; and

SURROGATE: Informal Trusteeships and Limited Income Estates; and Surrogate Estate Form NC8.

The introductory page of the September 15, 2004 initial issue read as follows:

"The procedural rules for civil (and some criminal) actions in

the Court of Queen's Bench of Alberta (the Court) are primarily composed of those under the *Alberta Rules of Court* (Rules) issued by the Alberta Rules of Court Committee and Practice Notes (PN) issued by the Council of the Court. However, occasionally for good reason over the past a more informal notice of procedure has developed which has seen the issuance of Notices to the Profession, Notices, Directions of the Court, Guidelines and other instruments (collectively Notices to the Profession) by, or on behalf of, the Chief Justice of the Court. Regrettably such Notices to the Profession have not always been broadly distributed to the Bar, and new members of the Bar have not received them. Indeed some are even practices that have developed internally within the Court without publication. In almost all cases they have not all been collected and published in one place, with the result that, on occasion, members of the Bench and/or Bar are not familiar with them. To avoid this problem, we hereby issue the Court's **CONSOLIDATED NOTICES TO THE PROFESSION** (CNP) that we believe to exist and remain generally applicable as at September 1, 2004.

We propose to update this consolidation periodically in the future ... if there are amendments in the intervening period. We say "generally applicable" because we recognize that some now need amendment due to the passage of time and change in circumstances - however, our primary purpose in this consolidation is to publish what currently exists. We will send them to the Secretary of the Rules of Court Committee and request that they be published in the Alberta Rules of Court binders. As time passes we will prepare appropriate amendments¹ and will determine which of these might be reissued more formally as Rules or Practice Notes, or be repealed.

If you are aware of any Notice to the Profession of the Court that we have omitted in this consolidation, please advise the Court in writing to the attention of [now Associate Chief] Justice John Rooke...."

June 1, 2010

"N.C. Wittmann"

Honourable N.C. Wittmann,
Chief Justice

"J.D. Rooke"

Honourable J.D. Rooke,
Associate Chief Justice

THE COURT OF QUEEN'S BENCH OF ALBERTA
CONSOLIDATED NOTICES TO THE PROFESSION

A. CIVIL

1. PRE-TRIAL CONFERENCES

October 26, 1994

**TO: ALL TRIAL COORDINATORS
COURT OF QUEEN'S BENCH OF ALBERTA**

**FROM: THE HONOURABLE W.K. MOORE
CHIEF JUSTICE**

Recently we have received some inquiries with respect to pre-trial conferences. The following types of matters must have a pre-trial conference:

1) all domestic/matrimonial matters;

2) all jury trials (civil and criminal); and

3) all trials (civil or criminal) expected to last three days or longer.

...

W.K. Moore

2. MASTERS' JURISDICTION (Revised September, 2005)²

The attached document outlines the Masters' jurisdiction. Applications involving matters within the Masters' jurisdiction should be returnable before the Masters in Chambers, not a Justice of the Court of Queen's Bench. I have given instructions to the Clerk to vet the list of all motions before the court, including morning chambers and special chambers, to ensure that all applications over which the Masters have jurisdiction are put on the Masters' list. The Clerk will remove matters from the Judges' list and put them on the Masters' list.

In the future, would you please ensure, where appropriate, that your application is returnable before the Master.

December 15, 1993
(As Revised September, 2005)

Honourable Allan H. Wachowich
Associate Chief Justice

²

Originally issued to the Members of the Bar in the Edmonton Judicial District, but in fact applies to all Judicial Centres where the Masters sit.

Masters' Jurisdiction

The Court of Queen's Bench Act, sets out the jurisdiction of the Masters. A Master in Chambers has the same jurisdiction as a Queen's Bench Judge sitting in Chambers with the following exceptions:

A. Statutory exceptions:

- appeals or applications relating to appeals: s. 9(1)(a)(i);
- applications to vary or rescind an order made by a judge: s. 9(1)(a)(i);
- applications to stay an order or a judgment of a judge unless all parties consent to a Master hearing it: s. 9(1)(a)(i);
- trials: s. 9(2)(a)(i);
- criminal matters: s. 9(3)(c);
- applications relating to the liberty of a person: s. 9(3)(c); subject to the Maintenance Enforcement Act ss. 17 and 27 to 32.
- applications relating to civil contempt, injunction, judgment or order of certiorari, prohibition, mandamus or quo warrant: s. 9(3)(d);
- applications for judicial review: s. 9(3)(d);
- anything which by law is required to be done by a judge i.e. where a Rule or a statute expressly says "judge", instead of "Court": s. 9(3)(e);
- disputed questions of fact that can not be resolved on affidavit evidence. S. 9(3)(b)

B. Case law and other exceptions

- applications under the *Divorce Act*: Klassen v. Klassen (1978) 10 AR 606 (CA);
- judgment for or assessment of damages in an unliquidated damage claim: S.B.I. Management v. 109014 Holdings (1982) 32 AR 6 (CA);
- hear an appeal from a taxation of costs: Rule 655(2).

C. Administrative exceptions:

- applications in former Surrogate Court matters;
- applications under R. 229 to have two actions heard together (July 22, 1988 memorandum);
- application to have a civil trial heard with a jury (May 22, 1992 memorandum);
- applications brought after a certificate of readiness has been filed (September 27, 1991 memorandum).

2. GOWNING (now moved to "GENERAL")3. **REMINDER REGARDING PRACTICE NOTE #6**

I have been urged by members of the Court of Queen's Bench to remind members of the profession to follow the Civil Practice Note "6" issued February 3, 1995 which was approved by our Court. It provides as follows:

- "8. (a) Short and concise written briefs by all parties shall be filed with the Chambers Clerk as hereinafter set forth.**

(b) The brief of the applicant will contain a written summary of the relevant facts involved in the application, the main points of law that will be argued and copies of all authorities relied upon with relevant portions highlighted. The brief of the respondent will respond in like manner."

Simply, more and more counsel are filing voluminous briefs, rather than short concise briefs, as required in the Practice Note. Many counsel are attaching numerous voluminous authorities to their briefs which are in many circumstances not necessary. Often the attached authorities are not highlighted as to relevant portions and in some cases the references to the authorities in the brief do not even refer to specific pages of the attached authorities.

This notice is simply to remind members of the profession of the requirement for short, concise briefs, with highlighted authorities to assist the judge in appreciating the issues involved and to come to a reasoned and relatively quick decision for the benefit of counsel and their clients.

Summer 1996

***The Honourable W. Kenneth Moore
Chief Justice of the Court of Queen's Bench of Alberta***

4. GUIDELINES FOR JUDICIAL DISPUTE RESOLUTION (also applies to "FAMILY")³

1. The purpose of judicial dispute resolution is to reach a settlement on all issues, or to resolve as many issues as possible, with the assistance of a Justice of the Court of Queen's Bench.
2. Generally all counsel and partes must agree to judicial dispute resolution, although exceptions may be made in special circumstances.
3. Most frequently the process will be initiated when a matter has been or is ready to be set down for trial. However, the Chief Justice may approve judicial dispute resolution at an earlier stage, where appropriate.
4. To arrange judicial dispute resolution, counsel should contact the Trial Co-ordinator to select a judge and date, which must be confirmed in writing to the Trial Co-ordinator.
5. Counsel should meet with the named judge to discuss and agree upon the materials and procedures required for the judicial dispute resolution process, Counsel may request and with the consent of all parties the judge may agree to give an opinion or make a decision, in the event that a settlement is not reached.

³

Note that these Guidelines will be specifically incorporated into and replaced by Rules 4.18 to 4.21 of the New Rules of Court to come into effect on November 1, 2010.

6. Parties with authority to make settlement decisions must be present and participate in the process.
7. Judicial dispute resolution is normally conducted informally in a conference room setting. Gowning is not required.
8. The process is confidential. Statements made by counsel or by the parties are confidential and without prejudice and cannot be used for any purpose or referred to at trial, should the matter proceed to trial. After judicial dispute resolution, all briefs, submissions, notes and papers in the judge's possession will be destroyed.
9. Unless the parties consent, the judge will not hear any applications or the trial of the matter. The judge will not discuss the judicial dispute resolution process with the trial judge, should the matter proceed to trial.
10. In the course of judicial dispute resolution, parties and their counsel may meet privately, with or without the judge. If the judge meets privately, anything said by a party or counsel to the judge in confidence will remain confidential and will not be disclosed to the other parties unless the confidentiality of the communication has been waived.
11. The only document which will survive a successful judicial dispute resolution process will be a Memorandum of Agreement. Various terms of the Agreement may require Consent Orders, Discontinuances, Releases and other documents which will be prepared and filed by counsel.
12. The judge is non-compellable as a witness in any proceedings.

June 14, 1996

(Unsigned)

5. **PROCEDURE FOR BOOKING A JUDICIAL DISPUTE RESOLUTION IN EDMONTON AND CALGARY (also applies to "FAMILY")**

Commencing September 1, 2005, we will be adding a judge to hear Judicial Dispute Resolutions in each of Edmonton and Calgary, for a total of three sitting JDR judges every week, an increase of 50%. The goal of the extra assignment is to reduce wait times.

If you wish to book a JDR judge, you should write to the Trial Co-ordinator, setting out your requested dates(s) or judge, and specifying whether you desire a binding or non-binding JDR conference. In Edmonton, the contact is Brent Rosin (780-422-2313), and in Calgary, Pat Gordon (403-297-6776). It is advisable to name your second, third and fourth choice of judge as your earlier choices may already be booked.

When the assignment schedule is issued, the Trial Co-ordinator will contact counsel by telephone on a first-come, first-served basis, determined by the date of the letter of request or telephone call. Assignments are then made in the order that counsel return the Trial Co-ordinator's calls.

Assignment schedules are issued as follows:

Fall (September to December):	mid-June
Winter (January to June):	mid-November
Summer (July and August):	mid-May

Self-represented litigants who want to schedule a JDR judge must first obtain leave from the Chief Justice or Associate Chief Justice, or an Order from another justice.

July 20, 2005

Allan H. Wachowich
Chief Justice

Neil C. Wittmann
Associate Chief Justice

6. CONDITIONAL CERTIFICATE OF READINESS (CALGARY) (also applies to “FAMILY”)

As a courtesy to counsel, the Civil Trial Co-ordinator has been allowing a short period of grace to complete conditions specified in a Conditional Certificate of Readiness after the deadline. Some counsel have challenged the additional time as unreasonable.

In order to avoid similar occurrences, I have directed the Trial Co-ordinator not to allow any additional time for the completion of conditions specified in a Conditional Certificate of Readiness. I have also directed that cases set for trial by Conditional Certificate of Readiness be removed from the trial list immediately upon default of any condition without further notice. Trial dates may only be reinstated thereafter by order of the Chief Justice or Associate Chief Justice.

To ensure that trial dates are not lost, counsel are encouraged to advise the Civil Trial Co-ordinator that all conditions have been met prior to the deadline specified in the Conditional Certificate.

February 19, 2003

A.B. Sulatycky
Associate Chief Justice
Court of Queen's Bench

7. EARLY PRE-TRIAL CONFERENCES⁴ (also applies to “FAMILY”)

It has been over ten years since Judicial Dispute Resolution was introduced to the Court of Queen's Bench. The success of this summary procedure to settle disputes is apparent from the extensive use made of it by the Litigation Bar.

Our Court continues to be concerned about the length of trials, the number of experts and the cost of litigation generally, all of which have been noted in numerous studies of the civil justice system. To address this concern, commencing in April 2004, the Court is introducing a pilot project in Edmonton called, “Early Pre-trial Conferences”. As

4

Note that, based on an memorandum dated October 26, 1994 by then Chief Justice Moore (see item #1 above), pre-trial conferences are required for: all family matters; all jury trials (civil and criminal); and all trials (civil or criminal) expected to last three days or longer.

with our JDR procedures, this will be totally voluntary; all parties must agree to apply for such a conference.

