



The Law Society of Manitoba

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FAMILY LAW

Chapter 2

Commencing an Action and Interim Relief

July 2023

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A. COMMENCING AN ACTION

1. Introduction

When a relationship ends, the issues that arise will be determined by the nature of the relationship, the presence of children, property, income and violence. The relief you seek and the forum and process you choose will depend upon these factors and where the parties live.

Family law encompasses the potentially broad range of status and relief issues as set out in *The Court of King's Bench Act*, the *Divorce Act* and provincial legislation including *The Family Law Act*, *The Family Support Enforcement Act* and *The Inter-Jurisdictional Support Orders Amendment Act*, all of which came into force on July 1, 2023. These new statutes contain relief previously found in *The Family Maintenance Act* (repealed July 1, 2023) and harmonize with the provisions of the *Divorce Act*. Matters such as child protection, guardianship and adoption appear in separate chapters in these materials. Other matters, such as *The Change of Name Act* and special relief under *The Insurance Act* are specific and narrow, and should be referred to as required.

This chapter will deal with the most common procedures for initiating a court action and obtaining interim relief. For summaries of the relief that may be obtained refer to the law chapters of this material.

2. Jurisdiction

In and around Winnipeg, Selkirk and Brandon, the Court of King's Bench (Family Division) has exclusive territorial jurisdiction in all family law matters (see s. 42 of *The Court of King's Bench Act* and Regulation 247/89).

Because of constitutional and statutory limits on the Provincial Court, the Court of King's Bench also has exclusive jurisdiction throughout the province in matters involving:

- divorce;
- property rights and division;
- exclusive occupancy of homes and prohibition, i.e. matters related to the use of or access to property; and
- inherent jurisdictional matters such as prerogative orders, *parens patriae*, trust or equitable remedies.

If you are in a rural area, you generally have the choice of proceeding in the King's Bench or the Provincial Court in matters of parenting (including contact with a child), support and protection orders. In these matters the Provincial Court may be more readily available because there are resident judges in more places and they sit more often than the King's Bench (Family Division).

The Provincial Court also uses a simpler and cheaper procedure. However, as noted above, there are substantial areas of relief that are not available in this court. In addition, there are no discovery proceedings available in applications to the Provincial Court. Some pre-trial processes are available.

Matters may be transferred at the instance of either party from the Provincial Court to the Court of King's Bench. In some cases, the restricted accessibility of the Court of King's Bench in rural areas may be overcome by means of a teleconference hearing, but this is seldom an ideal solution.

To answer questions as to jurisdiction you should refer to sections 41 and 42 of *The Court of King's Bench Act*, supplemented by Manitoba Regulation 247/89, and to section 19(1) of *The Provincial Court Act*, as well as to the specific legislation governing the relief which you are seeking, as the various pieces of legislation also specify the jurisdiction of the courts to deal with them.

Procedure generally is established by rules of court provided for in the acts establishing the applicable court. The King's Bench Rules deal with procedures in the Court of King's Bench and, in particular, Rule 70 deals with family proceedings.

Note that the general King's Bench Rules apply to family proceedings except to the extent that they are modified or superseded by Rule 70. Familiarity with general civil procedure is necessary in order to practice family law as there are extensive areas of procedure not specifically dealt with in Rule 70. The forms for most common procedures are provided in Rule 70.

There is also a set of Provincial Court Family Rules. These are quite brief and provide that the Rules apply except as modified by the Provincial Court Rules. The Provincial Court Rules include the form of application, answer, financial statement, order and other forms to be used in Provincial Court. These generally contain the same information as the forms found in King's Bench Rule 70.

3. Pleadings

a) General

Family law pleadings are usually different in form from those of other civil actions. However, they are still pleadings. Do not let the fill in the blank format allow you to forget this point. The simplified format does not relieve you of the obligation to clearly set out the relief your client deserves and seeks. You must state the relevant facts and statute law which will show the court that your client is entitled to that relief.

Rule 70.03 sets out that most family proceedings are commenced by a petition. If a divorce is sought that document is called a petition for divorce or a joint petition for

divorce. If relief is sought only under *The Family Law Act*, *The Family Property Act*, *The Law of Property Act* or *The Divorce or Matrimonial Causes Act (1857)* and no divorce is claimed, it is a petition. The main difference is the exclusion of matters pertaining to divorce in the petition, as the substance of the other relief is the same in each case. The three versions of petition are set out in Form 70A (petition for divorce), Form 70A.1 (joint petition for divorce) and Form 70B (petition).

For both types of proceedings, the rules provide that the petition may be used to claim relief under the specific legislation “alone or in conjunction with other relief.” In the joint petition for divorce both parties seek the same relief by consent. Rule 70.14.1 applies.

When completing either petition note in particular the new duties in section 7 of the *Divorce Act* and section 9(1) of *The Family Law Act* that require the **lawyer to certify** that they have discussed the provisions of the applicable Act concerning family dispute resolution processes with the client and have informed the client of their duties as set out in sections 7.1 - 7.6 of the *Divorce Act* and/or sections 2 - 7 of *The Family Law Act*. The duties under the *Divorce Act* also include an obligation to discuss the possibility of reconciliation unless that is inappropriate in the circumstances.

A request for parenting time or contact with a child by a person who is not the child's parent is commenced by a notice of application accompanied by a supporting affidavit.

See the May 30, 2023 [Practice Direction](#) “Re: Rule 70 Amendments: *The Family Law Act* and *The Family Support Enforcement Act*” which provides a detailed list of pleadings and their proposed procedural treatment in the court process, in effect as of July 1, 2023. The chart includes a list of proceedings that do or do not enter the FD Case Flow Model, the applicable Statute, Rule and Form, and where the matter is returnable.

Note that *The Family Law Act* contains transitional provisions in section 100(2) which provide that where pleadings have been filed under Parts 1 – V of *The Family Maintenance Act* and have not been fully disposed of prior to the July 1, 2023 in force date of *The Family Law Act*, that the provisions of *The Family Law Act* apply. It is not necessary to amend the existing pleadings.

b) Completing the Petition

All forms are available online in user friendly format in the forms section of Rule 70.

Fill in the blanks. It sounds easy; however your pleading will be better and of more use if you pay attention to how it is done. For example, some sections may not apply. The Registry does not permit portions of the form to be deleted; you must cross or "Z" them out.

Paragraph 2 of the petition for divorce (paragraph 1 of the petition) under "other" is where you add the other relief you seek. The following are examples of some of the more commonly included other relief:

- that support be paid through the Maintenance Enforcement Program;
- police assistance to enforce terms of the order;
- declaration of interest in property as a result of constructive or resulting trust, or otherwise;
- an accounting for an interest in joint property;
- a claim for the return of specific property;
- remission of arrears that may have accumulated under a prior order;
- a request to name your client and/or children as beneficiaries of life insurance and/or medical and dental insurance.

This list is far from exhaustive. The relief available to you is limited only by the facts of your case, and what is available through statute or common law. However, you cannot get what you do not seek. Rule 70.31(3) is quite specific on that point.

The particulars of the claim in paragraph 3 should do two things:

1. Briefly set out the material facts supporting other relief, just as you would in a statement of claim, though you do not have to be as formal or as detailed as in a statement of claim.
2. Set out your statutory or legal authorities:
 - a) the section of the *Divorce Act* relied upon to prove the breakdown of the marriage (e.g., "Pursuant to the *Divorce Act*, sections 8(1) and (2)(a). The parties have lived apart for over one year, and in particular since _____ (date)");
 - b) other relief under federal or provincial statutes (e.g., "pursuant to *The Pension Benefits Division Act*, *The Family Property Act*, *The Married Women's Property Act*"); and
 - c) common-law or equitable principles (e.g., "constructive or resulting trust, unjust enrichment").

It is not necessary to set out facts found elsewhere in the petition. It is, however, necessary to set out the specific facts which give rise to your other requested relief, for example, setting out the necessary criteria for a claim of unjust enrichment.

Some clients do not want their address revealed in the petition. It may be sufficient to state that your client lives “within the territorial jurisdiction of this court,” and to provide your law firm’s address.

In the list of children in paragraph 8(a) of the petition for divorce or joint petition for divorce (or 6(a) of the petition) it is helpful to specify information such as which children are now adults and independent and which children are those of one party only. This may be particularly important in dealing with the provisions concerning child support and the court’s overriding jurisdiction to review that matter.

You should specify the suit or file number of any other proceedings, the stage of such proceedings, and any relevant orders. Where information is simply unknown you should say so.

A Land Titles Office search should be performed before you complete paragraph 12 of the petition for divorce (or paragraph 10 of the petition) concerning property sought to be partitioned or sold.

c) The Financial Statement

Where support or property issues are raised, Rules 70.05 and 70.07 requires the completion of a financial statement in Form 70D as well as the financial disclosure mandated in the *Child Support Guidelines* where child support is claimed by either or both the petitioner and respondent.

In completing the monthly income section, be sure to use accurate monthly income figures. A common mistake is to simply multiply bi-weekly pay cheque figures by two. This overlooks the fact that for bi-weekly cheques there are 26 pay periods in a year (not 24), and that some deductions are made once a month, not every pay period. Consecutive pay stubs are helpful to ensure that no deductions are missed. Year-to-date totals will provide information on whether overtime hours have been worked that year.

It is important to review the expense section carefully with your client to verify that the client’s figures are accurate and reasonable, and thus defensible and credible. It is a mistake to simply type up your client’s list of expenses without assessing their reasonableness. Note also that in some cases, it is more appropriate to submit expenses based on your client’s *intended* living arrangements, rather than on your client’s actual expenses, as these may change with the court order. If this is the case, you should indicate on the form that the expenses are “estimated” and based on, for example, the applicant residing in a two bedroom apartment with one child.

Form 70D.1 is a request for financial information from the other party which must also be completed and served along with the petition.

Note that the clients must acknowledge their obligations in relation to exercising parenting time or decision-making responsibility in the best interests of the children, their obligations in the event of relocation, their obligation to provide financial disclosure and to abide by court orders.

Acknowledgment of service in Form 70C must be attached to all petitions.

d) Child Support Guidelines

In addition to child support under the Manitoba Table of the *Child Support Guidelines*, which can be relatively simple for basic support awards, there are a number of potential exceptions, such as in cases of adult children, split or shared parenting arrangements, special expenses and undue hardship. As exceptions, these represent new or different heads of relief and should be specifically pled. In these circumstances, you should indicate the exception your client is seeking by specifying it beside the request for another amount of child support in paragraph 1 or 2 of the petition, as the case may be.

The requirements for financial disclosure have now been codified and mandated. Where you plead section 7 expenses or where an answer specifically raises one of the exceptions above, the Guidelines set out specific disclosure requirements for the parties.

These comments apply as well to the answer and the reply. While replies are not common, you may be required to file a reply, for example, where an answer raises a claim for an undue hardship exception.

e) Provincial Court Application

Provincial Court applications are similar to those in the King's Bench. The Provincial Court (Family Division) Rules were renamed The Provincial Court Family Rules and amended to accord with *The Family Law Act*. New forms were also created. As in the King's Bench, in their pleadings the parties must acknowledge their obligations under *The Family Law Act*, and counsel must also certify that they have complied with the requirements of subsection 9(1) of *The Family Law Act*. The initiating pleading is an Application for relief in Form 1.

f) Filing

All originating documents are to be filed at the applicable judicial centre. You will receive a copy showing the filing date. If the matter is a rush and you do not have time to prepare a financial statement, you may file the petition with an undertaking to produce and file a financial statement.