The premise behind this pilot project is simple. The civil justice system should be “front-end loaded” with the resources focused on resolution since most cases settle and very few go to trial.

The Early Pre-trial Conferences will be directed to:

- (1) determining the real issues;
- (2) reaching agreement on as many items as possible which are not in dispute;
- (3) canvassing whether some or all experts can be jointly retained and failing this, to agree on the experts who are truly required;
- (4) agreeing on “will say statements” to either avoid discoveries or reduce their length;
- (5) considering appropriate possible settlement, early JDR, private ADR, summary trial or other means to reduce the length and the cost of litigation.

Initially, Justices ... Moreau, Belzil, ... and Macklin have agreed to do Early Pre-trial Conferences commencing April 1, 2004, either during their JDR weeks or Pre-trial weeks. We will evaluate the pilot project later in the year and decide if it should be expanded throughout the province. Bookings for Early Pre-trial Conferences may be made through Brent Rosin, the Edmonton Trial Co-ordinator (422-2313), in the same fashion as JDR’s, and will usually be for one hour.

December 2, 2003

Allan H. Wachowich
Chief Justice

8. **POLICE ENFORCEMENT/ASSISTANCE CLAUSES** (see “FAMILY”, item 6)

9. **CALGARY CHAMBERS ADJOURNMENTS**

Please be advised that a new online procedure is available in Calgary for consent adjournments and adjournments required where service has not been effected, for all morning Justice and/or Masters Chambers applications. The new procedure is effective January 1, 2008.

Online adjournments are not available for special applications.

The online adjournments are accessed through the Alberta Courts website at ="<http://www.albertacourts.ab.ca>"MACROBUTTONHtmlResAnchor
www.albertacourts.ab.ca

1. ***Locate the Queen’s Bench drop down menu.***
2. ***Left click on publications and forms.***
3. ***On the left side of the screen, left click on adjournment confirmation.***
4. ***Choose the appropriate location.***
5. ***Complete the online adjournment confirmation form and submit.***

The deadline for receiving all adjournments is 9:30 a.m., on the date that the hearing is scheduled.

Adjournments submitted by Fax and telephone are still acceptable until further notice.

Please contact Len Willmott at 297-7405 if you have any questions or concerns in this regard.

January 1, 2008

*Neil C. Wittmann
Associate Chief Justice*

10. Judicial Dispute Resolution (also applies to "FAMILY")

The Judicial Dispute Resolution [JDR] schedule for Spring 2008 is now available online at www.albertacourts.ab.ca under "Court of Queen's Bench - Announcements."

The schedules of the Court of Queen's Bench justices sitting in Edmonton are listed under "Spring 2008 - Edmonton JDR Assignments" and for Calgary justices, at "Spring 2008 - Calgary JDR Assignments".

The notations in the schedule indicate the following:

- =JDR booked
- X = date not available, i.e. non-sitting day

The yellow highlighting denotes justices who conduct binding JDRs.

Once counsel have viewed the schedule and selected their JDR date, this date can be booked by contracting Brent Rosin, Edmonton JDR Coordinator, at (780) 422-2313 or Pat Gordon, Calgary JDR Coordinator, at (403) 297-7499. Where internet access is not available, a faxed version of the schedule may be obtained from the JDR Coordinators.

Please note that availability of JDR dates is subject to change due to bookings by other counsel or if a matter scheduled for JDR settles in advance of the selected date. Therefore the latest version of the online schedule should be consulted prior to contacting the JDR coordinators. The schedules will be updated and posted on a daily basis.

November 9, 2007 (but continues to be applicable as dates change)

*A.H. Wachowich
Chief Justice*

*N.C. Wittman
Associate Chief Justice*

11. CALGARY CASE MANAGEMENT (also applies to "FAMILY")

I am pleased to announce that Susan Quesnelle⁵ has been appointed Case Management Coordinator, effective January 9, 2008. As a result of Susan's appointment, case management will resume in accordance with the details set out below.

New requests for case management may be submitted after January 15, 2008. The procedure for new case management remains the same. Please consult Practice Note 1, paragraphs 3(b) and 5(b). Requests accumulated since October 3rd, 2007 when case management in Calgary was suspended will be responded to by the end of January, 2008.

Reinstatement of case management will be phased in. Family law case management meetings may be booked for dates commencing January 15, 2008 and all other civil case management files may be booked for dates commencing February 4, 2008.

Susan will be responsible for booking all case management matters that fall under Queen's Bench Civil Practice Note "1". Counsel are to contact Susan when they require a meeting with the case management judge. Susan will advise counsel of available dates and book the date that is suitable for all parties. Please note that the judicial assistants should no longer be contacted for available case management dates.

As part of the new procedures, once a date convenient to all parties has been determined in consultation with Susan, counsel booking the case management meeting will be required to submit to Susan a Case Management Confirmation Letter using the attached form. A copy should also be sent to all parties to the action. Until the form is received by Susan, the case management meeting will not be a confirmed booking. If the form is not received, the judge may be assigned to other matters.

Susans' telephone number is (403) 297-2455. Her e-mail address is Susan.Quesnelle@gov.ab.ca . Her address is N24, 601 - 5th Street S.W., Calgary, AB T1P 5P7.

January 9, 2008

***Neil C. Wittmann
Associate Chief Justice***

⁵

Please note that Sheila O'Brien assumed Susan Quesnelle's position as of January 2010; however, otherwise, the same contact information applies, except that it is Sheila.O'Brien@gov.ab.ca.

CASE MANAGEMENT CONFIRMATION LETTER**CASE MANAGEMENT JUSTICE:** _____**DATE AND TIME OF
CASE MANAGEMENT MEETING:** _____ **AT** _____ **A.M/P.M.****ACTION NUMBER:** _____**STYLE OF CAUSE:** _____ **v.** _____**NAMES AND TELEPHONE NUMBERS OF ALL COUNSEL/SELF- REPRESENTED LITIGANTS WHO WILL BE APPEARING AT THIS CASE MANAGEMENT MEETING:**

	COUNSEL/LITIGANT'S NAME	TELEPHONE NUMBER	E-MAIL ADDRESS	APPEARING FOR:
1.				
2.				
3.				
4.				
5.				
6.				

IF ADDITIONAL PARTIES ARE APPEARING, PLEASE ATTACH A LIST CONTAINING THE ABOVE INFORMATION.**IS A COURTROOM REQUIRED FOR THIS CASE MANAGEMENT MEETING?****YES** ☐ **NO** ☐**WILL ANY PARTY BE APPEARING BY WAY OF TELEPHONE CONFERENCE?****YES** ☐ **NO** ☐**IF THE ANSWER TO THE ABOVE IS YES, STATE THE NAME OF THE PERSON AND THE TELEPHONE NUMBER WHERE THEY CAN BE REACHED:****NAME:** _____ **TELEPHONE NUMBER:** _____**PAGE 2****WILL A NOTICE OF MOTION BE FILED FOR THIS CASE MANAGEMENT MEETING?****YES** ☐ **NO** ☐

WILL BRIEFS BE FILED FOR THIS CASE MANAGEMENT MEETING?

YES ☐

NO ☐

WILL AN AGENDA BE FILED FOR THIS CASE MANAGEMENT MEETING?

YES ☐

NO ☐

IF THE ANSWER IS NO TO ALL OF THE ABOVE, PLEASE STATE THE REASON FOR THE CASE MANAGEMENT MEETING.:

SIGNATURE OF COUNSEL/SELF REPRESENTED LITIGANT

DATE

PLEASE FAX THIS LETTER TO SUSAN QUESNELLE, CASE MANAGEMENT COORDINATOR, AT (403) 297-2752 OR E-MAIL TO Susan.Quesnelle@gov.ab.ca.

12.

August 24, 2009

APPEALS FROM THE DECISIONS OF MASTERS IN CHAMBERS⁶

Presently, Court of Queen's Bench Civil Practice Note 6 indicates that any appeal from the decision of a Master should be heard in Special Chambers. Many of the appeals from Masters that come before the Court take less than 20 minutes and would more appropriately be heard in ordinary Chambers.

Consequently, Part A of Civil Practice Note 6 is amended, effective immediately, to repeal the words, "It includes any appeal from the decision of a Master." from paragraph 1.(b).

**A.H.J. Wachowich
Chief Justice**

**N.C. Wittmann
Associate Chief Justice**

B. COMMERCIAL

1. SCHEDULING OF BANKRUPTCY APPLICATIONS

I give notice of a change in the Court's procedure regarding the scheduling of applications in bankruptcy.

Our practice has been to assign a judge to hear bankruptcy applications for 3 days about every 6 weeks in both Edmonton and Calgary. The applications have been scheduled for the Monday, Tuesday and Wednesday of the “bankruptcy week”. The judge has been assigned to other matters on the Thursday and Friday.

Frequently bankruptcy applications do not proceed. However by the time it is known that they will not proceed, it is too late to assign the judge to other matters on the days originally scheduled for bankruptcy matters.

Further the court's experience is that it would be more useful to have the judge free for other assignments at the beginning of the week than at the end of the week.

Therefore the following procedures will apply to bankruptcy applications beginning September 1, 2003:

1. Bankruptcy applications will be scheduled for the last three days of the “bankruptcy week” – Wednesday, Thursday and Friday.
2. The clerk's office will be instructed to book applications starting with the Friday – so that no applications will be scheduled for Thursday until Friday is fully booked and none will be scheduled for Wednesday until Thursday is fully booked. A half day will be considered fully booked when applications estimated to occupy between 2.5 and 3 hours in total have been booked into it. Exceptions will be made only with the leave of the judge assigned to the bankruptcy week.
3. No new bookings will be made later than the Monday of the week preceding the bankruptcy week. Again exceptions will be made only with the leave of the assigned judge.

I invite comments on these new procedures from members of the profession either now or after we have had some experience with them.

July 9, 2003

A. H. Wachowich
Chief Justice
Court of Queen's Bench of Alberta

2. _____ ***Notice to the Profession #2010 - 01
January 27, 2010⁷***

SCHEDULING EMERGENCY INSOLVENCY MATTERS

Several years ago the Court of Queen's Bench of Alberta established a Commercial Practice Committee made up of justices of the Court who have a particular interest and experience in dealing with commercial matters. The Court typically schedules bankruptcy, insolvency and other commercial matters before members of this Committee. While this in no way precludes other judges from hearing these applications the majority of them are in fact dealt with by Committee members. Our goal remains ready access, consistency of result and seasoned adjudication.

We recognize that insolvency applications often arise on short notice, with the result that members of the Commercial Practice Committee must be made available to hear them on an emergent basis. To that end, any lawyer wishing to make an application on short notice in a bankruptcy or insolvency matter may contact one of the Committee members directly. Alternately the trial coordinators' office in Edmonton or Calgary may be contacted. It will provide counsel with the name of an available Commercial Practice Committee member. Counsel may then call that Judge's judicial assistant to make scheduling arrangements. Emergent applications will normally be scheduled to be heard outside of normal court hours. While matters may still be set down on the regular Chambers list counsel are requested to consider using one of these alternate approaches if possible.

Commercial and insolvency matters will normally be heard in Calgary or Edmonton only. Any lawyer practicing outside those cities may arrange to have a committee member hear an application by telephone or courthouse video conference by contacting the office of the Chief Justice or Associate Chief Justice in Calgary or Edmonton.