If you are seeking a divorce you must also provide and file with the court the Vital Statistics form (not a church or religious form) of the marriage certificate or registration. A birth certificate or registration must be supplied to the court if you are seeking a declaration of parentage or parenting in an unmarried situation. Similarly, in a rush you can undertake to obtain and file the marriage or birth certificate, or provide proof that it is not readily available (e.g., if the marriage took place in a foreign country). As this is an undertaking to the court, it is very important to follow up on it.

It is not uncommon to find that the names of the parties on the marriage certificate are different from the information that your client has given to you regarding their names (e.g., spelling, middle names, etc.). Therefore, you should not file your pleadings without the marriage certificate unless it is absolutely necessary. If the names are different you will have to amend your pleading.

The petition for divorce must reflect the parties' legal names. If the name on the marriage certificate differs, this name should be added to the petition – such as John Joseph Smith AKA John J. Smith (see June 14, 2018 [Notice](#) Re: Family Division – Title of Proceedings – Marriage Certificates”).

g) Access to Family Proceeding Files

Rule 4.10 restricts access to family files to parties, counsel, a person authorized by a party or counsel on the approved form, a person acting on behalf of a party (such as a litigation guardian), and persons providing services in the family proceeding, such as an appraiser, valuator or family evaluator. Lawyers and staff of Family Justice, Manitoba Prosecutions, a Child and Family Services agency, the police, lawyers and staff of the Law Society and the media may also access the file.

Another person may request an order authorizing them to access the court file. Unless the court allows for the request to be heard without notice, the request form must be served on the parties and anyone else the judge orders, at least 4 days before the hearing of the request. At the hearing the judge may consider the person's reasons for seeking access to the court file, any potential prejudice or damage to the parties or a minor child, the proper administration of justice and any other relevant factor. If access to the file is ordered, the judge may impose conditions or limits, such as prohibitions on copying documents or restrictions on the uses that may be made of information contained in the file.

h) Service

Originating documents must be served in accordance with the King's Bench Rules. Personal service of a petition is required under Rule 70.06 unless service is accepted by a lawyer (Rule 16.03(2)), or an order of substitutional service or dispensing with service is obtained from a master of the court on motion.

Attached to each petition is an acknowledgment of service which is to be completed by the respondent when served, and attached to the affidavit of service. Generally, the address shown on the acknowledgment is the address for all future services, unless and until the respondent obtains a lawyer. If the respondent refuses to complete the acknowledgment of service, that should be noted in the affidavit of service.

Personal service must be made by someone other than the petitioner. These same rules apply for an application in the Provincial Court except that there is no acknowledgment of service.

There are specific service requirements for particular relief set out in Rule 70.06(5). If your petition includes a request for:

1. a declaration of parentage – serve the Director of Child and Family Services.
2. a change in the amount of a support order that may result in cancellation of arrears of support or suspension of enforcement of support – serve the Director of Assistance designated under *The Manitoba Assistance Act* and the director under *The Disability Support Act*.
3. a suspension of enforcement of support or arrears where the responding party resides outside Manitoba – serve the director under *The Family Support Enforcement Act*.
4. partition or sale applications – serve on every person with a registered interest in the land, including all mortgagees of the property (see Rule 66.01(3)).
5. an application directly to the court for the return of a child as contemplated by article 29 of the *Hague Convention on the Civil Aspects of International Child Abduction*; or
6. Where notice has been given to the court respecting the return of a child under the *Hague Convention on the Civil Aspects of International Child Abduction*, any party seeking custody, private guardianship of or access to the child, serve the Family Law Section, Legal Services Branch of the Department of Justice, the central authority under the Convention.

Service re: Hague applications now appears in King's Bench Rule 70.06(5)(f). Serve the Family Law Section, Legal Services Branch of the Department of Justice, the central authority under the Convention.

7. If the respondent resides outside Canada, it is also important to consider whether the “Hague Service Convention” is applicable.

Information about the *Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* and about the Convention is available on the Hague Conference [website](#).

i) Answers and Other Pleadings

A respondent served in Manitoba who wishes to oppose the relief sought, or to seek their own relief, must file an answer (Form 70J) within 20 days of service (16 days for a Provincial Court application). A person served elsewhere in Canada or in the United States has 40 days, and outside of Canada or the United States, sixty days.

The answer is used to specify matters agreed to or contested, the respondent’s position on contested matters and to outline any relief sought by the respondent. A financial statement is attached to the answer where applicable. An answer is more like a traditional pleading in that it sets out the legal and factual basis of the respondent’s position on contested issues.

A respondent also has the option to respond to the petition with an answer and petition for divorce seeking a divorce and other relief. Such an answer and petition for divorce needs to include the necessary information to establish entitlement to divorce, in the same form as in a petition for divorce, and a marriage certificate must be provided, unless already filed by the petitioner. Generally, an answer and petition for divorce would be filed in response to a petition where no divorce has been requested and the respondent to the petition wishes to seek a divorce, or in cases where the respondent to a petition for divorce wishes to seek a divorce on grounds other than those pled by the petitioner.

Where the respondent agrees to the divorce sought by the petitioner, the respondent can also simply file an answer agreeing to the divorce and setting out the other terms of relief that they may be contesting or seeking. It may be prudent to file an answer and petition even in this case, so that the respondent can proceed with the divorce in the event the petitioner does not proceed.

The petitioner has a right to respond to any new matter raised in the answer. This is done by filing a reply (Form 70K). Similarly, where the respondent files an answer and petition for divorce the petitioner may file an answer to the divorce petition (Form 70J).

A respondent seeking relief in the provincial court will file an Answer in Form 2. An applicant may respond to any new matter raised in the Answer by filing a Reply to answer in Form 3.

j) Demand for Financial Information

When an initiating pleading or an answer is filed in which a claim for support or request to vary support is made, and if the other party's income information is necessary to determine an amount of support, then the party serving the initiating pleading or answer must also serve a demand for financial disclosure (Form 70D.1) on the other party at the same time (Rule 70.05.1). The demand for financial disclosure does not have to be filed in court at the time it is served.

When a party is served with a demand for financial disclosure, they have 30 days from the date they are served to provide the information that is requested if they live in Canada, or if they live in the United States and the matter is proceeding pursuant to the *Divorce Act*. In all other circumstances, the party has 60 days to provide the requested information.

If the party served with a demand for financial disclosure does not provide the information that has been requested within the prescribed time, then the moving party can proceed to a motion on a without notice basis and request an order for financial disclosure and/or an order based on assumptions about the served party's financial circumstances.

A party who fails to provide the information requested in the demand for financial disclosure can also be ordered to pay costs to the other party, a penalty of up to \$5,000.00, or an order can be made against them which prevents them from pursuing all or part of their case.

For these reasons, if you act for a party who has been served with a demand for financial disclosure, it is prudent that you advise them of the possible penalties if they do not provide the requested disclosure within the prescribed time. If you do not think your client will be able to provide all of the information before the deadline, it is a good idea to let the other party or their lawyer know and request an extension of the deadline if, for example, your client is waiting for Canada Revenue Agency to send them certain documents. If your client can provide part of the information, you may wish to send this in advance as a show of good faith while waiting for the rest of the information to arrive.

When preparing a demand for financial disclosure, you should consider what information, and in what form, you need from the other party in order to determine support. In paragraph 2, choose whether you wish to receive the information in its simple form, or by way of a sworn affidavit, and whether you wish the other party to file an affidavit in court. Is the information necessary to a court proceeding? Or is simply receiving the information from the other party sufficient?

In paragraph 3 of the demand, you will check the boxes indicating which information you are requesting. Consider what your client has told you about the other person's employment situation and choose accordingly. If there is any information that you require which is not listed in the standard paragraphs, you can list it at the end on the lines provided for "other" information.

k) Amendment

Family pleadings are amended in the same way and under the same rules as other civil proceedings. Amendment to accord with *The Family Law Act* is not required for pleadings filed under *The Family Maintenance Act* and not fully disposed of prior to its repeal on July 1, 2023. Such matters will proceed pursuant to provisions of *The Family Law Act* (see the transitional provisions in section 100(2)).

4. Central Divorce Registry

The federal government maintains a computer registry of all divorces filed in Canada. When a divorce petition is filed, the Court of King's Bench staff will apply to Ottawa for a Central Divorce Registry certificate (CDR Certificate). This confirms, in accordance with the requirements of the *Divorce Act*, that no other petition for divorce between these parties has been filed anywhere in Canada. In a rare case you will be advised that there is such a prior petition. You must then arrange to have that petition discontinued or dismissed, or the subsequent petition will be deemed discontinued. In the more common case you will not hear anything. The CDR certificate will simply be sent to the Court of King's Bench and placed in the court file for use at the divorce hearing.

The court will not let you set a matter for a divorce hearing until it has received the CDR certificate. It will likely take longer to obtain the CDR certificate than the default period. You may want to note default immediately upon the expiry of the default period, and then set the matter down once the CDR certificate has arrived. You can search the court registry on the internet to see if the CDR certificate is in the file.

On occasion when you have filed the petition for divorce prior to obtaining the marriage certificate, you will discover that your petition shows names or a marriage date different from those on the marriage certificate. In that case, amendments will have to be made to the petition and a new CDR certificate will have to be ordered.

5. Case Management

a) Practice Issues

Case management is a court process that allows a judge to monitor and manage the progress of a court case as it moves through the system. All family matters filed in the Winnipeg Judicial Centre are included in the case management system. The goals of this system are to facilitate settlement, identify and simplify issues in dispute and to reduce unnecessary delay in reaching a final determination of a case. A case management pamphlet must be served with the initiating pleading (Rule 70.24(18)).

Rule 70.24, Regulation 553/88 and Regulation 11/2005 govern case management practice including triage.

b) Triage

Rule 70.24(10) provides that there may be no motion to a judge until triage has taken place.

Exceptions are set out in Rule 70.24(11) and permit a motion without notice for occupation of a home under the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, a motion for a reference order to determine the date of cohabitation and/or separation, or a motion for a reference order regarding family property (with the consent of both parties) (Rule 70.25(1.4)(a)).

There are also exceptions for emergent motions under Rule 70.24(12) relating to the immediate or imminent risk of harm to a party or child, the removal of a child from Manitoba, or loss or destruction of property.

Risk of harm to a child certainly refers to literal or physical harm. Additionally, a judge may permit a hearing to determine whether a situation where one parent has abruptly, unilaterally and without explanation or apparent justification has completely or virtually eliminated all access and/or contact between the other parent and the child.

To seek an emergent hearing, contact the triage coordinator (204-945-4209 in Winnipeg) and advise of the circumstances. Request Form 70BB must be faxed to the triage coordinator. The triage duty judge will consider the matter and issue a Memorandum of Direction Regarding Emergent Hearing. If the request is denied, reasons will be provided.