Membership in the Commercial Practice Committee will change from time to time. At the moment it is composed of the following judges:

Edmonton

Topolniski, J. (Co-Chair)
 Rooke, A.C.J.
 Veit, J.
 Belzil, J.
 Burrows, J.
 Gill, J.
 Thomas, J.
 Yamauchi, J.
 Master Breitzkreuz

Calgary

Romaine, J.. (Co-Chair)
 Wittmann, C.J.
 McMahon, J.
 Kent, J.
 LoVecchio, J.
 Hawco, J.
 Horner, J.
 Eidsvik, J.
 Strekaf, J.
 Stevens, J.
 Jeffrey J.
 Master Laycock

Neil C. Wittmann, Chief Justice

John D. Rooke, Associate Chief Justice

C. CRIMINAL

1. PRE-TRIAL CONFERENCES

October 26, 1994

**TO: ALL TRIAL COORDINATORS
 COURT OF QUEEN'S BENCH OF ALBERTA**

**FROM: THE HONOURABLE W.K. MOORE
 CHIEF JUSTICE**

Recently we have received some inquiries with respect to pre-trial conferences. The following types of matters must have a pre-trial conference:

- 1) all domestic/matrimonial matters;***
- 2) all jury trials (civil and criminal); and***
- 3) all trials (civil or criminal) expected to last three days or longer.***

...

W.K. Moore

2. REVIEW OF DETENTION UNDER S. 525 OF THE CRIMINAL CODE

On January 22, 1991, I circulated a directive relating to s. 525 of the Criminal Code. It indicated that in the case of a person charged with an offence and whose bail has been refused, it was necessary, in light of the judgment of the Court of Appeal of Alberta in R. v. Neill, for a review of the continued detention of the accused forthwith on the expiration of the period of time prescribed by the Section, being 90 days for indictable offenses and 30 days for summary conviction offences.

I advised that the Court of Queen's Bench, in cooperation with the Department of Justice and members of the Criminal Bar, will institute a plan to ensure that all persons in custody will be brought before the Court for a review within the period of time prescribed by s. 525.

The Defence Bar were also advised at that time that when the Court of Queen's Bench received an Application from the Director within whose custody the accused resides, the Trial Co-ordinator of the Court of Queen's Bench will contact defence counsel to arrange for an early review date.

On reviewing s. 525(1), I propose the following directive:

When the Court of Queen's Bench receives an application under s. 525(1) from the Director within whose custody the accused resides, the Trial Co-ordinator of the Court of Queen's Bench shall place the application before a judge of the Court of Queen's Bench, who under s. 525(2), shall direct, by way of a Court Order, the date for the hearing, where the hearing shall take place, that the accused shall be present, who shall be served, including the accused, the prosecutor and the defence counsel, if one appears on the record.

A copy of the above directive has been forwarded to the Criminal Law Clerks throughout Alberta.

The Court of Queen's Bench, together with the Department of Justice will very much appreciate the co-operation of all of the members of the Bar in ensuring that all persons in custody have their bail review within the period of time prescribed under s. 525 of the Criminal Code.

(Undated - post January 22, 1991)

W.K. Moore
Chief Justice of the
Court of Queen's Bench

3. BAIL APPLICATIONS - INVOLVING SPOUSAL ASSAULTS

At a recent meeting of the Criminal Practice & Procedure Committee of the Court of Queen's Bench, it was proposed that at all bail applications involving spousal assaults that the Crown should provide more information to the court including:

1. What is the current status of the relationship? Is there a history of separation in this relationship? During the past separations has the offender stalked or harassed the victim?
2. What is the history of violence or abuse in the relationship? Include physical, sexual, verbal, financial and emotional abuse. Has the abuse escalated during the last twelve months? Has the abuse ever required medical attention?
3. Has the offender ever hurt, injured or threatened to use weapons, own a firearm or have plans of purchasing a firearm?
4. Has the offender ever used weapons, threatened to use weapons, own a firearm or have plans of purchasing a firearm?

5. Are there any children under the age of 18 who have witnessed the abuse or who have been abused by the offender? Is Child Welfare presently involved with the family? Has Child Welfare been involved?
6. Has the offender abducted or threatened to abduct the children?
7. Is the offender currently employed? Has the offender's employment history changed during the previous twelve months, become less stable?
8. What is the offender's current status with the legal system? Has he ever violated a court order, including a no-contact order and/or peace bond?
9. Have drugs or alcohol ever been a problem for the offender? Does the offender have a history of mental illness including threats of suicide?
10. How does the victim feel about the offender being released?

It is not intended that a judge should have to ask all the questions listed above, but the Committee feels each of you should be aware of the kind of information that the Crown should disclose at a bail hearing.

Thank you.

December 9, 1999

W.K. Moore

4. ARRAIGNMENTS (CALGARY)

A number of changes will be made in the next few months to the arraignment procedures in the Judicial District of Calgary. They are intended to allow counsel greater opportunity to control their own schedules within reasonable limits. Where the opportunity afforded counsel is not taken, trial scheduling will be determined solely by the availability of court time.

The changes, which depart from Criminal Practice Note 1, are made possible by the recent addition to the Criminal Code of s. 650.01 (Designated Counsel).

The changes are as follows:

Pre-booking - Commencing immediately, (1) all criminal trials, including judge and jury, may be pre-booked through the trial co-ordinator by counsel who has filed a designation under s. 650.01. (2) All trials may be pre-booked up to eight months in advance, with the consent of the Crown. Beyond the eight month period trials may be pre-booked only with leave of the Chief Justice or Associate Chief Justice, otherwise they will require appearance at arraignments.

Committal-Arraignment Interval - Commencing January 1, 2003 the interval between the committal for trial and the arraignment date will be lengthened by one month, i.e. to the second arraignment day following committal for trial. The additional time is intended to enable Crown and defence to complete discussions concerning disposition or resolution of the case and to pre-book the trial, as well as to permit perfection of retainers, receipt of transcripts, and other steps which previously necessitated an adjournment to a succeeding arraignment day.

Arraignment Day - Commencing March 12, 2003 arraignments will take place on the second Wednesday of each month, but at 1:30 p.m., a time reported to be more convenient to the bar than before noon. It is expected that with the greater opportunity to pre-book few if any counsel will find need to appear at

arraignments. However, when a matter has not been pre-booked for trial before the appointment arraignment date, counsel of record will be required to appear in person and not by agent. If defence counsel intends to allege at arraignment that the failure to pre-book results from any default by the Crown, notice of that allegation must be given to the Crown counsel concerned who will also be required to appear in person at the arraignment date or as otherwise scheduled.

Public Notices - In order to ensure that the public may continue to be informed of the date when any given case is scheduled for trial, a list of all cases pre-booked since the preceding arraignment day will be available at each arraignment day.

December 3, 2002

Associate Chief Justice A.B. Sulatycky

5. JURY SELECTION (CALGARY)

Commencing March 1, 2003 a number of changes will be made to the jury selection procedures in the Judicial District of Calgary. These are intended to maintain respect for the justice system by considering the convenience of counsel and members of the public who are called for jury duty.

The Court of Queen's Bench recognizes the high level of co-operation between the Crown and defence bar which allows for re-election from judge and jury to judge alone. This results in very few judge and jury trials proceeding in Calgary. That co-operation is to be encouraged and fostered. However that co-operation has the unavoidable consequence of often eliminating the need for a jury panel. When large numbers of citizens respond to a jury summons only to be told they are not required they tend to lose respect for the system. The judge who must attempt to give an explanation to the panel bears the brunt of the disrespect.

To ensure that persons who are summonsed for jury duty do not attend unnecessarily the Court several months ago installed a telephone line which those persons are advised to call before coming to court. If as a result of re-elections there are no juries to be selected a recorded message advises callers that they need not attend. This system has been very effective in dramatically reducing the number of people who respond to a jury summons when no juries are to be selected. But it only works when counsel re-elect in a timely way. The changes are intended to facilitate that.

The changes will provide counsel with a period of no less than 24 hours in which to decide whether to re-elect or not. They will also permit court administration 24 hours to call off the jury panel. Late re-election which results in empaneled citizens attending unnecessarily may result in any one of the sanctions within the range available for disrespect to the Court and the administration of justice.

The changes are as follows:

1. Jury selection will take place at 10:00 a.m. on the Friday (or the last juridical day) of the week preceding the commencement of the trial.
2. Counsel will be advised as early as possible, but in no event later than noon on the Wednesday preceding jury selection of the judge assigned to the trial.
3. Any re-election to judge alone is to be communicated to the Trial Co-ordinator prior to noon on the Thursday preceding jury selection.
4. In those cases where a trial date is already set and jury selection is scheduled for 2:00 p.m. of the Thursday preceding the commencement of trial the jury selection is adjourned to the following day (Friday) at 10:00 a.m.

December 3, 2003

Associate Chief Justice A.B. Sulatycky

6. NOTICE TO THE EDMONTON CRIMINAL LAW BAR
PRACTICE DIRECTIVE - CRIMINAL ARRAIGNMENTS

I am writing to advise you that effective September 1st, 2004, a new procedure for criminal arraignments will be implemented in Edmonton. A similar procedure has been implemented in Calgary and has been found to be very successful in reducing the criminal arraignment lists. A Practice Directive outlining this procedure is attached, as well as a list of the amended cut-off dates for 2004.

Thank you for your cooperation in the implementation of this new procedure.

June 8, 2004

Allan H. Wachowich

7. PUBLICATION BANS (see Criminal Practice Note No. 4 and Civil Practice Note No. 12)

8. REVIEW OF JUDICIAL INTERIM RELEASE IN THE COURT OF QUEEN'S BENCH

Applications brought pursuant to the Criminal Code, ss.520 and 521 ("bail review" applications) have been under review by this Court for some period of time. It has been discussed with representatives of the Bar on several occasions. Recently, the scheduling of these applications was transferred from the Crown Prosecutors Office to the Clerk of the Court. And, as a general rule, the scheduling of these applications has been undertaken without formal Notice of Motion and Affidavit in Support.

A review of our records has disclosed that a significant percentage of these applications are not proceeding on the date scheduled. Anecdotal information suggested that approximately one-third of all applications collapsed on the hearing date. The Court's first formal review indicated that the number of applications scheduled but not heard was approximately 35%. And the Court's latest review indicates that the percentage has increased to approximately 40%. This high collapse rate delays access to justice for those individuals seeking the earliest possible bail review date.

The Court is presently gathering data to provide a better picture of why such a disproportionately large number of applications are not proceeding. I will be meeting periodically with the Bar to advise you of the results of our efforts. I will also be seeking your assistance in identifying methods of reducing this unacceptably high collapse rate.

On November 9, 2004, the Clerk of the Court charged with the responsibility of scheduling these applications will begin using a new form, a copy of which is attached to this notice. Applications will not be scheduled unless the required information has been provided.

I wish to thank you in advance for your cooperation and assistance in our efforts to enhance access to the bail review process for detained persons.

February 5, 2004

Revised November 9, 2004

Allan H. Wachowich

BAIL REVIEW APPLICATION

HEARING DATE: _____

ACCUSED SURNAME: _____ GIVEN NAME(S): _____

DOB: DD/MM/YYYY

Court File # _____

CHARGE(S) (Indicate section numbers and a brief description of each offence):

Next Court Appearance: _____ El. & Plea? _____ P.I.? _____ Trial? _____

Has disclosure been obtained on these charges? (Please circle) Yes / No

BAIL PREVIOUSLY DENIED OR GRANTED:

Date: _____ Court: _____ Grounds: _____

Previous Q.B. Bail Reviews Scheduled: _____ Date: _____ Reason for Adjournment: _____

_____ Date: _____ Result: _____

NATURE OF APPLICATION:

Review Denial Release _____ Review No Contact Condition _____

Review Other Condition(s) (specify) _____

Lower Case Bail set at \$ _____ to \$ _____

Other (Specify): _____

GROUND FOR BRINGING APPLICATION:

Error in court below (please state) _____

Change in circumstances (please state) _____

Fresh evidence to be relied upon, if any: _____

Documents to be tendered at hearing (must be submitted with application): _____

ESTIMATED TOTAL TIME FOR APPLICATION (Crown (min. 5 mins.) & Defence): ____ mins.

Counsel Making Application: _____ Firm: _____

Phone # _____ Fax # _____

I presently am in possession of all the information I require in order to make this application on the hearing date.

Signature of Counsel

Bringing Application: _____ Date: _____

PLEASE ENSURE THAT YOUR APPLICATION IS COMPLETE
INCOMPLETE APPLICATIONS WILL NOT BE SCHEDULED FOR HEARING

Fax or E-mail Copies of this Application to:

Clerk of the Court of Queen's Bench (Criminal Section), Attention Supervisor - 422-3458
(e-mail: bailreviews.edmonton@gov.ab.ca)

Crown Prosecutors' Office, Attention Bail Unit - 427-3774 (Provincial Matters)
(e-mail: crownbail.edmonton@gov.ab.ca)

Please note that the form is presently formatted with the addressed for Edmonton applications. Before using, the form must be revised for your jurisdiction.

9. CRIMINAL APPEARANCE COURT ("CAC")⁸ - EDMONTON

December 29, 2005

To: The Edmonton Criminal Trial Lawyers Association and Crown Offices

From: Chief Justice Allan H. Wachowich

Re: Criminal Appearance Court ("CAC")

This is to advise that I have directed the Edmonton Trial Coordinators to commence, as of Friday, February 10, 2006, automatically referring the following matters to the CAC, in order that the CAC judge may take appropriate steps, including the fixing of a Pre-Trial Conference date:

- (a) all murder cases;***
- (b) all trials in excess of three (3) weeks in length [by counsel estimates];***
- (c) all motions for habeas corpus and proceedings under the Extradition Act;***
- (d) all situations where Counsel expect to challenge jurors for cause.***

Please be aware that trial counsel [no agents] are expected to attend on this first appearance in the CAC.

With respect to the above-mentioned longer and more complicated cases, the CAC judge will have the option of organizing a sectored trial whereby separate voir dire activity could be directed and handled in advance of the main trial. The motion judge on the first segment will become the assigned Trial Judge for the remaining segment[s]. This approach responds to various different requests and suggestions from the Bar and the Crown. Such suggestions are welcome, and are encouraged. Your co-operation is appreciated.

Furthermore, also effective February 10, 2006, if a direction is made to counsel by a Pre-Trial Conference Judge or by the Trial Co-ordinators, the matter will be referred to the CAC on a scheduled recall date to confirm or explain the response to the direction. If a direction thus made has been complied with, an agent can appear for counsel, but if the direction has not been complied with, trial counsel will be expected to appear.

⁸

The Criminal Appearance Court in Edmonton has, more recently, been most often referenced as Queen's Bench Appearance Court ("QBAC").

Allan H. Wachowich

10. CRIMINAL APPEARANCE COURT - Calgary

Effective Friday, January 19, 2007, the Criminal Appearance Court [CAC] will commence in Calgary and will sit each Friday thereafter. For the first year, Justices A.G. Park and A.E. Hughes will share this assignment.

The Court's mandate and schedule will include the following:

9:30 - 10:00	<i>Criminal arraignments and applications for adjournments including adjournments of long trials</i>
10:00 - 10:30	<i>Motions which can be dealt with expeditiously and scheduling of longer motions; for example - scheduling of a third party records application, unsealing of a warrant, etc.</i>
10:30 - 12:30	<i>Scheduling of guilty pleas and guilty pleas</i>
1:45 - 2:00	<i>Summary conviction appeal motions for persons not represented by counsel</i>
2:00 - 2:45	<i>Bail estreatments which cannot be accommodated on the regular bail estreatment list</i>
2:45 - 4:30	<i>Scheduled guilty please and motions</i>

Counsel will only be required to gown for guilty pleas and applications with viva voce evidence.

In addition to the CAC, criminal arraignments will be held January 10 and February 14, 2007 at its regularly scheduled time as there are matters presently scheduled for these dates. After February 14, 2007 criminal arraignments will be held at 9:30 a.m. in the CAC only.

I wish to remind counsel they continue to have the ability to pre-book all criminal judge alone trials and judge and jury trials with the Criminal Trial Coordinator, Dave Monroe. However, if counsel have not pre-booked by Monday at 4:00 p.m. before the Friday CAC for which the matter is scheduled, counsel and his or her client will be obliged to appear.

All matters other than arraignments are to be scheduled into the CAC by way of a Notice of Motion that is filed and served on the Criminal Trial Coordinator and the appropriate respondent by fax or personally in the case of an unrepresented accused, no later than 4:00 p.m. the Tuesday before the scheduled Friday court. All motions should contain a time estimate. Before counsel file their motion, they should check with the Criminal Trial Coordinator to see if sufficient time is available for their matter to be heard.

Bail reviews including s.469 bail applications and 90 day review applications will continue to be heard in ordinary chambers each day at 9:00 a.m. However, lengthy bail applications (30 minutes or longer) may appear in the criminal appearance court to be scheduled for a special hearing or, if time permits, be scheduled into the criminal appearance court.

Any matter which has been set down for trial before an assignment trial judge shall not be brought into the CAC within 30 days of the assigned trial date for a plea of guilty to any charge on the indictment without the consent of the Crown and defence.

Counsel should check with the Criminal Trial Coordinator, Dave Monroe⁹, in order to determine whether a trial judge has been assigned.

Where an accused has appointed counsel to represent the accused and designation of the counsel has been filed in the Provincial Court of Alberta it shall not be necessary for a further designation of counsel to be filed in the Court of Queen's Bench of Alberta. The original designation of counsel filed in the Provincial Court of Alberta shall be suitable for all appearances allowed by s. 650.01 of the Criminal Code in the Court of Queen's Bench of Alberta.

January 5, 2007

***A.H.J. Wachowich
Chief Justice***

***N.C. Wittman
Associate Chief Justice***

D. FAMILY (see also "CIVIL", items 2-6, 8-10)

1. PRE-TRIAL CONFERENCES

October 26, 1994

***TO: ALL TRIAL COORDINATORS
COURT OF QUEEN'S BENCH OF ALBERTA***

***FROM: THE HONOURABLE W.K. MOORE
CHIEF JUSTICE***

Recently we have received some inquiries with respect to pre-trial conferences. The following types of matters must have a pre-trial conference:

- 1) all domestic/matrimonial matters;***
- 2) all jury trials (civil and criminal); and***
- 3) all trials (civil or criminal) expected to last three days or longer.***

...

W.K. Moore

2. RUSH DIVORCES¹⁰

As you know, all desk divorces must go through the Clerk's Office in the usual manner. The wait time to obtain a divorce judgment is now approximately six weeks simply because our Clerk's Office in the divorce area is incredibly understaffed. As a result what happens is that lawyers come into Chambers and tell a

⁹ Please note that Susan Quesnelle has now assumed the position of Criminal Trial Coordinator.

¹⁰ The practice in this Notice, except as permitted by an individual Justice, has generally been limited in application to Calgary.

Judge that everything is in order and ask that the divorce judgment be signed. This is inappropriate as often the documents are not in order and sometimes the matter is not an emergency.

After discussions with [the Supervisor, Divorce] it was decided that the best way to handle any applications by lawyers in Chambers for an expedited disk divorce judgment is as follows:

1. First of all, the Judge determines whether or not the matter is truly an emergency and must be expedited or can it wait its turn in the normal course.
2. If counsel is successful in convincing you that the matter is of sufficient urgency that it should be dealt with forthwith, then the Clerk in Chambers has a form with her called a Rush Divorce Checklist (attached). The Judge will initial the Checklist which is the confirmation to the Clerks that you have granted leave.
3. Counsel complete the Rush Divorce Checklist, confirming that all major matters which the Clerks would normally check have been checked by the lawyer and the lawyer signs the form certifying that such is the case.
4. The lawyer then returns to the Judge who allowed the expedited divorce with all of their divorce documents and the Rush Divorce Checklist fully completed and signed by counsel. At that point the Judge would sign the Divorce Judgment if all was in order after reviewing the documents. Counsel would return the whole package to the Clerk's office for final review and filing.

Therefore, [the Judge's] only responsibility is first of all to be satisfied that the matter is of sufficient urgency to "bump the line" and therefore sign the Checklist and secondly when counsel re-attends before [the Judge] which will presumably be during the same duty week with all of the documents and the completed form, [the Judge] will be able to review and sign the Divorce Judgment if appropriate.

January 18, 1999

W.K. Moore

Counsel must fill out this Form Personally

RUSH DIVORCE CHECKLIST

4801- _____

Date _____

STYLE _____ vs _____

CLAIM

- ☐ Grounds have been met
- ☐ Bars for Divorce are correct
- ☐ Relief requested is accurate
- ☐ Clearance has been received from Ottawa *MANDATORY*

PROOF OF SERVICE

- ☐ Affidavit of Service has been commissioned properly
- ☐ Exhibits have been marked and are attached properly
- ☐ Service admitted by Solicitor (Alberta Bar) *CANNOT NOTE IN DEFAULT WITHOUT LEAVE*

ADDITIONAL PLEADINGS

- ☐ Praecept to Note in Default *FIAT REQUIRED IF SERVICE WAS ADMITTED*
- ☐ Demand of Notice
- ☐ Statement of Defence and Counterclaim
- ☐ Answer and/or Counter Petition

REQUEST FOR DESK DIVORCE

- ☐ Request for Divorce
- ☐ With Consent (Affidavit of Execution attached if consented to by an individual)
- ☐ Child Support Centre has reviewed guideline forms *MANDATORY*

EVIDENCE

- ☐ Affidavit of Applicant has been commissioned properly
- ☐ Government issued marriage certificate attached as an exhibit
- ☐ Marriage has been proven in solemn form *APPLIES TO MARRIAGES OUTSIDE CANADA*
- ☐ Affidavit of Adultery has been commissioned properly

WAIVING APPEAL PERIOD YES/NO

- ☐ Special circumstance detailed in Affidavit
- ☐ Undertakings not to appeal by both parties *MANDATORY*
- ☐ Judgment is in the proper format

PARENTING COURSE

- ☐ Certificate or Exemption obtained

I hereby certify to the Court I have reviewed and completed the above personally and that all rules and regulations have been complied with in full.

Dated this _____ day of _____ 19____

Signed _____
Counsel for Applicant

3. MARRIAGE CERTIFICATES AND SERVICE**1. Marriage Certificates**

As directed by the Chief Justice, if parties are married in Canada, they must produce a marriage certificate as part of their affidavit evidence in order to obtain a divorce. If parties were married outside of Canada then they must prove the marriage in solemn form in the affidavit. It is helpful, but not necessary, to attach a marriage certificate for marriages outside of Canada, either a religious or government type certificate, if the same happens to be available to the lawyer or their client. One of the reasons as to why this is helpful is that many people do not remember when they were married and it is simply another check to see if that certificate corresponds with the information in solemn form.