If the hearing is authorized, the memorandum will provide directions and timelines for filing and serving materials, and the coordinator will schedule the hearing.

The emergent motion will be heard by the judge who determined the request, unless unavailable.

Following an emergent hearing, all triage requirements must still be complied with and triage must still take place.

Rule 70.24(15) permits masters to hear motions before triage including motions respecting service, financial disclosure, withdrawal of counsel, the appointment of a family evaluator, a reference to a designated mediator and to determine if triage requirements have been met or to compel their completion (see also Rule 70.24(21)).

In the event a party fails to comply with an order to complete the prerequisites the master may dismiss the action, strike the answer, or order costs (Rule 70.24(21.1)).

If the parties do not agree to the date of cohabitation and/or separation, the parties must seek a reference order to the master from a triage judge prior to seeking a triage conference date. This is dealt with administratively with each party filing an affidavit. If the order is granted, the moving party must file the order and seek an appointment before the master to commence the reference.

The goals of a triage conference are set out in Rule 70.24(22): to narrow the issues, resolve the issues and to determine if any issues should be adjudicated before the first case conference. Both parties and their counsel must attend.

The triage judge can hear motions and has all the powers of a case conference judge under Rule 70.24(34).

The triage judge can schedule a prioritized hearing to take place prior to a case conference, within 30 days of the triage conference (Rule 70.24(25)). A prioritized hearing is for an urgent matter (not an emergent one) which the triage judge determines should be heard prior to a case conference.

The triage judge will also set a case conference to take place within 30 days of the prioritized hearing (Rule 70.24(27)) or within 30 days of the triage conference (Rule 70.24(26)).

An appeal of a master's order (Rule 70.24(15.1-15.6)) is generally heard by a judge if it relates to striking a pleading or the setting aside of a default judgment. It may be adjourned to triage for hearing or the setting of a prioritized hearing.

To obtain a triage conference (Rule 70.24(16)) three documents must be filed:

1. A request for triage conference (Form 70D.2) specifying the triage screening date;
2. A certificate of prerequisite completion (Form 70D.3) which sets out the prerequisites. These include the closure of pleadings, exchange of financial disclosure, attendance at the parent education program, the exchange of information respecting property, attempts at settlement and service. Parties must also confirm that discoveries are complete or are not required and that any assessments are complete or underway.

This means that if court assistance is required to compel the completion of a prerequisite, appoint a family evaluator or refer to a mediator, a motion to the master will be required in order to be in a position to complete the prerequisites and file the certificate; and

3. A Triage Brief.

These documents are to be served 14 days prior to the screening date unless counsel agree to a shorter time (Rule 70.24(16)).

The other party must then file their own certificate of prerequisite completion and triage brief at least four days prior to the screening date (Rule 70.24(17)).

The contents of the triage brief (Form 70D.4) are set out in Rule 70.24(18). It must include the matters at issue such as parenting, child support, spousal support and property, the issues on which there is agreement, the party's position on the issues where there is no agreement and the party's proposals for settlement.

At the screening date, the triage conference coordinator will review, and provided all prerequisites are met, will set a triage conference date. No date will be set in the absence of completion (Rule 70.24(19)(20)).

After triage has taken place, a motion may be heard by a judge at a prioritized hearing or case conference at the dates set out by the triage judge as noted above.

c) The Case Conference

A case conference date will have been set at triage. Both parties and counsel must attend. If there is a no contact order, arrangements may be made for attendance by telephone or video. The triage judge may have directed the filing of particular materials; an updated brief may also be filed.

The case conference judge is seized of all motions and future case conferences (Rule 70.24(31)).

The case conference judge is empowered to make orders that will facilitate the just, most expeditious and least expensive determination of the matter (Rule 70.24(33)).

Rule 70.24(34) sets out a long, non-exhaustive list of orders that the case conference judge can make. In addition to procedural matters in relation to such things as amending or striking pleadings, setting time for various procedural steps and directing motions or subsequent case conferences, the judge can make substantive orders.

These include:

- an order to pay child support on an interim and reviewable basis in accordance with the Child Support Guideline tables, provided the amount does not exceed the table amount for an income of \$150,000;
- an order imputing income on an interim and reviewable basis to a party who has failed to disclose financial information;
- an order varying a protection or prevention order to permit a party to attend and communicate with the other at the proceedings; and
- orders to suspend the enforcement of support or arrears.

Trial dates will be set at the first case conference (Rule 70.24(40)). It will be extremely difficult to have those dates later adjourned, as this will need approval of the Chief Justice (Rule 70.24(42)).

After the case conference the judge will issue a memorandum setting out the results of the conference including any orders made or directions given, the issues that are resolved and those that require a hearing, the date of any subsequently scheduled case conference and the steps to be taken before that conference.

Other than what is set out in the memorandum, discussions at a case conference are without prejudice and cannot be referred to in motions or at the trial or hearing (Rule 70.24(53)). Rule 70.24(47) provides for 14 days to object to the contents of the memorandum. The other party has 7 days to respond. The case conference judge may hear the trial.

Should you wish to schedule another case conference or bring a motion not already scheduled, request Form 70DD must be filed. (See July 30, 2019 *Practice Direction* re: Recent Amendments to Queen's Bench Rule 70.) The case conference judge will consider the request. If not granted, reasons will be provided. If permitted, directions and deadlines for filing materials will be given and a date fixed. The responding party must then be served.

Failure to comply with rules or orders may have serious consequences which can include an order of costs to be paid immediately, an order staying proceedings or striking pleadings or any other order the judge deems appropriate (Rule 70.24(48)).

Given the powers of the triage judge, typically the case conference deals with trial dates and procedural matters respecting the trial.

However, it remains possible to seek an extended case conference to make further attempts at resolution. It also is possible for the parties to jointly seek a JADR (judicially assisted dispute resolution). This application is made to the Chief Justice or Associate Chief Justice with a request that one of at least three judges (not including the case conference judge) upon whom the parties agree, conduct the JADR.

d) Preparing for a Triage or Case Conference

Preparation is the key element to success at triage or case conference. These types of conferences afford you and your client a unique opportunity to have an informal meeting with a judge at an early point in the case.

- Completion of the prerequisites to obtain a triage date means you will already have exchanged materials and reviewed settlement possibilities. Be prepared

to discuss these further at the triage conference. At the case conference also be prepared to discuss steps necessary for trial and reasonable and realistic timelines.

- Prepare your client.
 - Explain what a triage or case conference is and what to expect (an informal setting, but courtesy and a business-like approach are required).
 - Advise your client that the judge will be candid and may say things with which the client disagrees.
 - The client must attend and will be expected to participate.
- Recognize that there will be conferences where the parties will be quite amicable and others that will be acrimonious. You can play a large role in moving acrimonious clients to a point where they can come to an agreement by maintaining a professional demeanour and facilitating discussion. You need to advance your client's position in a non-adversarial manner.
- Come to the conference with a plan, and leave any posturing at the courtroom door. Prioritize the issues you want to discuss, know what you are asking the judge to do and why, then provide the judge with a way to do it. (This will only work if your position is reasonable.)

Use the conference as an opportunity to discuss the strengths and weaknesses of each party's position with the objective of coming to an agreement. As part of this discussion, be prepared to identify, for the judge, the obstacles to resolving the issues. Judges will generally be prepared to provide an opinion on probable outcomes at trial if asked. This can be a useful tool in helping a client understand the strength, weakness and/or reasonableness of their position.

- For subsequent conferences, make sure that you have complied with any undertakings or agreements made at the previous triage or case conference in enough time for the other party to have considered the information. Ensure that your client understands the concept of costs and that costs can be ordered against them if the information required is not provided.
- Remember that if a settlement is reached, the case is not over. Concluding documents must be filed as soon as reasonably possible. If you wait too long, you run the risk of a judge refusing to sign the order because the financial information is out of date and they do not have current information in order to be satisfied that the support arrangements are reasonable. Disputes may also arise with the other counsel about what exactly took place.
- Be aware of the financial and emotional costs to both clients of attending a triage or case conference, continuing to prepare the case for trial, and proceeding with the trial (i.e., legal fees and disbursements, lost wages, ongoing acrimony, uncertainty of outcome and timing of same, possibility of subsequent appeals, continuing anxiety for children, etc.)

B. INTERIM RELIEF

1. What is an Interim Motion?

An interim motion is a request brought to court for relief pending the hearing or trial of an action. Interim motions will only be permitted after the parties have attended at a triage conference and only if the triage judge determines that one is warranted on the facts of the case.

Given that triage conferences are intended to be an opportunity that can operate to settle parenting issues, support and preservation of property on a temporary basis, interim motions will be much less frequent than they were prior to the implementation of the triage process.

The interim order will generally stand until trial. In the interim (that period between the commencement of proceedings and the final adjudication at trial) it can regulate the dealings between the parties, create rights, and be used to assist in moving the case along. The interim order is capable of enforcement in the same way as the final order.

The interim order can be extremely important in influencing settlement and in establishing a status quo. This status quo is often difficult to overturn.

2. The Statutory Basis of Interim Motions

An interim motion in a family proceeding is handled differently than in general civil proceedings. The general rules, however, do apply except where there is a conflict with the provisions of Rule 70 (see Rule 70.02).

Before a court can grant interim relief, an action must have been started and the statutory basis to grant such relief must exist.

Section 90 of *The Family Law Act* provides jurisdiction for interim relief where delay in making an order might prejudice or cause hardship to a party or child.

Section 90(2) of *The Family Law Act* provides jurisdiction for the court to grant interim relief without notice to one of the affected parties where the court is satisfied that such an order is necessary. Note that if such an order is made, care must be taken to comply with the service requirements stipulated in Rule 70.19 or the order will be subject to being set aside on this ground alone. In the Family Division in Winnipeg, the courts prefer that some notice be given, even if it is on very short leave of a few hours, rather than no notice at all.

The *Divorce Act* provides for interim orders for child support in section 15.1(2), for spousal support in section 15.2(2) and for parenting in section 16.1(2). The test in these cases is the same as that applied on the final hearing.

Section 18(1) of *The Family Property Act* provides that the court may make such interim orders as it considers necessary and reasonable.

3. Factors to Consider in Seeking an interim Order

In seeking an interim order, at triage or otherwise, one should remember the following points:

- litigation can be painfully slow;
- the family law client has a file that evolves over time;
- people continue to require financial support while the case is pending;
- the child's relationship with their parents may require regulation;
- the attitudes of separated spouses towards each other can change;
- the parties cannot be relied upon to always remain civil and cooperative.

The failure to obtain interim relief, either by agreement or by court order, can be a significant problem to your client if the well-intentioned understanding that they had with the other spouse begins to unravel. On the other hand, it is equally prudent to consider the damage that bringing an unnecessary interim motion might cause. It could, perhaps, inflame an amicable settlement beyond redemption or build up legal costs disproportionate to the issue at hand.

The orders most commonly needed on an interim basis include:

- a) parenting orders, often accompanied by a non-removal order;
- b) child and spousal support orders;
- c) sole occupancy orders;
- d) protection and prevention orders; and
- e) orders for the preservation of property.