2. Service

a) On those occasions where the Affidavit of Service cannot be located and is required for the proceedings, it would be sufficient if either they signed an affidavit or, as part of the client's affidavit for the divorce, indicated under oath what they had done to search for the Affidavit of Service. The affidavit from the respondent's lawyer should confirm that in fact their client is the respondent, and the respondent has given them

instructions throughout the file with respect to pleadings and other matters. In that way the Court will be satisfied that service has actually been made. The Rules of Court do not specify what is to be contained in the Affidavit of Service or who is to be the deponent of an affidavit with respect to the service so there are a number of alternatives available. Rule 564(3) basically says that the proof of service is to be given in a manner that satisfies the Court that the party required to be served has been personally served. Therefore, this can be achieved simply by a note to the justice so that the justice can determine whether or not on the evidence the respondent has been served. The Clerks cannot enter a Note in Default where service is not in order. Therefore, in default situations, the lawyer for the Plaintiff must first attend in Chambers to try and obtain a Fiat deeming service good and sufficient. The documents can then be sent to the Clerk's Office.

b) Where there is an Affidavit of Service but a different means of identifying the respondent has been used, i.e., driver's license, credit card, etc., it will be sent to the justice with a note from the Clerk pointing out the problem. The judge will then determine whether or not they are satisfied with the method of service.

October 12, 1999

Moore, C.J.

4. **ORDERS - FAMILY LAW MATTERS**¹¹

Commencing July 1, 2001, it is requested that orders in family law matters be filed on green paper, pale enough that it can be photocopied. The purpose of having orders on coloured paper is so that they can be easily found on the court files.

Please note that the use of green paper is not mandatory as orders on white paper will still be accepted, but it would be appreciated if parties would voluntarily prepare their orders on green paper.

June 5, 2001

The Honourable Madam
Justice Trussler, for the Court

5. **NOTICE TO THE EDMONTON FAMILY LAW BAR - CHILD SUPPORT RESOLUTION PROJECT**

I am writing to advise you that effective September 1st, 2002, a Child Support Resolution Project, somewhat like the Dispute Resolution Officer ("DRO") Project in Calgary, will be implemented in Edmonton. The project will be restricted to matters where applicants are self-represented. Prior to a court hearing, the applicant and respondent will be required to attend in front of a Child Support Resolution Officer, who are counsel in the Family Law Information Centre, in an attempt to resolve the application by consent. At times a respondent may be represented by counsel. Counsel may either send their clients by themselves to appear before the Child Support Resolution Officer or counsel may also attend with their clients. The parties will be required to bring all of their financial information to the meeting.

Thank you for your cooperation in the implementation of this new project.

August 30, 2002

Allan H. Wachowich

6. **SUMMARY OF CHILD SUPPORT GUIDELINE**

1. Summary of Child Support Guideline Calculations (one page)
2. Undue Hardship Claims Only - Standards of Living Test (two pages)

¹¹

This request was not formally issued as a Notice to the Profession but rather expressed in the form of letters to chairs of Bar committees and the judiciary. What follows is an edited summary of the salient elements of this request.

These forms are designated as the required "information and data sheets" pursuant to the Court of Queen's Bench Family Law Practice Note '3', paragraphs A.2 and B.3. These forms replace and simplify the former Child Support Information and Data Sheets. They will be instituted gradually to allow the various software companies to update the child support programs. The Court will not reject child support applications for reason of submission of old forms for approximately three months time to allow for this transition.

These forms are required for both desk (consent orders and divorce judgments) and contested applications. They replace the former Child Support Information and Data Sheets effective November 1, 2000. However the forms presently being used will be accepted during the transition period of four months.

As the title suggests, the 2 page "Undue Hardship Claims Only" sheet need only be submitted if there is an undue hardship claim.

Please note that the Summary of Child Support Guideline Calculations is to contain a calculation of child support in accordance with the Federal Child Support Guidelines and will not necessarily be the same as the amount requested in a consent child support order or by reason of special circumstances. If asking the Court for a different amount, you must indicate so at the bottom of the form, providing both the different amount and the reasons for departing.

These forms are available on the Alberta Courts Web Page at:

<http://www.albertacourts.ab.ca/>

and at the Family Law Information Centre in Edmonton and Calgary (formerly the Queen's Bench Child Support Centre).

November 27, 2002

Trussler, J., for
Chief Justice W.K. Moore

7. POLICE ENFORCEMENT/ASSISTANCE CLAUSE¹²

After consultation with the Police Services in both Edmonton and Calgary, the Court of Queen's Bench has developed a standard form police enforcement clause that may be used in family law matters other than restraining orders. The clause presently mandated for restraining orders will remain the same but the following clause will be used in other matters:

If either of the parties or any other person on their behalf, breaches any of the terms of this Order, then a Peace Officer shall provide assistance to ensure that the offending party complies with its terms. Before enforcing the terms of this Order, a Peace Officer must first ensure that the party has been served with a copy of this Order. If not served, the party must be shown a copy of the Order by the Peace Officer and be given a reasonable time to comply with its terms. If the party fails or refuses to comply with this Order, the Peace Officer shall do such lawful acts as may be necessary to give effect to its terms including, if necessary, arrest, detain and bring the party at the earliest possible time before a Justice of the Court of Queen's Bench to show cause why the party should not be cited for civil contempt.

June 19, 2003

A.H. Wachowich

¹²

This Notice replaces the Notice on the same subject dated June 21, 2002. Notwithstanding its wording, it is used for both restraining orders and other family orders. While this Notice may apply to other cases, it is primarily seen in Family Law cases and therefore the reason for inclusion here.

8. SPOUSAL SUPPORT WAIVERS

As a result of the *Miglin* case, the Court has developed a policy with respect to agreements to waive spousal support:

There shall be no reference in the body of a Consent Divorce Judgment to a party waiver of spousal support, whether that waiver be mutual, one sided or at a future time. Nor shall any relinquishment of the right to apply for spousal support appear in the body of the Consent Divorce Judgment. Rather, an agreement to waive or relinquish rights may only be contained in the Recitals to the Consent Divorce Judgment.

Time limited spousal support shall appear in the body of the Judgment. The right to apply before a certain time shall also appear in the body of the Judgment. However, an agreement to waive or relinquish which takes effect after the conclusion of a payment stream or before a certain date shall appear in the Recitals.

The following are acceptable Recitals to a Consent Divorce Judgment:

*And Whereas the parties hereto have agreed to the following _____
(waiver/relinquishment of rights) in relation to Spousal Support:*

"Quote the paragraph from the agreement"

(If applicable)

And Whereas the parties each received independent Legal Advice in relation to their agreement on Spousal Support.

June 19, 2003

A.H. Wachowich

9. FAMILY LAW PRACTICE NOTES OF THE COURT OF QUEEN'S BENCH OF ALBERTA

The Family Law Bar is reminded that it is expected to comply with all Family Law Practice Notes of the Court of Queen's Bench of Alberta. It was noted recently by a number of judges that there is a substantial noncompliance, particularly with respect to Practice Note 3. All members of the Family Law Bar should have detailed knowledge of the practice notes.

The clerk in each judicial district has been requested to ensure that all requirements of the practice notes are met. Practitioners should be aware that costs pursuant to Rule 599.1 may be imposed against them personally for lack of compliance.

The Family Law Bar is also reminded that the Court is requesting that all interim orders and divorce judgments be filed on green paper.

June 19, 2003

A.H. Wachowich

10. PILOT PROJECT - CALGARY UNCONTESTED DIVORCE PROCEDURES

As you are undoubtedly aware, the time that it is taking to process uncontested divorces through the Divorce Clerk's Office and the Family Law Information Centre in Calgary continues to be a problem. The Court has made what changes it can but the delay is still excessive. This delay is compounded when documents are returned for correction as they are processed in the same fashion as documents coming in for filing for the first time. Over the last one to two years, the delay has been anywhere from 4 weeks to 9 weeks.

As a result, Chief Justice Wachowich and Associate Chief Justice Sulatycky have authorized a pilot project to deal with uncontested divorces in Calgary starting in September of 2004. This will provide a more expeditious process for those cases which simply cannot await the delays which we have been experiencing with uncontested divorces.

This process is not intended to replace the desk procedure currently in place but, rather, to augment it; in particular, to deal with emergent matters or matters which may require correction or additional information. The process will commence Monday, September 13th, 2004 and continue on the second Monday of each month thereafter.

These matters will be set on the Uncontested Divorce Docket which is scheduled for the second Monday of each month commencing at 2 p.m. If it is a long weekend, the matters will be scheduled on the Tuesday following the Monday holiday.

The process for setting the matter down will be by Notice of Motion. All of the same documents required for desk divorces (except for the Request for Divorce) must be filed with the Motion. The affidavit will be the Affidavit of Applicant as currently required. All documents are to be filed and served at least seven (7) days

This will allow the Justice to deal with any and all issues right then and there. If satisfactory, the Justice will sign the Judgment at the hearing.

We thank you for your patience in getting this pilot project up and running and we hope that it will assist in dealing with the backlog and delay we are currently experiencing. The effectiveness of the project will be reviewed in the new year.

August 5, 2004

The Honourable Madam
Justice Kenny, for the Court

11. NOTICE TO CLERK TO PROCEED WITH ADOPTION

I forward the attached notice for distribution to persons who deal with adoptions.

November 10, 2004

Chief Justice A.H. Wachowich

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF _____

IN THE MATTER OF THE CHILD, YOUTH & FAMILY ENHANCEMENT ACT,
Section 64
AND IN THE MATTER OF THE APPLICATION BY

Name of Petitioner(s)

FOR AN ADOPTION ORDER IN RESPECT OF
THE CHILD _____
Name as on Birth Document

BORN ON _____
Date (yyyy/mm/dd)

NOTICE TO CLERK TO PROCEED WITH ADOPTION

To the Clerk of the Court:

1. I have served the persons required to be served with an application and a Notice of Objection to Adoption in the prescribed form.
2. Ten days have passed from the date of service of notice of my application on the persons required to be served.
3. I have filed all the necessary Affidavits of Service or Affidavits containing evidence as to why service should be dispensed with or as to the manner of service approved.
4. No Notice of Objection has been filed.
5. I am asking the Clerk to forward my application to the Justice for consideration.

Dated at _____, Alberta

on _____
Date (yyyy/mm/dd)

Signature of Petitioner

Print Name

Signature of Petitioner

Print Name

12. PRACTICE DIRECTIVE - FAMILY LAW CHAMBERS EDMONTON - CHRISTMAS

In the Judicial District of Edmonton, family chambers matters cannot be adjourned from November 15th onwards into the ten chambers sitting days before the Christmas vacation unless the subject matter of the application involves Christmas access.

December 21, 2004

A.H. Wachowich
Chief Justice

13. FAMILY LAW ACT - SELF-REPRESENTED LITIGANTS APPLICATIONS FOR PARENTING, CONTACT OR GUARDIANSHIP

All self-represented litigants who intend to bring an application under the Family Law Act for parenting, contact or guardianship must first meet with a family court counsellor before filing the application. This Practice Directive applies only in the Judicial District of Edmonton.

(As at September 30, 2005)

A.H. Wachowich
Chief Justice

14. MASTER FIAT REGARDING MAINTENANCE ENFORCEMENT PROGRAM FILE TRANSFER

Pursuant to Rule 12 which governs the court's authority to transfer files, where:

- (a) a support agreement or order is filed in the Judicial District of Edmonton by the Maintenance Enforcement Program for enforcement purposes; and*
- (b) no Court of Queen's Bench action number exists until the order or agreement is filed, and a party to the order or agreement lives in another judicial district and applies for an order involving the same children;*

let all the proceedings in these actions be permanently transferred to the judicial district where the applying party applied.

December 12, 2005

*_____
The Honourable A.H.J. Wachowich, Chief Justice*

15. RESUMPTION OF PUBLICATION OF FAMILY LAW JUDGMENTS ON THE COURT OF QUEEN'S BENCH OF ALBERTA COURTS WEBSITE

*_____
Effective June 1, 2006, our court resumed publication of family law judgments on the Alberta Courts website. The background to this change in court policy is described below.*

Non-publication policy adopted in June 2002

In June 2002, the court decided to stop publishing family law judgments on the Alberta Court's website. This policy did not affect the distribution of family law judgments to legal publishers, which continued unchanged. Family law judgments also continued to be available at the Clerk's office from which they were issued, as well as being available from the courthouse library.