Interim proceedings are also useful to govern the conduct of the proceedings themselves and the process of getting matters ready for trial, such as:

Substitutional Service (Rule 16.04):

- An order for substitutional service, where a party cannot be found or is avoiding service is an important remedy, for it allows proceedings to go forward upon a showing of reasonable efforts to serve personally. Alternative means of service, such as publication of a notice in a newspaper or delivery of the documents to others who

might be expected to be in touch with the person to be served, are often allowed. Orders have even been granted for service by Facebook.

These orders are necessarily granted without notice and can be obtained upon an appearance at the uncontested master's list, on a motion with supporting affidavit material. The affidavit should include information on the efforts made to serve and evidence that the proposed method of substitutional service will come to the attention of the respondent.

Financial Disclosure:

- Financial disclosure orders and penalty proceedings for failure to comply with the orders are provided for in sections 58 and 67 of *The Family Law Act*. An order for financial disclosure can be an effective and inexpensive means of discovery or pre-discovery of the other party's finances. The application should stipulate what exactly is being requested and the order should be specific.
- Financial disclosure orders can also be obtained without notice, under sections 21 and 22 of the *Child Support Guidelines Regulation of The Family Law Act*. A demand for financial disclosure Form 70D.1 must be served with the petition, as discussed earlier.

Assessments:

- Independent assessments of the parties and children can be critical in a parenting case. It is important to keep in mind that the case law is clear that a court should not order an assessment simply to obtain an impartial third party's opinion on what is in a child's best interests. Orders for parenting assessments will only be granted in cases in which there are clinical issues to be determined (for further explanation see [C.N.D. v. J.A.D.](#), 2021 MBQB 151).

Appraisals:

- Appraisals of assets are often necessary in order to complete an accounting under *The Family Property Act*. Assets may be in the control of one party and court intervention may be required to enable the other to obtain the necessary access to the asset in order to have its value independently evaluated. The master is usually empowered on the order directing the reference for an accounting to make orders allowing these kinds of activities.
- The Master also has the jurisdiction to control its own process and may make orders limiting a party's ability to call evidence. For example, it has become common practice for the court to limit evidence in relation to household contents to expert evidence (i.e. the party will not be permitted to give their own evidence in this regard).

Compelling Compliance with the Rules Respecting Discovery:

- Compelling affidavits as to documents, production of documents or compliance with rules of discovery, for example, to answer proper questions or to comply with undertakings can be critical to moving the case towards a conclusion.

Regulating the Conduct of Motions:

- Striking out all or parts of affidavits is a tool which can be used to regulate the evidence that is put forward on a motion. The court strongly discourages parties from using this tool where the issue can simply be dealt with by way of a determination of weight. The request to strike out is made by way of a motion. This motion is placed before the judge hearing the substantive motion (Rule 25.11).
- Severing or consolidating proceedings may be advantageous or advisable in order to obtain a final order on an important issue that is resolved, leaving other issues for future determination or perhaps to allow the parties' divorce to be concluded so that they might remarry, while leaving the other issues such as support and/or property for subsequent adjudication.
- Summary judgment may also be available in some circumstances. With respect to divorce, note the limitation imposed by the *Divorce Act*, section 11(1)(b), relating to the need for reasonable arrangements for the support of children.
- A court has the power to regulate its own process and to punish for contempt of its orders. Contempt must be established strictly, on direct evidence (hearsay is restricted to facts that are not contentious), and of course must not be trivial. Personal service on the alleged contemnor is required (see Rule 60.10(2)).

The foregoing list is by no means exhaustive.

One final consideration in determining whether to bring an interim motion is the principle of proportionality (Rule 70.02.1(2)). Bear in mind that each additional step increases your client's legal fees. Obtaining a fair, fast and least expensive determination of your client's family matter on its merits includes, where practicable, that you should be conducting the proceeding and using appropriate court resources in ways that are proportionate to the interests of any child affected, the importance of the issues in dispute, the amount of support and the value of the property likely at issue in the proceeding, the complexity of the proceeding and the likely expense of the proceeding to both parties.

For example, if the parties are close to resolving the amount of child support, but cannot agree on a final number, consider whether it makes sense for them to incur several thousands of dollars in legal fees for an interim motion. The amount that they are arguing over may be significantly less than the legal fees.

4. Important Distinctions Between Interim and Final Orders

It is important to note some of the distinctions between interim relief and final relief, as well as the relationship between the two.

The court cannot grant interim relief unless there is jurisdiction to grant such a request on a final basis. This may be such a rudimentary requirement as the filing of an answer, in which the request for the final relief is made. A claim for support in the petition or answer will lay the foundation for an interim claim for support.

Where the court could not or probably would not grant certain final relief at trial, it cannot or ought not, as the case may be, grant similar interim relief. While the interim application is generally not an opportunity to delve into the merits of the final application, where the court has serious doubt about the final outcome, it will consider whether an interim order is appropriate.

Where the issue goes to jurisdiction, there should be no question that the court will not do on an interim basis what it could not do on a final basis. Where there are necessary and preliminary issues of fact to be proven at the trial the court might be forced to postpone making an interim order.

For example:

In a child support case, where paternity is disputed, the court may refuse to make an interim order of support. A finding at trial negative on the paternity issue would mean there is no ultimate support obligation for the respondent and, therefore, there was none in the interim. At that end point, the chances of recovery of monies paid in the interim are probably not very good. Not every paternity case will fall into this void. Courts, where they have been able to rest on one of the presumptions of paternity, have made interim awards of support in disputed paternity cases.

Note also that section 60 of *The Family Law Act* specifically permits the court to make a finding of parentage for the purposes of a child support order, regardless of whether an application to determine parentage has been made.

Other forms of relief are available on a final basis only. Obvious examples are divorce or sale of property. The interim order cannot eliminate the court's final decision-making at the trial. One way to avoid this difficulty is to ask the court to sever the preliminary issue and move to a quick adjudication of that issue. Another is to seek summary judgment (see [Carmyn Alyson Aleshka v. Gregory Fettes](#), 2021 MBQB 19.)

The essence of an interim order is its temporary nature. An interim order is an order made pending a final decision and it expires upon the making of a final order in the matter. For example, a final order of support under either the *Divorce Act* or *The Family Law Act* will extinguish a prior interim support order. It is important to note, however, that divorce does not extinguish a prior provincial support order as long as the provincial order is not inconsistent with any order made under the *Divorce Act*. (See *Slocombe v. Slocombe* (1988), 52 Man. R. (2d) 90 (Man. Q.B.).)

Case law also indicates that an interim support order under the *Divorce Act* survives a divorce order where there is no order of corollary relief made at the time of the granting of the divorce. (See *Dupont v. Dupont* (1993), 47 R.F.L. (3d) 273 (B.C.S.C.) and *Boznik v. Boznik* 1993, 45 R.F.L. (3d) 354 (B.C.S.C.).)

5. Practice - How to Obtain Interim Relief

Interim proceedings can be commenced once the court process has been initiated. The court process is initiated by the filing of a grounding action. The grounding action will usually take the form of a petition for divorce or a petition under *The Family Law Act* or other provincial legislation. Where appropriate, the grounding action may be a notice of application or a statement of claim. Subject to the provisions of the applicable statute, or pursuant to the inherent jurisdiction of the court, the court may consider the application and grant relief.

All new family files must proceed to triage and case conference before an interim motion can proceed. If your client requires emergent relief, you should request an emergent hearing. If the matter is urgent and should be determined prior to case conference, the triage judge may order a prioritized hearing.

An interim motion is almost always heard and determined by the court on the basis of a notice of motion and supporting affidavit evidence (see Rules 39.01(1) and 70.18), although in an appropriate case the court may consider *viva voce* evidence. This is extremely rare.

If the matter is not subject to being heard at case conference, the interim motion and supporting affidavit must be filed at least fourteen days before the motion is to be heard, or four days before the matter is first returnable in the court (Rules 37.06(6) and 70.20(2)). Affidavits in opposition must be filed 7 days before the hearing (Rule 70.20(5.1)).

A party to the motion is allowed to file only one affidavit, except the moving party is entitled to file a second affidavit to reply only to new matters in the affidavit of the responding party (Rule 70.20(8)). A party can also file one affidavit from each person who is not a party (Rule 70.20(9)(10)(11)). Leave of the court is required for either party to be allowed to file any further affidavits.

Each of the parties is entitled, subject to the rules, to cross-examine the deponent on any affidavit filed on the motion (Rule 39.02(1)), or to cross-examine any proposed witness (Rule 39.03(1)). The rules provide that the cross-examination must be done expeditiously, with reasonable diligence (Rules 39.02(3) and 39.03(3)), and that no further affidavits may be filed after the examination, except with leave of the court.

The transcript of the cross-examination is then filed with the court. Unlike a discovery, the transcript as a whole is evidence in the cause and either party may refer to it on the argument of the motion.

6. Preparation of Affidavit Material

The form and content of affidavits filed in support of the interim motion are critical. The affidavit should clearly set out the facts upon which the party will rely in court. Although counsel will have the opportunity to argue, argument cannot be used to put in evidence or otherwise improve upon the material that has already been filed. The most frequent criticism leveled at practitioners by the bench is with respect to the quality of the affidavits filed in interim proceedings.

a) Rules Concerning Affidavits

Rules 4.07, 39.01(4), 39.01(5), 39.01(6), and 70.20 are applicable to affidavits for interim motions.

Counsel should develop a consistent and reliable habit for taking affidavits. The only safe practice is to adopt a proper procedure and never deviate from that procedure. Accordingly, because of the routine nature of the event, you can safely say you have complied with the rules on any given occasion.

It is never appropriate to have a client sign an affidavit in anything less than complete form. It is a false document where there are blanks left to be filled in at a later time, or changes to be made after the client has gone. If the document is described as having been sworn, it must have actually been sworn. The deponent swears that they read the affidavit and are aware of its contents, and that it is true. If the deponent chooses, they can affirm instead of swearing on a bible.

Changes to any part of an affidavit must be authenticated by the person taking the affidavit. This is done by bracketing the erasure or interlineation and initialing it. See Rule 4.07(9).

All affidavits filed in a family proceeding must also comply with the following:

- printed on 8½" x 11" paper, on one side only, double-spaced, with the left margin approximately 1½";
- typing must be in font size 14;
- pages must be numbered;

- exhibits must be separated by tabs with sequential numbers or letters; and
- pages and exhibits must be fastened or secured sufficiently so as to remain intact.

b) Content of the Affidavit Material

The court will make its decision on the evidence which is properly before it.

Evidence on a motion reaches the judge in three very limited ways. The first and most common way is through the content of the affidavits and the exhibits properly attached to them. Another is from transcripts of cross-examinations of deponents on affidavits (see Rule 39). The third, and least used method, is by examination of a witness, out of court, prior to the motion pursuant to Rule 39.03(1).

If there is no evidence upon which the court can make an order, even if it is unopposed, the court should not grant the relief.

The first rule is that the moving party's affidavit(s) should set forth facts sufficient to constitute evidence upon which the court can rely. The court needs, firstly, to satisfy itself that there is jurisdiction, and secondly, to satisfy itself that it has a factual basis upon which to grant relief.

The responding party's affidavit(s) in reply will be referred to also, but counsel must be aware that issues of credibility are not easily resolved by affidavits, or even by the transcripts of cross-examinations.

While it is important not to let material allegations go unchallenged or unanswered, not every statement or allegation made by the other side will fall into that category. It is important to remember that an affidavit is a statement in your client's words of the facts to which they can attest.

Where it is necessary to attempt to refute an allegation, it is preferable to respond in context, rather than to paragraph numbers. Blanket denials or convoluted cross-references to numbered paragraphs in the opposing party's affidavit are cumbersome, and difficult for the judge to follow. It is preferable to briefly restate the objectionable material, put it in context, and respond to it. For a further discussion on the proper drafting of affidavits, see the section on "Practical Tips for Drafting Affidavits" later in this chapter.

c) Exhibits

Rule 4.07(3) sets forth the formal requirements with respect to exhibits.

It will often be of assistance to deponents to attach documents produced by others or themselves as exhibits to their affidavits. Typical exhibits in a family case might

include pay stubs, tax returns, prior orders or agreements, letters, or other materials to which the deponent will refer. The exhibits are evidence in the same way as the statements in the affidavit are evidence, and the same rules apply to their admissibility.

A document which is hearsay, such as the report of an expert giving an opinion, is not an appropriate exhibit. The document is hearsay to the deponent and, in addition, the maker of the document is not compellable to be cross-examined on it. The appropriate method by which to adduce expert evidence on an interim motion is in the form of an affidavit of the maker of the report, usually attaching the report and a curriculum vitae as exhibits.

d) Specific Areas of Relief

The affidavit in support of an interim motion should contain sufficient general information to provide the court with information about the parties and what their case is about, without having to review the pleadings. Additionally, the material should contain basic information about each issue. Some ideas are indicated below. For additional information on specific topics see the various subjects elsewhere in these materials.

i. Jurisdiction

Without jurisdiction, the court cannot make an order. The issue will probably not arise in most cases, except by inadvertence. The moving party will want to ensure that their affidavit shows:

- that the parties were married, or if living common law, that they have satisfied the statutory requirements under *The Family Law Act* or *The Family Property Act*;
- that the children are children of the union, or that there is a fact situation amounting to a prima facie case of in loco parentis or standing in the place of a parent;
- where the father of the child is not married to the mother, sufficient information to establish parentage, such as admissions against interest, or other ways to come squarely within the presumptions articulated in *The Family Law Act*, to establish the jurisdiction to make a parenting or support order.

ii. Parenting

The importance of the decisions made on issues of interim parenting time and decision-making responsibility motions cannot be overemphasized. The material should establish sufficient information to allow the court to make its decision based on what is in the best interests of the children.

Both the *Divorce Act* and *The Family Law Act* now refer to parenting time and decision-making responsibility rather than the previous terms of custody and access. Existing orders or agreements that refer to “custody” or “access” continue in force and may be enforced, varied or terminated under the *Divorce Act* (see s. 35.8) and *The Family Law Act* (see ss. 100(4) and (5)).

Where an existing order or agreement provides for a party to have custody, they are deemed to have decision-making responsibility and parenting time with respect to the child. A party with access under an existing order is deemed to have parenting time with the child. (See the *Divorce Act*, ss. 35.4 and 35.5, and *The Family Law Act*, s. 100(6)).

iii. Interim Applications for Parenting Orders

The result of an interim parenting application is extremely important as it establishes a status quo that may be difficult to overturn. Motions judges do not want to vary interim orders and the Court of Appeal does not want to hear appeals of interim orders. Trial courts prefer not to disturb the status quo and rarely will the Court of Appeal interfere with a trial judge’s parenting decision. As O’Sullivan J.A. stated in *J. v. J.* (1977), 4 R.F.L. (2d) 157 at 159:

...it is a principle on which this court uniformly acts that it will not interfere with the decision of a trial judge in custody matters unless it clearly appears there is manifest error in what the learned trial judge has done.

Evidence on an interim motion is generally given by affidavit. When parenting is at issue, the parents’ affidavits in support of their claim for decision-making responsibility and parenting time, should include:

- a history of the child caring arrangements and the roles played by each of the parents, in particular, who was the primary caregiver at what times;
- details as to any parenting problems such as verbal abuse or excessive discipline and problems such as alcoholism or drug abuse that would impact on the ability of the other party to parent appropriately;
- a description of the present child caring arrangements, any problems with them, and the parents’ ability to cooperate respecting them;
- a picture of the child’s health status, both physical and emotional, and any special needs; and
- the parent’s child care plan specifying the resources available to meet the child’s needs.

Affidavits by collaterals, such as relatives and friends, and by less partial witnesses, such as day care workers, may be useful to corroborate your client's allegations and also to attest to their parenting abilities.

iv. Support

Since the concept of support is rooted in an appreciation of the relative means and needs of each of the parties and their children, the court must have certain basic information. The following points should be considered:

- The Manitoba *Child Support Guidelines* set forth the income information required for a party whose income information is necessary to determine the amount of the child support order. This is a good checklist for financial disclosure to seek spousal support as well. Admissions by the opposing party in the past concerning income or assets are also useful.
- A complete and credible financial statement should be prepared. It will demonstrate the moving party's means and needs. Form 70D is a convenient starting point since one must be completed for the petition and the answer. It can be attached as an exhibit, and should be explained in the body of the affidavit where required.
- Details of all section 7 Guideline expenses, including net costs pursuant to section 7(3), should be provided.
- In the case of a dependent spouse, evidence should be led to show the dependency and the connection to the marriage. The deponent's efforts or plans to become financially independent should also be addressed.
- The demand for financial disclosure (Form 70D.1) must be served with the petition and if the respondent does not comply, a motion to the master is in order. Financial disclosure should also have been addressed prior to the hearing of the motion at triage or case conference. The *Child Support Guidelines* regulation of *The Family Law Act* also contains financial disclosure obligations in section 21.
- You may also consider an examination of a witness, such as the respondent's employer or accountant, pursuant to Rule 39.03(1).
- It can be helpful to establish lifestyle evidence, showing the standard of living that the parties enjoyed during cohabitation, so that reasonable inferences can be drawn from the payor's financial history and therefore ability to pay.

v. Sole Occupancy and Postponement of Sale

Where children are involved, orders of sole occupancy are routinely granted with the decision generally following parenting orders. As between the parties,

the court considers any issues of violence and the balance of convenience. Sometimes no order is made evicting either party.

In affidavit material the following ought to be detailed:

- the facts of ownership and current occupancy;
- the willingness and ability to meet ongoing expenses of the home, (if this is the case);
- the balance of convenience by evidence showing the inability of the parties to remain under the same roof pending the trial, the availability and cost of alternate accommodations, the necessity of the home for the children's needs (continuity, proximity to schools, friends, familiar baby-sitters, etc.).

vi. Use or Possession of Assets

Section 6(3) of *The Family Property Act* states that spouses or common-law partners have an equal right to the use and enjoyment of any family asset, other than their family home, which is ordinarily used or enjoyed by both of them.

Note that section 6(3) of *The Family Property Act* also currently allows for an order to be made with respect to a family asset under *The Domestic Violence and Stalking Act*. Under section 14(1)(f) of that Act, the court can prevent one of the parties from having the use or enjoyment of a specific asset (or assets) by granting as part of a prevention order, the other party an order of:

...temporary possession of specified personal property, which may include vehicles, household furnishings, clothing, medical insurance cards, identification documents and keys.

This type of order is available on both an interim and final basis.

vii. Protection, Prevention and Preservation Orders

In order to justify these kinds of relief, the court will be looking for a past history showing violence, a disregard of the law, or facts which raise the probability of such harm in the future. This evidence should include:

- Where a protection or prevention order is required to protect against violence, there should be some specificity to the historical information which is being provided. Specify corroborating information, such as the fact police were called or that a neighbour witnessed the event or its immediate aftermath;
- Where the issue is preservation of property, a history or threats of dissipation, or financial mismanagement such that the assets are in danger of disappearing;

- Non-removal of a child from the jurisdiction will be considered where there is a risk that one party will abscond with the child. This is a particularly serious matter, since a status quo could be established in this way. Where there is such a risk, clear and compelling evidence should be presented.

This subject is discussed further elsewhere in these materials.

viii. Financial Disclosure

Efforts to obtain full and complete financial disclosure are important not only to establish the facts necessary for interim support motions, but also for the final hearing. The exchange of financial disclosure is also a prerequisite for triage.

The request for financial disclosure (Form 70D.1) must be served on the opposing party with the petition. It should be clear and detailed. There is a 30 day deadline, failing which a motion to the master without notice may be brought. Any order drawn for financial disclosure should be specific and unambiguous.

The Manitoba *Child Support Guidelines* set forth the information and procedure relevant to child support orders.

7. Practical Tips for Drafting Affidavits

a) Introduction

The practice of family law, because of the frequency of interim applications, requires a thorough understanding of the rules relating to the drafting of affidavits. You must develop an ability to communicate in a persuasive fashion within the form required by the rules.

An affidavit is evidence in written form. Therefore, the information contained in it must be relevant. It must touch upon, extenuate, describe or explain something that is being put before the court for a decision. If a judge is being asked to make a decision about the quantum of child support, it would be completely inappropriate to include paragraphs relating to how badly one of the spouses acted toward the other during the marriage. Use this simple test when proofreading your affidavit - is the information included necessary to prove the case and are you sure it is not repetitious?

A good affidavit shares some of the characteristics of a biography. It should be organized. Whether you chose to organize chronologically or by topic will probably change from case to case.

A good affidavit is easy to read - the language used is clear and concise (without being so brief as to lack persuasive power). It should not be repetitive. Be sure it contains all the elements necessary to make the case. Irrelevant information will be distracting and must not be included.

Obviously, your writing skills will be tested. Every statement in the affidavit should be a complete sentence. The paragraphs should not be overly long. Grammar, tense and spelling must be correct.

The rules are fairly simple to read and to understand. Applying them, however, requires some thought. The following is a brief overview of the rules and examples of what to do and what not to do when drafting.

b) Statements of Fact

Each statement contained in the affidavit must be a statement of fact within the personal knowledge of the deponent (Rule 4.07(2)).

Incorrect Example:

- The Respondent is employed as a tool fitter at Bristol Aerospace and after reading an article in the Winnipeg Free Press about what tool fitters earn, I suspect that he makes \$1,580.00, net, every two weeks.

Correct Example:

- I have seen the Respondent's pay stubs. According to them he earns \$1,580.00, net, every two weeks.

c) Information and Belief

There is a special rule that allows some statements to be contained in an affidavit which go beyond the scope of the deponent's knowledge and can be something that that person believes to be true. In order to be admissible, the deponent must make the statement; give the source of the statement, and that they believe the information to be true (Rule 39.01(4)).

Incorrect Example:

- Even though the Respondent has indicated that he regularly attends at Alcoholics Anonymous meetings, I believe that he continues to consume alcohol.