Resumption of publication effective June 1, 2006

*_____
Since this non-publication policy was introduced, concerns have been raised that the policy impedes the ability of the public and members of the profession to access the law in family matters.*

After consideration, the court decided to resume publication of family law judgments on the Alberta Courts website effective June 1, 2006. Decisions from June 2, 2002 to May 31, 2006 will also be restored to the website, as time permits.

In restoring the family law decisions of the Alberta Court of Queen's Bench to the Internet, our Court is consistent with the recommendations of the Canadian Judicial Council in its "Personal Information in Judgments Protocol" (March 2005). We also join a number of other courts that have made the same choice. The "Personal Information in Judgments Protocol" recommends that courts make all of their written decisions available on the Internet, provided that the judgments comply with any applicable publication bans. The Protocol also recognizes that it is sometimes desirable to provide discretionary protection of privacy interests. Even in the absence of a ban, in exceptional cases the presence of egregious facts may justify omitting identifying information from a judgment. The omission may be necessary to avoid harm to minor children or third parties, or to prevent the information being used for an improper purpose.

This is consistent With the approach we have taken to the judgment database generally, and we will simply apply this approach to bringing our family law decisions to the Internet.

July 27, 2006

Allan H. Wachowich
Chief Justice

16. **EDMONTON FAMILY LAW SPECIAL APPLICATIONS (Effective September 1, 2008)**

In the past, the Court of Queen's Bench has scheduled family law special applications based upon counsels' estimates regarding how long the applications are expected to take and on the assumption that approximately 50% would not proceed. This procedure has become unworkable. Estimates did not take into account the time necessary to hear any cross applications and were sometimes inaccurate. Sometimes the assumed 50% drop-off rate did not materialize and many more than 50% of the cases actually proceeded. The result has been that afternoon special chambers lists were sometimes too long to permit a proper hearing of all cases. To address this problem, the method used to schedule family law special applications has changed effective September 1, 2008.

While parties can continue to telephone Chambers to determine next available dates, special Chambers times can no longer be reserved by telephone and an application will not be considered booked until the Notice of Motion and affidavit in support have been filed. In order to ensure that Chambers records are clear, all Notices of Motion and affidavits for family law chambers must be filed at the Chambers wicket and not in the general Clerk's office filing wickets.

No more than two applications (and any related cross application) will be heard by each individual judge each afternoon, however, others maybe booked on over-book and will be heard if an earlier filed application is struck, adjourns or settles. Counsel is reminded that if the estimated time to hear the application is more than one hour, or if there is more than one cross application, then a half day should be booked through the Trial Co-ordinators' office and the matter should not be-scheduled for special chambers. Chamber's office will contact counsel for over-booked matters, if earlier filed matters have collapsed so that parties will be aware that their matter is now certain to be heard.

When parties telephone Chambers they will be told the next- available date where times remain open, and can request to be put on over-book for an earlier date. Once all available hearing spaces are booked, Chambers will over-book as many as 4 additional cases for each date. It will be made clear to parties if they are booked or over-booked when they file their documents.

The Court will make every effort to hear over-booked matters with the earliest booked to have the highest priority. If an over-booked matter does not proceed on the date scheduled, it will be given priority for the next booked date and will not be bumped.

Practice Note 3 deadlines will continue to apply. Parties on over-book for a particular date must also comply with the time lines set out in Practice Note 3.

Questions regarding this new procedure may be directed to the Edmonton Family Law Chambers Supervisor.

Dated : September 12, 2008

Allan H. Wachowich, Chief Justice

E. **GENERAL**

1. **GUIDELINES FOR JUDICIAL DISPUTE RESOLUTION** (now moved to "CIVIL")

1. **PROCEDURE FOR BOOKING A JUDICIAL DISPUTE RESOLUTION IN EDMONTON AND CALGARY** (now moved to “CIVIL”)

1. **GOWNING**

When does the Court (and counsel) gown? The answer may vary with the Judicial Centre (e.g. Calgary v. Edmonton), but the following are the general rules as to when gowning is necessary (when in doubt, ask the Trial Co-ordinator(s)):

- Anytime *viva voce* evidence is to be heard
 - trials, special chambers (only if *viva voce* evidence)
 - Reciprocal Enforcement of Maintenance Orders Act (provisional and confirmation)¹³
 But not
 - pretrial conferences or mini trials [judicial dispute resolution]
 - divorces - Calgary = No, but Edmonton = discretion of Judge¹⁴
 - C.U.P. [Parentage and Maintenance] (Docket)
- All criminal trials, and most criminal proceedings, including
 - guilty pleas
 - arraignments
 - jury selection
 But not
 - for bail, bail forfeitures, pretrial conferences (perhaps unless an accused is unrepresented and the conference is on the record), remands only & adjournments
- All civil trials (including uncontested divorces, summary trials, estate trials and assessments)
- All appeals (except Masters)¹⁵
 - summary convictions'
 - small debt
 - surface rights
- Parentage (C.U.P.'s) & Maintenance Recovery & Dependent Adult
 - for *viva voce* hearings only, not docket - if both together the judge should be gowned for all and counsel for those where there is *viva voce* evidence
- For Judgment (Except where no gowning for the hearing) - see *Wong v. Vancouver Art Gallery* [1986] B.C.J. No. 2694 (S.C. - Gibbs, J.)
- Ceremonial Hearings
 - Adoptions (Calgary = in the discretion of the Judge - remember it is an important ceremony to those involved) (Edmonton = gowning)
 - Bar Admissions (for students-at-law, although transfer and second bar admissions are at the discretion of the Judge)
 - Swearing-in Ceremonies

¹³ Now add Summary Trials, even without *viva voce* evidence.

¹⁴ Generally all oral hearings for divorce require gowning.

¹⁵ The list that follows is not exhaustive - obviously included should be appeals from Provincial Court, Family Division.

- Not for (unless *viva voce* evidence is to be heard):
 - Bankruptcy hearings
 - Board of inquiries
 - Chambers, unless *viva voce* evidence
 - Maintenance Enforcement Show Cause Hearings

January, 2001

(Unsigned)¹⁶

2. FORMS OF ADDRESS

On January 26, 2001, the Court resolved that members of the Court may be referred to as “Mr. Justice” or “Madam Justice” (as appropriate), or “Justice”, in addition to continuing the use of “My Lord” or “My Lady” (as appropriate)¹⁷.

February 9, 2001

***Allan H. Wachowich
Chief Justice***

3. ELECTRONIC CITATIONS OF CASE LAW

I issue the following direction to counsel in response to inquiries received regarding the citation of case authority to electronic data bases and the provision to the court of copies of cases taken from such databases.

1. In any written submissions used in the Court of queen’s Bench, counsel may cite case authority to a reliable electronic database.
2. If a citation to a reliable electronic database is used in a written submission, a printout of the case cited should be provided with the submissions.
3. If an alternative citation to a conventional report series is easily obtainable, it should also be provided.
4. When presenting copies of case authority to the court counsel may provide either copies of cases printed from the reliable electronic database, or copies of cases taken from conventional hard-copy reports, as counsel may choose.
5. “Electronic database” is intended to include proprietary online databases, CD-ROM databases and internet databases. The following data bases will be considered reliable for the purposes of this direction:
 - a. Any database maintained by or on behalf of a Canadian court,
 - b. Any QuickLaw case database
 - c. Any eCarswell case database
 - d. Any Maritime Law Book database
 - e. Any Canada Law Book case database

¹⁶ This Notice was not formally publically issued by the Court, but has been utilized internally within the Court as a general reference, and often referenced by the Clerks’ Offices and sometimes distributed to counsel. It is recognized that some minor different practices may be followed in some Judicial Districts and by some Justices.

¹⁷ ***Note that the proper and acceptable form of address for a Master of the Court of Queen’s Bench is “Master”, “Sir”, or “Madam”, not “Your Honour”, or “Mr. Master”, or “Ms. Master”, or other appellation.***

- f. Any CCH Canadian case database
- g. Any Butterworths case database
- h. Any Lexis-Nexis case database
- i. Any Westlaw case database

Other databases may be added to this list when the court is satisfied they also are reliable.

February 1, 2002

Allan H. Wachowich
Chief Justice
Court of Queen's Bench of Alberta

4. LETHBRIDGE/MACLEOD - SITTINGS - 2010

A Notice to the Profession relating to the Lethbridge/MacLeod sittings was first issued on October 12, 2004, applicable to the then up-coming year of 2005. It is issued annually to the same general effect. The following is the directive for 2010, which will not necessarily be reprinted herein each year, but should be read mutatis mutandis.

THE JUSTICE ASSIGNED TO SOUTHERN DUTY WILL HEAR THE FOLLOWING MATTERS ON THE DATES SPECIFIED:

FAMILY LAW CHAMBERS: (Contested Family Law Chambers applications likely to take longer than 20 minutes but not more than one hour to argue, and require the filing of a Concise Letter listing the issues and citing all authorities, but no written Briefs): starting Monday, January 11, 2010, and on every Monday thereafter throughout the year, these applications will be heard commencing at 1:30 p.m. or immediately following any Adoptions that have been set.

ADOPTIONS: Starting Monday, January 11, 2010, and on every second and fourth Monday of each month thereafter throughout the year, commencing at 1:30 p.m. Where the Monday is a holiday, the assignment will be lost. Those dates are as follows:

Monday	January	11
Monday	January	25
Monday	February	8
Monday	February	22
Monday	March	8
Monday	March	22
Monday	April	12
Monday	April	26
Monday	May	10
Monday	June	14
Monday	June	28
Monday	July	12
Monday	July	26
Monday	August	9

Monday	August	23
Monday	September	13
Monday	September	27
Monday	October	25
Monday	November	8
Monday	November	22
Monday	December	13

BAIL FORFEITURES, CRIMINAL ARRAIGNMENTS

AND SUMMARY CONVICTION APPEALS: (Starting Monday, January 11, 2010, and on every second and fourth Monday of each month thereafter throughout the year commencing at 10:00 a.m. Where the Monday is a holiday, the assignment will be lost. Those dates are as follows:

Monday	January	11
Monday	January	25
Monday	February	8
Monday	February	22
Monday	March	8
Monday	March	22
Monday	April	12
Monday	April	26
Monday	May	10
Monday	June	14
Monday	June	28
Monday	July	12
Monday	July	26
Monday	August	9
Monday	August	23
Monday	September	13
Monday	September	27
Monday	October	25
Monday	November	8
Monday	November	22
Monday	December	13

DVC - DOMESTIC VIOLENCE COURT: Starting Tuesday, January 12, 2010, and on every Tuesday thereafter throughout the year, Stand Alone Restraining Orders and EPO (Emergency Protection Order) Reviews, will be heard commencing at 9:00 a.m. prior to the Regular Chambers List.

REGULAR CHAMBERS: (Chambers applications, Civil and Family Law, not likely to take longer than 20 minutes): starting Tuesday, January 12, 2010, and on every Tuesday thereafter throughout the year, regular Chambers applications will be heard commencing at 10:00 a.m. The Civil Law list will be heard first, and then the Family Law list will be heard.

SPECIAL CHAMBERS APPLICATIONS: (Contested Civil Law Chambers applications likely to take longer than 20 minutes but not more than one hour to argue, Appeals from the Master, and contested Family Law matters that will take more than an hour will be heard throughout the week on days and times fixed by the Trial Co-ordinator. In each of these cases written Briefs will be filed.

BAIL REVIEWS: Will be heard at 9:00 a.m. on dates or times fixed by the Trial Co-ordinator.