Correct Example:

- The Respondent has indicated that he regularly attends at Alcoholics Anonymous meetings. His brother, John Smith, told me on Monday, August 15, 2022, and I believe it to be true, that the Respondent has been drinking wine and beer at family dinner parties, the most recent of which was on Saturday, August 13, 2022.

d) Argument and Opinion

Affidavits are to contain statements of fact and shall not contain statements which are argument or opinion. (See, in general, Rule 70.18(b).)

Incorrect Examples:

- My wife does not ask me to look after the children if she is going out of the city to a conference. She chooses to leave the children with her parents and I conclude that she does this maliciously so that I am deprived of extra time with them.
- The aerospace industry in which I am employed as a pipe fitter has been affected adversely by the recession and there is a likelihood that there will be a downsizing of the corporation and I might lose my job.
- I should be granted the majority of parenting time with our children because I am the parent best able to care for them.
- My husband should not be able to apply to vary the order which was granted three months ago. The evidence that he has provided the court with is the same as that which he referred to in previous affidavits and since he did not appeal the original order he should not be entitled to try to vary it now.
- My husband has stated at paragraph 5 of his affidavit that he is impoverished. I note from reviewing the list of expenses attached to his affidavit that he has money available each month for entertainment, tobacco and alcohol. If he has money available for these luxuries he should be ordered to pay child support.
- I believe that it is the Respondent's intention to stall the proceedings as long as possible in order that she can continue to receive support payments even though she is now employed on a full time basis.

e) Scandalous, Frivolous or Vexatious Statements

Going hand and hand with the rule that affidavits must be composed of statements of fact is the reality that those facts must be relevant to the issue and must not be scandalous, frivolous or vexatious.

Scandalous, frivolous or vexatious material is essentially comprised of accusations which are intended to have the effect of upsetting the other party more than having any legitimate impact on the litigation. Sometimes a statement contained in one affidavit is relevant and a similar statement contained in another affidavit is not relevant. Obviously, the difference is the issue involved. There is no specific rule about relevancy, but it is universally accepted that relevancy is the touchstone of admissibility of evidence, whether by affidavit or *viva voce*.

The following is an example of scandalous material, where the issue is quantum of support and the ability of one party to pay.

Incorrect Example:

- My husband likes to buy pornographic films and has a large collection.

Correct Example:

- My husband has regularly spent at least \$150.00 a month buying pornographic films.

The following is an example of irrelevant material where the issue is parenting and the children are teenagers.

Incorrect Example:

- My wife is addicted to soap operas and watches television every week day from 1:00 p.m. to 3:00 p.m.

(The above statement might be relevant if the children were pre-school and were at home every day without supervision.)

The following are examples of material that is scandalous, vexatious or frivolous.

Incorrect Examples:

- My husband's application for spousal support is motivated by his intense hatred of me. He knows that I do not have enough money to pay for a lawyer and his application is intended to punish me.
- My wife is a malicious woman. Although I have attempted to settle all issues between us, she will never agree because she is so bitter.

f) Conduct

Generally, evidence as to conduct is not relevant and therefore ought not to be included in an affidavit. The common exception to this rule arises with respect to obtaining protective relief. In that regard, it will be necessary to include sufficient information as to convince a court that a protection or prevention order is appropriate under the circumstances. Another exception to the general rule that evidence as to conduct is not relevant is with respect to evidence given as to the ability to parent.

g) Expert Opinion

Where you wish to have medical, psychological or other expert opinion evidence before the court, the appropriate way to put this into evidence is in the form of an affidavit from the expert.

In *Saleem v. Saleem* (25 November 1985), (Man. Q.B.) [unreported], Master Goldberg (as she then was) expunged portions of the father's affidavit in which he referred to a doctor's opinion concerning sexual abuse allegations. She stated:

Opinion evidence should not be admitted through the affidavit of another person. Medical evidence which is an opinion should be put before the court in a proper manner, that is by an affidavit from the physician or, at trial, by a signed medical report upon proper notice.

h) Without Prejudice Communications

It is improper to include without prejudice communications in an affidavit. These communications may have been verbal, between the parties or their lawyers, or they may have been evidenced by letters written between counsel.

Incorrect Example:

- On August 12, 2018, I was advised by my lawyer Jane Doe that she spoke with my husband's lawyer, and in that conversation my husband's lawyer said that if I dropped my claim for spousal support my husband would agree to increase the support that he pays for the children.

8. Motions for Expungement of Offensive Affidavit Material

The judge hearing the substantive motion has the jurisdiction to expunge all or part of an affidavit that is scandalous, frivolous, vexatious, irrelevant, repetitive or otherwise not in compliance with the rules (see Rules 25.11(2) and (4)). To make a motion to expunge, the moving party must file and serve the motion. The motion must identify the specific parts attacked and briefly state the reasons.

Counsel must consider the merits of bringing a motion to expunge. While there is merit in getting the affidavit cleaned up, you could simply request that the judge hearing the substantive motion give the appropriate weight to evidence that may not be appropriately placed before the court. Dealing with expunging material will take up some of the time perhaps better spent in arguing the motion itself.

9. Motion Brief

Rule 70.22(2) provides that the moving party shall file a motion brief and serve it on all other parties at least four days before the hearing date, or if the hearing date is less than seven days after the date when it was obtained, at least two days prior to the hearing date. If a responding party disagrees with what is set out in the brief, the responding party shall file and serve their motion brief at least two days prior to the hearing date, or if the hearing date is less than seven days after the date when it was obtained, before 2:00 p.m. the day preceding the hearing (Rule 70.22(3)).

The judge or master may, either before or at the hearing of the motion, waive or vary these requirements where there is insufficient time to comply.

Effective September 1, 2022, Rule 70.22(4.1) provides that if a party relies on a statutory provision that is required by law to be printed and published in English and French, their brief must contain a bilingual version of that provision.

Rule 70.22(4) states that a motion brief (Form 70R) should set out:

- the matters at issue;
- a list of documents to be referred to;
- the party's position on the contested issues;
- the relevant case law and statutory provisions; and
- all calculations used in the determination of support issues.

It is a good idea to highlight important facts in chronological order. You should make it as reader-friendly as possible. You can also append excerpts from the transcripts of cross-examinations or reference them. This can be an extremely persuasive advocacy tool. It is also important to particularize the costs your client is requesting in the brief.

10. Argument of the Motion

a) Oral Argument

- Deal with matters of consent at the outset, if any.
- Clearly state the matters that remain at issue before starting your argument.
- Plan to present your argument within your share of the time scheduled.
- Make your points in an orderly and precise way, assuming that the judge has digested the basic facts.
- Do not lead evidence through argument: the facts must be set out in the affidavit material to be evidence properly before the court.
- Clearly set forth the contribution to the section 7 Guideline expenses you are seeking or particulars of undue hardship.
- Refer the court to specific portions of applicable cases which you have highlighted.

b) Responding to the Decision

After the judge has rendered a decision, counsel might wish to ask for a moment to ensure that all the issues have been resolved and that what the judge has ordered is clear. If there is any likelihood of an appeal being considered, or if difficulty is anticipated in obtaining the other side's approval as to the form of the order, ask the

judge for written reasons. If the court's recording monitoring system has been activated, the judge will usually rely on the edited version of the remarks made in court to stand as reasons for decision. The judge will usually also make handwritten notes.

The court clerk will record by hand their version of the disposition which will ultimately be put on the court file. Where required these original notes can be accessed, and in the case of the monitoring system, a transcript can be ordered by a written request. The judge will edit the transcript for grammar and continuity and authenticate it.

If this is a case which will be appealed and counsel seeks a stay of the order pending the appeal, the request for the stay should be made to the judge who made the order. If the request for the stay is made directly to the Court of Appeal, it will usually be turned down. The Court of Appeal, generally speaking, will insist that you return to the Court of King's Bench judge to apply for a stay, before they will consider it ([Powell v. Guttman](#), [1977] 6 W.W.R. 106 (Man. C.A.)).

11. Motions Without Notice

a) When to Use the Motion Without Notice

Motions without notice are allowed by the rules. Because of the extraordinary nature of this relief, they are not granted lightly.

While the use of the motion without notice is to be discouraged, there will be situations of real or apprehended emergency where it may be necessary. Situations which may call for such an extreme remedy will contain some of the following ingredients:

- There is a real likelihood the respondent, upon learning of the applicant's intention to separate, will act in an extreme and prejudicial manner. This might involve abducting a child, or becoming physically violent and dangerous to the spouse or child. This might also include destroying or secreting assets.
- One spouse is about to deal irrevocably with an asset, putting it or the proceeds of disposition beyond the reach of the applicant or the court.
- It is necessary to preserve evidence, such as the contents of a safety deposit box, which may be in doubt or incapable of future proof if the respondent has unsupervised access to it.

b) The Short Leave Alternative

Consider proceeding on short leave, that is, upon less notice to the other side than prescribed by the rules. Rule 3.02 (1) provides that the court may abridge or enlarge any time prescribed by the rules. The court will be more comfortable hearing a matter

on short leave rather than none at all, for the respondent at least will have had an opportunity to attend, or to ask counsel to attend.

c) Duties on the Motion Without Notice

King's Bench Rule 39.01(6) calls for full and fair disclosure of all material facts by the moving party on an application without notice, and failure to do so is in itself sufficient ground for setting aside any order so obtained.

Where the respondent is known to be represented by counsel, the judge hearing the matter should be so advised. The court usually frowns on proceeding without notice in such a case.

d) After-Hours Court Service for Emergency Use

In a genuine emergency it may be necessary to attempt to obtain relief outside of normal court hours. The court provides a service for such situations. Counsel can contact the court at (204) 981-9030, leaving their name and telephone number. A designated court official will return the call, obtain particulars, and then relay them to a judge. If the judge determines that the matter requires immediate disposition, arrangements will be made for a hearing as quickly as possible.

Questions about this emergency service should be directed to the Manager of the Court of King's Bench Registry at (204) 945-3132.

e) Attendance on the Motion Without Notice

If the judge decides to grant the relief you have requested, the order might be signed on the spot. It is prudent to have an order (or several plausible versions) prepared in advance. Your draft order should include provision for the service of documents, and the date the matter will be returned to the court for review (Rule 70.19). As time is usually of the essence in these matters, it is imperative that the order be drafted and signed as soon as possible.

The rules and practice clearly set out the need to serve the order quickly on the respondent. All other materials filed on the motion, together with a notice of motion to extend the order and any affidavit in support, must also be served (Rule 70.19).

It is good practice to obtain a certified copy of the interim order, and make several true copies for your client. Instruct the client to act consistently with the nature of the relief obtained and not to part with the certified copy bearing the court seal, except perhaps to exhibit it to the police. The respondent should be avoided, if possible, until

there has been a sufficient cool-down period and your client's safety and the safety of the children have been secured.

f) Responding to Orders Without Notice

The respondent, upon receipt of the without notice order, is often caught completely off guard. The respondent has a number of legal avenues from which to choose, some more useful than others:

- a motion to rescind or vary the order on the basis of Rule 37.11(1) or to have it set aside on the basis of a failure to make fair disclosure under Rule 39.01(6);
- a motion for relief, which will be argued on the basis of the respondent's material, upon the return of the without notice motion that is required by the rules and will be stipulated in the order; or
- an appeal to the Court of Appeal.

From a practical point of view, the respondent will usually be best represented by putting forward their case in opposition, by an early motion to vary or upon the review of the order. Reliance on a technical defence or taking the appeal route is risky and may result in significant delay. This delay may have the effect of allowing the petitioner to acquire a status quo based on the effect of the first order which will be difficult to overcome.

g) Rules Applicable to Applications Without Notice

- 37.06(2) Where the nature of the motion or the circumstances render service of the notice of motion impracticable or unnecessary, the court may make an order without notice.
- 37.06(3) Where the delay necessary to effect service might entail serious consequences, the court may make an interim order without notice.
- 37.06(4) Where an order is made without notice to a person or party affected by the order, the order, together with a copy of the notice of motion and all affidavits and other documents used at the hearing of the motion, shall be served forthwith on the person or party unless the court orders or these rules provide otherwise.
- 39.01(6) Where a motion or application is made without notice, the moving party or applicant shall make full and fair disclosure of all material facts, and failure to do so is in itself sufficient ground for setting aside any order obtained on the motion or application.
- 40.02(1) Where an interlocutory injunction is granted on motion without notice, it may be made for a period not exceeding 10 days from the date the injunction is granted.

- 40.02(2) Where an interlocutory injunction is granted on a motion without notice, a motion to extend the injunction may be made only on notice to every party affected by the injunction, unless the judge is satisfied that because a party has been evading service or because there are other exceptional circumstances, the injunction ought to be extended without notice to the party.
- 40.02(3) Where an extension is granted on motion without notice, it may be made for a further period not exceeding 10 days from the date the extension is granted.
- 70.09(1) Where relief is urgently required, a party may commence a proceeding or file an answer or reply without complying with Rule 70.05, 70.07, 70.08 as the case may be, on filing an undertaking to file and serve the required financial information within 20 days of commencing a proceeding or filing an answer or reply.

12. Uncontested Proceedings

a) General

If there is no answer filed or if the matter is settled, it can proceed on an uncontested basis. See Rules 70.12 and 70.14 for petitions or 70.14.1 for joint petitions.

To set a matter down for an uncontested hearing, you need to file with the court:

1. a requisition asking that the court note default or a notice withdrawing opposition to divorce if an answer has been filed (see Rule 70.11 and Form 70L);
2. a requisition asking that the court set a hearing by affidavit evidence;
3. an affidavit or affidavits of service;
4. for a divorce, a divorce judgment (Form 70O) or if a joint petition (Form 70O.1) in triplicate;
5. the final order containing corollary relief (Form 70N), if any, (discussed below);
6. addressed and stamped envelopes directed to the service addresses, or to each party's lawyer; and
7. the affidavit of the petitioner's evidence if you are proceeding by affidavit in Form 70M or 70M.1 if a joint petition was filed. The affidavit contains details respecting the obligations of parents regarding children and respecting relocation.

When proceeding by affidavit hearing (which does not require personal appearances by either of the parties or counsel), a final order will be concurrently submitted setting out the relief sought in the form desired. If the relief is agreed upon, the order should

contain the approval of both counsel who will endorse the order with their signature as approved as to form and content.

The judge may or may not be prepared to grant the relief your client is seeking. If not, the divorce will generally be rejected and you will receive a notice of rejection indicating the reasons.

Affidavit Evidence or Oral Hearing?

An oral hearing on an uncontested matter will only take place if the judge hearing the matter administratively determines it should proceed that way (see Rule 70.12). If there is specific relief which is uncertain, or which is to be based upon new or additional evidence which may be required, or if you need to subpoena the respondent, their employer, or other third parties, an oral hearing is likely. These considerations most often arise in cases of support, especially child support for which the judge must be satisfied reasonable arrangements have been made (s. 11(b) of the *Divorce Act*).

If your pleadings are not recent, or if there were no pleadings filed by the respondent, you will need updated financial material for both parties where child support is at issue. This requirement applies whether the evidence is oral or by affidavit. You may have to subpoena the other party, or the other party's employer in order to get the required financial information.

b) Proceeding by Affidavit

This type of hearing is available only in the Court of King's Bench.

The format for the petitioner's affidavit is set out in Forms 70M or 70M.1 if the petition is joint. Be concise but complete and current. Ensure that all necessary documents are attached as exhibits. You can file other affidavits to corroborate or provide additional evidence. Remember that any relief you seek must be supported by evidence even if there is no specific section on the form.

Similarly, although Forms 70M and 70M.1 deal specifically with divorce applications, an application for relief under *The Family Law Act* alone can be done by affidavit evidence. Obviously certain sections of the affidavit are not applicable to non-divorce applications and you should modify the format to deal with your particular case, again being careful to prove all of your case.

If the judge is not satisfied with the affidavit evidence provided, you will receive a notice from the courts setting out the respects in which the material is seen as deficient and advising you as to the next step required. You may be required to file further affidavits or documents, or the matter may have to be set for an oral hearing. At an oral hearing you cannot rely upon the affidavit already filed. Put in your case just as if there had been no prior proceeding.

c) Oral Hearings

i. Preliminary Matters

This applies to some King's Bench hearings and to all Provincial Court final orders. Whether the case depends only upon the evidence of the petitioner or on other witnesses attending to help the petitioner or under subpoena, be sure to speak to all witnesses before court and brief them on the questions you will be asking. Find out what they will say ahead of time. Do not depend upon your client's version of the facts.

If you subpoena a witness and expect that witness to provide documents, clearly indicate the documents you want produced. As a matter of courtesy, and to encourage cooperation, you should subpoena witnesses well in advance. Have affidavits of service ready in case the witnesses do not show up.

Also, have originals or clear copies of any documents you intend to use as exhibits and review them with the applicable witnesses to ensure that they can be readily entered into evidence. The affidavits of service, CDR certificate, marriage certificate or registration, petition and any prior court orders should already be on the court file.

Generally, you will find that the rules of evidence in uncontested proceedings are somewhat relaxed. As nothing is contentious, the court will allow you to lead throughout and you can often enter exhibits into evidence with no more identification than "Have you seen this (name of) document before?" Note, however, that there are limits on the evidence that can be led. Further, the degree of formality and strict adherence to the rules will vary from courtroom to courtroom.

You should always be prepared to prove all elements of your case with convincing and admissible evidence. As this is a final hearing, you should be robed when you are in the Court of King's Bench.

ii. Presenting the Case Before the Court

The steps in presenting a case start with your introduction to the court and the evidence of the petitioner.

(A) Introduction

When the case is called, introduce yourself to the court and give your pronouns and indicate that you represent the petitioner. Indicate whether or not the respondent and/or the respondent's lawyer are present, and that you

are ready to proceed. Call the petitioner to the witness box. Other witnesses should be outside the courtroom, or should be directed to leave once the case is called. The petitioner will be sworn in by the clerk.

The form of affidavit of petitioner's evidence 70M is a useful guide of the evidence you will need to put in orally.

Introduce as exhibits the affidavit of service of the petition and the CDR certificate. Have the petitioner identify the signature on the acknowledgment of service, or the picture of the respondent attached as an exhibit to the affidavit of service.

Establish that your witness is the petitioner and was married to the respondent on a particular date and place. Then ask that the marriage certificate be entered as an exhibit and advise the court that you have compared it to the petition and that the information in each corresponds. If there is any discrepancy, you may need to request an amendment. Do not forget to include that in your final order.

Ask the petitioner if they recall signing the petition. Then proceed with the following questions:

"Before you signed this did you read it over?"

"Was everything in it true at that time?"

"You and I recently reviewed the document again?"

"I understand that certain changes have occurred (identify the changed area and advise the court of the new information, e.g., addresses). In some cases, it may be sufficient to advise that a change has occurred, (e.g., financial circumstances), and point out that "the new situation will be addressed later in the evidence."

"With the exception of those changes, does the petition remain true?"

(B) Grounds - Separation, Adultery, Cruelty

In a case where the divorce is sought on the grounds of separation for more than one year the following questions should be asked:

"You are seeking a divorce on the grounds that you and your spouse have lived apart for more than one year?"

"When did you separate?"

"How do you recall that date?" (It may be related to a specific external event such as a birthday or an anniversary, it may have simply been a memorable day for the client, or they may have made special note of it.)

"Have you lived with the respondent at any time since then?" (If the parties did resume cohabitation for any length of time, you must establish the precise period of time and prove that it was for the purpose of reconciliation. Establishing these two points must prove that the period of separation fits within the exception provided by the *Divorce Act*).

In a case where the divorce is sought on the grounds of adultery the following questions should be asked:

"You are seeking a divorce on the grounds that your spouse committed adultery?"

"How do you know that is so?" (This may involve an admission by the spouse, that they were caught in the act, that they are living with someone in a common law relationship, or that a child or children have been born of the adulterous relationship.)

Cruelty is the most emotional and most difficult of the grounds to prove. It is also the one most likely to be denied and is therefore seldom used. The petitioner will have to describe in some detail the specific treatment that constituted cruelty (e.g., beatings, verbal, psychological or sexual abuse, and/or abuse of children). Any complaints made to police or other authorities should be outlined, any criminal charges laid or injuries suffered should be described. The outcome of any charges should be detailed.

The client should describe the effect on themselves of the abuse and, in particular, indicate whether doctor's care, hospitalization, or medication were required. Similarly, effects on children should be outlined, as adverse effects on children can themselves be instances of cruelty. Any special circumstances concerning the separation which corroborate or lend credence to the allegations of cruelty should be outlined (e.g., that the police took the petitioner and children away, or that the petitioner fled to a shelter).

Note that there may be several oral hearings scheduled for the same time slot. If you expect that it will be difficult for your client to give evidence with other people in the courtroom, you may ask to stand down your client's hearing until all of the other cases have been heard and the courtroom has emptied out.

(C) Prior Agreements and Court Orders

Confirm the dates and judges who pronounced all prior orders. In a general way, summarize what the prior order provided. In the case of agreements, confirm that an agreement was entered into and the date of the agreement. Have the petitioner identify the agreement and, in particular, the signatures of

the petitioner and respondent. Orders and agreements should be entered as exhibits. It is acceptable to lead your client through uncontentious areas.

In the case of agreements that are intended to form the basis of the final order, the provisions should be reviewed and the client should confirm that they are in agreement with those provisions. In particular, the status of the provisions of either agreements or orders should be confirmed. In other words, confirm that provisions have already been carried out or completed, that ongoing payments or arrangements are in place, and whether or not there are defaults that have occurred.

(D) Children

Identify each child, their age and current status (e.g., dependent, independent adult, under care of a child protection agency, etc.).

Identify who was the primary caregiver during marriage or what the division of responsibilities for the children was during the marriage. Tell the court where the children have lived since the separation and outline the history of arrangements for their care. Set out the current parenting arrangements. Have the client outline what is proposed (it may be as simple as continuation of the existing routine).

(E) Financial Circumstances and Arrangements

Always remember that any future variation starts with the information presented at this hearing. It must be as complete and accurate as possible.