CRIMINAL JURY PRE-TRIAL CONFERENCES: These will be fixed by the Court when the trial date is

fixed, and will generally be on the Monday of Criminal Arraignments.

JUDICIAL DISPUTE RESOLUTIONS: *These matters will be heard on dates and times specified by the Trial Co-ordinator.*

CASE MANAGEMENT: *These matters will be heard generally at 9:00 a.m. on dates specified by the Case Management Co-ordinator.*

CIVIL CLAIMS COURT APPEALS: *These matters will be heard on such other special dates and times specified by the Trial Co-ordinator.*

FAMILY COURT APPEALS: *These matters will be heard following Family Law Act Part I & III and Confirmation Hearings on the Wednesdays specified for such Hearings, or on such other special dates and times specified by the Trial Co-ordinator.*

IRRIGATION RATE ENFORCEMENT HEARINGS: *Will be heard on such special dates and times specified by the Trial Co-ordinator.*

CSL - CHILD SUPPORT LIST (Family Law Act Part I Parentage and Part III Child Support)
(excluding matters under the Divorce Act) and CONFIRMATION HEARINGS:

Commencing Wednesday, January 20, 2010, and on every third Wednesday of each month thereafter throughout the year, these matters will be heard commencing at 10:00 a.m.. Those dates are as follows:

Wednesday	January	20
Wednesday	February	17
Wednesday	March	17
Wednesday	April	21
Wednesday	May	19
Wednesday	June	16
Wednesday	July	21
Wednesday	August	18
Wednesday	September	15
Wednesday	October	20
Wednesday	November	17
Wednesday	December	15

MASTERS & BANKRUPTCY HEARINGS: *Starting Thursday, January 7, 2010, and on every Thursday thereafter throughout the year, with the exception of the months of July and August, wherein they will be heard every second Thursday for the summer months, the dates to be later designated by the Court. Conference Calls will be heard commencing at 9:30 a.m.; regular Masters applications will be heard commencing at 10:00 a.m.; Bankruptcy matters will be heard commencing at 10:45 a.m.; Default Hearings and Specials will be heard commencing at 11:00 a.m. Bankruptcy matters will be heard every 1st, 3rd and 5th Thursday of each month. Bankruptcy Hearings will be heard on such special dates and times specified by the Trial Co-ordinator. Default Hearings and Special Applications will be heard every 2nd and 4th Thursday of each month. Where the Thursday is a holiday, the assignment will be lost.*

NOTE: *The term "throughout the year" used herein does not include holidays or the Court Christmas vacation period specified in the Alberta Rules of Court. The Christmas Vacation Period is Rule 553(b) wherein it states:*

The Christmas vacation to consist of the period from the 22nd day of December to the 6th day of the following January.

Please make a note of these dates on your calendar, the last Tuesday Chambers in 2009 is December 15; the first Tuesday Chambers in 2010 is January 12.

September 2009

Justice J.H. Langston
For the Chief Justice

5. MEDICINE HAT - SITTINGS 2010

A Notice to the Profession relating to the Medicine Hat sittings was first issued on October 12, 2004, applicable to the then up-coming year of 2005. It is issued annually to the same general effect. The following is the directive for 2010, which will not necessarily be reprinted herein each year, but should be read mutatis mutandis.

THE JUSTICE ASSIGNED TO SOUTHERN DUTY WILL HEAR THE FOLLOWING MATTERS ON THE DATES SPECIFIED:

REGULAR CHAMBERS: *(Chambers applications, Civil and Family Law, not likely to take longer than 20 minutes): starting Thursday, January 7, 2010, and on every Thursday thereafter throughout the year, regular Chambers applications will be heard commencing at 10:00 a.m. The Civil Law list will be heard first, and then the Family Law list will be heard.*

FAMILY LAW CHAMBERS: *(Contested Family Law Chambers applications likely to take longer than 20 minutes but not longer than one hour to argue, and require the filing of a Concise Letter listing the issues and citing all authorities, but no written Briefs): will be heard on Thursdays commencing at 1:30 p.m., or on such other dates and times as are fixed by the Trial Co-ordinator.*

SPECIAL CHAMBERS APPLICATIONS: *(Contested Civil Law Chambers applications likely to take more than 20 minutes to argue but not more than one hour to argue, Appeals from the Master and contested Family Law applications that will take more than an hour) will be heard on Thursday afternoon (if available) or on Fridays commencing at 10:00 a.m., or on such other dates and times fixed by the Trial Co-ordinator. In each of these cases written Briefs will be filed.*

BAIL FORFEITURES, CRIMINAL ARRAIGNMENTS, BAIL REVIEWS, AND SUMMARY CONVICTION APPEALS: *Starting Thursday, January 21, 2010, and on every third Thursday of each month, thereafter throughout the year, these matters will be heard commencing at 9:00 a.m. Those dates are as follows:*

Thursday	January	21
Thursday	February	18
Thursday	March	18
Thursday	April	15
Thursday	May	20
Thursday	June	17
Thursday	July	15
Thursday	August	19
Thursday	September	16

Thursday	October	21
Thursday	November	18
Thursday	December	16

CRIMINAL JURY PRE-TRIAL CONFERENCES: These will be fixed by the Court, when the trial date is fixed, and will generally be held on a Thursday at 1:30 p.m.

CSL- CHILD SUPPORT LIST (FAMILY LAW ACT PART I PARENTAGE and PART III CHILD SUPPORT) (excluding matters under the Divorce Act) and CONFIRMATION HEARINGS:

These matters will be heard every fourth Thursday of each month thereafter throughout the year. Matters will be heard commencing at 11:00 a.m., following regular Chambers. Where the Thursday is lost, another date will be specified. Those dates are as follows:

Thursday	January	7
Thursday	February	25
Thursday	March	25
Thursday	April	22
Thursday	May	27
Thursday	June	24
Thursday	July	22
Thursday	August	26
Thursday	September	23
Thursday	October	28
Thursday	November	25
Thursday	December	9

ADOPTIONS AND UNDEFENDED DIVORCES: These will be heard on dates and times fixed by the Trial Coordinator.

JUDICIAL DISPUTE RESOLUTIONS: (These include Civil and Family Law Pre-trial Conferences, Case Management, mini-trials and settlement meetings and, as available Special Chambers). These matters will be heard on Thursday afternoons, and additionally on Friday throughout the year at 10:00 a.m., or at times to be fixed by the Trial Co-ordinator.

CIVIL CLAIMS COURT APPEALS: These matters will be heard following Summary Conviction Appeals on the Thursdays specified for Summary Conviction Appeals, or on such other special dates and times fixed by the Court or the Trial Co-ordinator.

FAMILY COURT APPEALS: These matters will be heard following Family Law Act Part I & III and Confirmation Hearings on the Thursdays specified for such Hearings, or on such other special dates and times fixed by the Court or the Trial Co-ordinator.

BANKRUPTCY HEARINGS AND IRRIGATION RATE ENFORCEMENT HEARINGS: Will be heard on such special dates and times specified by the Trial Co-ordinator.

ADVICE AND DIRECTIONS: The Duty Judge will be available for informal advice and directions with respect to desk divorces, estate applications and other concerns of counsel between 9:00 a.m. and 10:00 a.m. every Friday morning.

MASTERS: Masters Chambers will be heard starting Wednesday, January 20, 2010.

Default Hearings and Specials will be heard on the dates noted below. For the months of July and August, they will be heard once a month, the summer dates to be later designated by the Court. Those dates are as follows:

Wednesday	January	(lost)
Wednesday	February	3
Wednesday	March	3
Wednesday	March	31
Wednesday	May	5
Wednesday	June	2
Wednesday	September	1
Wednesday	October	6
Wednesday	November	3
Wednesday	December	1

Bankruptcy Hearings will be heard every third Wednesday, thereafter throughout the year, with the exception of the months of July and August, wherein they will be heard once a month, the summer dates to be later designated by the Court. Where the Wednesday is lost, another date will be specified.

Wednesday	January	20
Wednesday	February	17
Wednesday	March	17
Wednesday	April	14
Wednesday	May	19
Wednesday	June	16
Wednesday	September	15
Wednesday	October	20
Wednesday	November	17
Wednesday	December	15

NOTE: The term "throughout the year" used herein do not include holidays or the Christmas vacation period specified in the Alberta Rules of Court. The Christmas Vacation Period is Rule 553(b) wherein it states:

The Christmas vacation to consist of the period from the 22nd day of December to the 6th day of the following January.

Please make a note of these dates on your calendar, the last Thursday Chambers in 2009 is December 17; the first Thursday Chambers in 2010 is January 7.

6. VIDEO COURTS PILOT PROJECT PROTOCOL

The enclosed Protocol for the Video Courts Pilot Project in the Court of Queen's Bench is being circulated to all justices, masters, trial and it coordinators and managers in each location where the court sits.

The Protocol is mandatory and may only be departed from with the express permission of the chief justice or associate chief justice.

November 26, 2007

**ALLAN H. WACHOWICH
CHIEF JUSTICE**

Video Courts Protocol for the Court of Queen's Bench

Some confusion has arisen respecting the scope of the video courts pilot project in the Court of Queen's Bench. This protocol is intended to clarify the parameters of the pilot project.

- 1. At this point, the use of video in the Court of Queen's Bench is a pilot project.***
- 2. At present, the pilot project has been approved for three sitting locations only: Grande Prairie, Peace River and St. Paul. In addition, Fort McMurray has some dates allocated in 2007 and 2008 on a test basis. No video conferencing will be permitted in other sitting locations unless permission has been obtained in accordance with paragraph 8.***
- 3. The pilot project is designed to give additional judicial resources to these locations. The pilot project is not designed to relieve a sitting judge from physical attendance at an assigned sitting location. Chief Justice Wachowich and Associate Chief Justice Wittmann have undertaken that this pilot project will not result in less actual sitting time in these locations.***
- 4. The pilot project is intended to be used for bail applications, pre-trial conferences and short Chambers applications, with the consent of the presiding judge and counsel.***
- 5. The pilot project is not intended to allow a judge to preside over trials or long chambers applications by video.***
- 6. The pilot project is not to be confused with the use of video during a trial, which is always in the discretion of the presiding judge.***
- 7. The use of video equipment requires substantial advance notice (a minimum of three days) to IT staff as this equipment is shared with the Provincial Court.***
- 8. This protocol will be circulated to court staff throughout Alberta. Chief Justice Wachowich and Associate Chief Justice Wittmann have directed court staff that no variation from this protocol will be permitted without their express approval in advance.***
- 9. All questions pertaining to video courts should be directed to members of the Video Courts Committee, being Belzil J., Hughes J., Macklin J., and Horner J.***

A.H. Wachowich

7.

**Notice to the Profession #2009-101
November 25, 2009**

COMMUNICATIONS WITH THE CHIEF JUSTICE & ASSOCIATE CHIEF JUSTICE

Take notice that with the retirement of Chief Justice Wachowich as Chief Justice and appointments of Chief Justice Wittmann and Associate Chief Justice Rooke respectively, communications that are not of an emergency nature with respect to matters pertaining to Edmonton should be directed to Associate Chief Justice Rooke. Communications with respect to Calgary should be directed to Chief Justice Wittmann.

Communications in other judicial centres should be directed to the Supervising Justice of that Judicial Centre or, if the Supervising Justice is unavailable, to Chief Justice Wittmann.

In the event of emergency communications, an attempt should be made to contact Chief Justice Wittmann with respect to matters pertaining to Calgary or any judicial centre other than Edmonton, and with respect to Edmonton, to Associate Chief Justice Rooke.

In the event either one is unavailable, the other should be contacted and in the event neither the Chief Justice nor the Associate Chief Justice is available, the senior judge present and available in Edmonton or Calgary should be contacted.

Should any questions arise with respect to the foregoing, please feel free to contact the Chief Justice or Associate Chief Justice.

Chief Justice Neil C. Wittmann

Associate Chief Justice J.D. Rooke ~~N.C. Wittmann~~

F. **SURROGATE**

1. **DEPENDENT ADULTS ACT - PERFECT SERVICE OF DOCUMENTS**

You will recall that I circulated amongst all the members of our Court a memorandum dated June 6, 2002 which updated a directive of 1998 as to the manner in which service is to be completed upon interested parties in any dependent adult application.

With the assistance of the CBA: Wills and Estate Sections of both Edmonton and Calgary comprehensive directions have now been prepared regarding service of all stages of dependent adult applications. My directive of June 6 dealt with only one.

Attached hereto is a directive for the benefit of all members of our Court which you might refer to when dealing with these applications and this further clarifies the directive of June 6.

July 5, 2002

Allan H. Wachowich

[NOTE: Please note that since July 2002 (in June 2004) the following Directive has been somewhat amended in wording with the intent that the subject matter remains basically the same.]

**SERVICE OF DOCUMENTS
DEPENDENT ADULT APPLICATIONS (DESK)**

The *Dependent Adults Act* does not prescribe any particular form of service of either an original application or a review application, nor on a passing of accounts.

The Act gives discretion to the court to direct the manner of service or approve a manner of service that has been effected. See:

Section 3(8)(b)	initial application to appoint guardian
Section 23(8)(b)	review of guardianship order
Section 31(8)(b)	initial application to appoint trustee
Section 49(8)(b)	review of trusteeship order

The following manner and proof of service are to be used.

INITIAL APPLICATION TO APPOINT A GUARDIAN AND/OR A TRUSTEE

Service of documents on an initial application to appoint a guardian and/or a trustee must be served:

- a) Personally (Rule 14).

Personal service may be effected by

- (i) personal service on the party; or
- (ii) an acknowledgment of service by the party (whether on the document itself or in a separate letter signed by the party) or
- (iii) a form of Consent signed by the party.

or

- b) By registered mail (Rule 22)

or

- c) By any manner of service requested by the applicant in the initial application and approved by the judge. If the judge does not approve the manner of service requested, the applicant must serve the application again on the necessary parties.

The court may approve another manner of service under sections 3(8)(b), 23(8)(b), 31 (8)(b), and 49(8)(b) of the Act.

Proof of Service

Proof of service must be filed in Form DAD 24 Affidavit of Service. This must indicate the manner of service by one of the following:

- a. Personal service:

- (i) By personal service on the party.
- (ii) By acknowledgment of service by the party - the acknowledgment must be included with the application package..
- (iii) By consent of the party - the consent must be included with the application package.

- b. By registered mail.

- (i) Attach the Acknowledgment of Receipt and Signature (see attached example) as an exhibit to the affidavit.
- (ii) Where the party did not sign the Acknowledgment (but someone else did), an affidavit to the effect that the deponent confirmed by telephone with the party that the party received the documents will require a fiat deeming service good and sufficient.

- (iii) However, any acknowledgment by a member of the staff of the Public Trustee's office or Public Guardian's office is good and sufficient service on the Public Trustee or Public Guardian.

- c. By any manner of service requested by the applicant in the initial application and approved by the judge.

Provide an Affidavit of Service showing the manner of service used for which approval is sought.

NOTE: No Affidavit of Service is necessary on a person who has signed an acknowledgment and/or consent.

APPLICATION TO REVIEW GUARDIANSHIP AND/OR A TRUSTEESHIP APPOINTMENT

Service of documents on an application to review a guardianship and/or a trusteeship appointment must be served:

- a. Personally (Rule 14).

Personal service may be effected by

- (i) personal service on the party, or
- (ii) an acknowledgment of service by the party (whether on the document itself or in a separate letter signed by the party), or
- (iii) a form of Consent signed by the party.

or

- b. By registered mail (Rule 22).

or

- c. By the manner of service for review applications (if any) as directed in the initial Order appointing the guardian and/or the trustee.

or

- d. By any manner of service requested by the applicant in the review application and approved by the judge. If the judge does not approve the manner of service requested, the applicant must serve the application again on the necessary parties.

The court may approve another manner of service under sections 3(8)(b), 23(8)(b), 31(8)(b), and 49(8)(b) of the Act.

Proof of Service

Proof of service must be filed in Form DAD 24 Affidavit of Service. This must indicate the manner of service by one of the following:

- a. Personal service:

- (i) By personal service on the party.

- (ii) By acknowledgment of service by the party - the acknowledgment must be included with the application package.
- (iii) By consent of the party - the consent must be included in the application package..

b. By registered mail.

- (i) Attach the Acknowledgment of Receipt and Signature (see attached example) as an exhibit to the affidavit.
- (ii) Where the party did not sign the Acknowledgment (but someone else did), an affidavit to the effect that the deponent confirmed by telephone with the party that the party received the documents will require a fiat deeming service good and sufficient.
- (iii) However, any acknowledgment by a member of the staff of the Public Trustee's office or the Public Guardian's office is good and sufficient service on the Public Trustee or the Public Guardian.

c. As directed by previous court order.

Attach a copy of the previous court order as an exhibit to the affidavit.

d. By any manner of service requested by the applicant in the review application and approved by the judge.

Provide an Affidavit of Service showing the manner of service used for which approval is sought.

APPLICATION TO PASS ACCOUNTS

Service of documents on an application to pass accounts must be served.

a. Personally (Rule 14).

- (i) personal service on the party, or
- (ii) an acknowledgment of service by the party (whether on the document itself or in a separate letter signed by the party) or
- (iii) a form of Consent signed by the party.

or

b. By registered mail (Rule 22).

or

c. By the manner of service for passing of accounts applications (if any) as directed in a previous Order appointing the guardian and/or the trustee or in any other order passing accounts which provides for it.

or

- d. By any manner of service requested by the applicant in the passing of accounts application and approved by the judge. If the judge does not approve the manner of service requested, the applicant must serve the application again on the necessary parties.

The court may approve another manner of service under sections 3(8)(b), 23(8)(b), 31(8)(b), and 49(8)(b) of the Act.

Proof of Service

Proof of service must be filed in Form DAD 24 Affidavit of Service. This must indicate the manner of service by one of the following:

- a. Personal service on any interested persons who have not signed an approval and consent form; all approval and consent forms must be included in the application.
- b. By registered mail.
- (i) Attach the Acknowledgment of Receipt and Signature (see attached example) as an exhibit to the affidavit.
- (ii) Note, however, that any acknowledgment by a member of the staff of the Public Trustee's office or the Public Guardian's office is good and sufficient service on the Public Trustee or the Public Guardian.
- c. As directed by previous court order.
- Attach a copy of the previous court order as an exhibit to the affidavit.
- d. By any manner of service requested by the applicant in the passing of accounts application and approved by the judge.

Provide an Affidavit of Service showing the manner of service used for which approval is sought.

2. FIAT AND DIRECTIVE RE DEPENDENT ADULT DESK APPLICATIONS (SERVICE)

Rule 22 of the *Alberta Rules of Court* provides for service by mail.

Enclosed is a copy of a fiat which I have today issued, as an interim measure, to cover the problem caused by service deficiencies on an addressee when the desk application includes an acknowledgment or consent from the addressee.

"Where service is:

- a) authorized by registered mail by any enactment or an Order of the Court, and
- b) there is an acknowledgment of service or a consent signed by the addressee

the enclosure of the acknowledgment or the consent shall be deemed good and sufficient service on the addressee."

October 22, 2002

Allan H. Wachowich
Chief Justice

3. **INFORMAL TRUSTEESHIPS AND LIMITED INCOME ESTATES**

In response to the growing number of applications to appoint trustees and to pass accounts for limited income estates, the Court directs your attention to the Court of Queen's Bench Civil Practice Note #9 (Surrogate Matters, Dependent Adults Act), Paragraph 1(a):

Alternatives to Court Appointed Trustees

Applicants will be required to satisfy the Court that the proposed dependent adult's assistance with financial matters cannot be provided by an Informal trusteeship or by an enduring power of attorney.

If a dependent adult's estate consists solely of or is limited to monthly benefit payments from government agencies, an informal trusteeship may be more appropriate than an application for a Court Appointed Trusteeship under the Dependent Adults Act, R.S.A. 2000, c. D-11. An informal trusteeship can be requested by application to the appropriate government payor agency. The trustee appointed thereunder will be accountable to the payor rather than to this Court and may be required to provide an undertaking to that agency. Government payor agencies that will appoint informal trustees include:

Federal - Income Security Programs (Old Age Pension, Guaranteed Income Supplement, Spouse's Allowance, Survivorship Benefit, Canada Pension Plan); Veterans Affairs

Provincial - Department of Human Resources and Employment (Assured Income for the Severely Handicapped (AISH), Income Support)

Due to the disproportionately high costs, both in and out of court, of initiating and maintaining a Court if there is a Court Appointed Trusteeship in place but an informal trusteeship is more appropriate for the administration of the estate, an application to terminate the Court Appointed Trusteeship may be made concurrently with an application for the passing of accounts under s. 43 of the Act.

Applicants and counsel should contact the nearest government payor office for forms and further information. An overview of the informal trusteeship is also available from Alberta Justice at http://www.justice.gov.ab.ca/dependent_adults/informal_trusteeship.aspx.

February 7, 2007

*Allan H. Wachowich
Chief Justice, Court of Queen's Bench of Alberta*

*Neil C. Wittmann
Associate Chief Justice, Court of Queen's Bench of Alberta*

*L. David Wilkins
Justice, Court of Queen's Bench of Alberta
Southern Surrogate Practice Advisor*

*Vital O. Ouellette
Justice, Court of Queen's Bench of Alberta
Northern Surrogate Practice Advisor*

4.

*Notice to Profession #2009-103
December 15, 2009*

Fiat and Directive - Surrogate Estate Form NC8 - Affidavit of Execution to a Will
(Order of Council 550/2009 - Alberta Regulation 306/2009)

Pursuant to the above Order in Council, effective November 4, 2009, the content of form NC8, Affidavit of Execution to a Will, has changed.

To facilitate the transition of this amendment, the previous format of the NC8 will be acceptable if the affidavit is executed and sworn within six months after the Order in Council comes into force (sworn prior to May 4, 2010).

***Neil C. Wittmann
Chief Justice
Court of Queen's Bench of Alberta***

***John D. Rooke
Associate Chief Justice
Court of Queen's Bench of Alberta***

G. REPEALED NOTICES TO THE PROFESSION

The following Notices to the Profession of the Court are repealed:

- | | | |
|----|---|---|
| 1. | Caseflow Management Pilot Project | October 10, 1997 |
| 2. | Class Proceedings Act _____
(now dealt with in Civil Practice Note No. 1, as amended November 19, 2004) | March 1, 2004 |
| 3. | Notice to Media of Publication Bans and Similar Orders
(now dealt with in Civil Practice Note No. 12 dated July 15, 2004) | November 8, 2001 |
| 4. | Notification to Media - Publication Bans - Revised Form
(now dealt with in Civil Practice Note No. 12 dated July 15, 2004) | November 8, 2001
Revised June 21, 2002 |
| 5. | <i>Commercial Practice Committee</i> | <i>December 14, 2004</i> |
| 6. | <i>Calgary Case Management (Freeze)</i> | <i>October 4, 2007</i> |
| 7. | <i>Court House File Room - Calgary</i> | <i>March 21, 2002</i> |

May 1, 2010

Honourable N.C. Wittmann, Chief Justice
Honourable J.D. Rooke, Associate Chief Justice