Go through the petitioner's financial circumstances establishing income, sources of income and amount, and any special circumstances that influence that income such as seasonal variation, layoffs and overtime. Review a current financial statement and have the petitioner explain any particular expenses that you feel should be highlighted to the court (e.g., special day care costs).

If your client is seeking spousal support, be sure that you go through evidence that will show that the spouse is entitled to support as set out in the *Divorce Act*. Provide appropriate exhibits, including current financial statements, pay statements, and income tax returns (generally, for the past three years).

Go through the respondent's financial circumstances to the extent possible. The *Child Support Guidelines* require specific disclosure to be provided. You may need to subpoena the respondent or an employer of the respondent.

Have the petitioner detail what the present financial arrangements are including who is paying how much, to whom, and for what purposes. If it is proposed that these arrangements continue you should establish the impact on the recipient of those arrangements.

Set out the proposed support arrangements and have the petitioner explain why they are reasonable. You may want to refer back to any agreements.

You should have calculations under the *Child Support Guidelines* and under the *Spousal Support Advisory Guidelines* to present to the court.

You will want to set out any reasons that make an arrangement that might not otherwise seem reasonable, a reasonable one in the circumstances. In particular, any undue hardship on the paying spouse or special arrangements that would justify a reduction in the support obligation will need to be outlined and explained to the court.

(F) Other Relief

Take the petitioner through the necessary evidence to establish grounds for prevention orders and for arrangements concerning the family home or family property. In the case of a reference those grounds will generally be nothing more than confirming the provisions made in some form of agreement.

Do not ignore *Family Property Act* relief, especially where there is a pension subject to *The Pension Benefits Act*. The sharing provisions of *The Pension Benefits Act* are triggered only where there is a written agreement or a court order dividing family assets, or an order respecting the division of the pension (s. 31(2)). Without such an order or agreement, the pension will not be divided.

For more information on property and pensions, see the Property chapter in these materials.

(G) Service and Closing (when the Petitioner is the only Witness)

Where special service or substitutional service is required, you should have the petitioner explain the reasons for such service requirements.

Once you have completed your questions advise the judge that you have no further questions of the petitioner. The judge may then take the opportunity to ask some additional questions.

(H) Other Witnesses

Other witnesses may be called to corroborate the grounds of divorce. You will have to establish that they had the opportunity to make the observations which they claim to have made. You will also have to establish that they have knowledge of the events about which they are going to give evidence. Outline how they may have had these opportunities (e.g., that they are neighbours, family friends or persons who visit the home on a regular basis). The witness or witnesses should then tell the judge what they know and confirm the petitioner's evidence or fill in the gaps in the case.

As noted above, you may be required to call other witnesses to provide information as to the respondent's financial situation, particularly where the respondent has been uncooperative. The respondent may be in the best position to do this, but will frequently bring their own agenda and concerns to the witness box. An employer in most cases will provide more objective evidence, with less chance of diverging into other areas.

Once you are finished, advise the judge that the evidence for the petitioner is completed. In most cases you will then have a brief dialogue with the judge. The judge will pronounce the divorce and the corollary relief. You must confirm that your client is getting all the relief sought. You can take this opportunity to bring anything omitted by the judge to their attention.

The question of costs should be addressed. Advise the judge if you are seeking costs, the amount, and on what basis. If there have been extraordinary disbursements, the judge should also be so advised.

Be sure to record the following:

- date of hearing;
- name of judge (check spelling);
- details of corollary relief arrangements; and
- type of service.

You can order a copy of the disposition sheet from the court and generally should do so.

C. APPENDIX

1. Step by Step Service Guide

Service of documents on parties outside Canada and the “*Hague Service Convention*”¹

1. Does the person to be served reside outside Canada in a **Contracting State** pursuant to the Convention?
 - See [Status Table of Contracting States](#) on the Hague Conference website.
2. If yes to Step 1, is that person’s address known? (Rule 17.05.1(2)(a)).
3. If yes to Step 2, service must be accomplished by a method² permitted under the Convention.
4. Methods permitted under the Convention:
 - Manitoba lawyer, as a forwarding authority, sends a request for service to the Central Authority³ in the Contracting State using the [Mandatory Model Form](#) (Rule 17.05.1(1)(a)).
 - This method can be used to request service in any Contracting State.
 - In some Contracting States, this is the only permitted method.
 - Alternative methods⁴ may include service by a process server or a lawyer as is customarily used in matters before the Manitoba court. See Articles 8 and 10 of the [Convention](#) concerning alternative methods (Rule 17.05.1(1)(b)).
5. To determine if there is a choice of method when serving a person who resides in the particular Contracting State see [Table Reflecting Applicability of Articles 8\(2\), 10\(a\)\(b\) and \(c\), 15\(2\) and 16\(3\)](#) to determine if that Contracting State has declared its opposition to particular alternative methods.

¹ Prepared by the Family Law Section, Legal Services Branch, Manitoba Justice as general information and is not legal advice

² Convention term for methods of arranging for service in Contracting States: “channels of transmission”

³ Convention term for requesting service through the Central Authority in the Contracting State: “main channel of transmission”

⁴ Convention term for methods of service other than through the Central Authority: “alternative channels of transmission”

6. If there is a choice, determine if a request for service through the Central Authority or an alternative method is preferable after review of *practical information* about the particular Contracting State on Hague Conference website.
7. Once a method for arranging to serve the person has been identified, follow all requirements for that method based on the practical information about the particular Contracting State (e.g., translation requirements).
8. Prove service in accordance with Rule 17.05.2(2). Note **Certificate** part of the mandatory Model Form.
9. See Rule 69 with respect to default judgment.
10. Consider including a clause in any order granted that specifies that service was accomplished in compliance with the Convention – this may facilitate recognition of the order (and enforcement, if necessary) in another country.

D. PRECEDENTS

1. Petition for Divorce

Form 70A

File # FD

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

PHILIP HENRY PINE

petitioner

- and -

MELANIE JANE PINE

respondent

PETITION FOR DIVORCE

BENSON LAW LLP
Barristers and Solicitors,
123 Maple Avenue
Winnipeg, Manitoba
R6Y 3Z7
ROBERT ANDERSON

204-765-4321

Fax – 204-765-1234

Client File No: 1165-1

(Name, address and telephone number of party filing)

THE KING'S BENCH (FAMILY DIVISION)

Winnipeg Centre

BETWEEN:

PHILIP HENRY PINE

petitioner

– and –

MELANIE JANE PINE

respondent

PETITION FOR DIVORCE

TO THE RESPONDENT MELANIE JANE PINE *(full name)*

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the petitioner claiming a DIVORCE under the *Divorce Act* (Canada) (and claiming other relief, particulars of which are found in the attached pages).

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare an answer in Form 70J of the *King's Bench Rules*, file it in this court office and serve it on the petitioner's lawyer or, where the petitioner does not have a lawyer, serve it on the petitioner:

- WITHIN 20 DAYS after this petition is served on you, if you are served in Manitoba;
- WITHIN 40 DAYS after this petition is served on you, if you are served in another province or territory of Canada or in the United States of America;
- WITHIN 60 DAYS after this petition is served on you, if you are served outside Canada or the United States of America.

FINANCIAL INFORMATION

If this petition contains a claim for child or spousal support or a division of property, you must prepare a financial statement in accordance with Rule 70.07 and Form 70D of the *King's Bench Rules* within the time set out above for filing and serving your answer. If you file and serve an answer, your financial statement must accompany your answer.

In addition, if there is a claim for child support, you must also prepare an affidavit containing the documents required by section 21 of the applicable *Child Support Guidelines* (if either the petitioner or you live outside Manitoba) or by section 21 of the *Manitoba Child Support Guidelines* (if you both live in Manitoba). You must file and serve the affidavit within the time set out above for filing and serving your answer. If you file and serve an answer, your affidavit must accompany your answer.

IF YOU ARE SERVED WITH A DEMAND FOR FINANCIAL INFORMATION IN FORM 70D.1, YOU MUST ALSO PROVIDE THE FINANCIAL INFORMATION REQUIRED OF YOU WITHIN THE TIME SET OUT IN THE DEMAND FOR FINANCIAL INFORMATION, WHICH MAY BE DIFFERENT THAN THE TIME SPECIFIED ABOVE FOR FILING AN ANSWER.

IF YOU FAIL TO FILE AND SERVE YOUR COMPLETED FINANCIAL INFORMATION ON TIME, YOU MAY INCUR SERIOUS PENALTIES.

NOTE: If there are no support or property issues raised in the petition or your answer, you do not need to file and serve at this time a financial statement or an affidavit containing the documents required by section 21 of the applicable *Child Support Guidelines*.

IF YOU FAIL TO FILE AND SERVE AN ANSWER, A DIVORCE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU, AN ORDER MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION AND YOU MAY LOSE YOUR RIGHT TO SUPPORT OR A DIVISION OF PROPERTY.

NEITHER SPOUSE IS FREE TO REMARRY until a divorce has been granted and has taken effect. Once a divorce has taken effect, you may obtain a certificate of divorce from this court office.

Date

Issued by _____
Registrar

Court of King's Bench - Winnipeg Centre
100C – 408 York Avenue
Winnipeg, Manitoba R3C 0P9
(court address)

DETAILS OF THE CLAIM

1. The petitioner seeks an order for the following relief pursuant to the *Divorce Act* (Canada):

- Divorce
- Parenting arrangements
 - parenting time, shared
 - decision-making responsibility, shared
 - other (specify):
- Child support
 - table amount
 - special or extraordinary expenses
 - other amount
- Spousal support
- Costs

2. ~~The petitioner seeks an order for the following relief pursuant to provincial legislation:~~

- ~~Non-cohabitation~~
- ~~Parenting arrangements
 - parenting time
 - decision-making responsibility
 - other (specify): _____~~
- ~~Declaration of parentage~~
- ~~Child support
 - table amount
 - special or extraordinary expenses
 - other amount~~
- ~~Spousal support~~
- ~~Division of family property
 - equal
 - unequal~~
- ~~Exclusive occupation of family home~~
- ~~Partition or sale~~
- ~~Postponement of sale~~
- ~~Protective relief, including
 - prohibition against following
 - prohibition against contact/
—communication
 - prohibition against attendance
 - driving suspension/disqualification
—(section 15(1) of *The Domestic
—Violence and Stalking Act*)
 - other (specify): _____~~
- ~~Financial disclosure~~
- ~~Costs~~
- ~~Other (specify): _____~~

3. Details of the relief claimed:

(When "Other" relief is claimed, set out in separate, consecutively numbered paragraphs the precise relief claimed and each allegation of material fact relied on to substantiate the claim.)

(a) Pursuant to the *Divorce Act (Canada)*, Section 8(2)(a). The parties have lived separate and apart since October 15, 2017.

(b) The *King's Bench Act* and Rules.

4. Reconciliation:

There is no possibility of reconciliation or resumption of cohabitation.

5. There has been no collusion in relation to this petition.

~~*(Where the petition is under clause 8(2)(b) of the Divorce Act (Canada), add:)*~~

~~There has been no condonation of or connivance at the grounds for divorce set out in this petition.~~

~~*(Where there has been condonation or connivance, give particulars and set out the facts relied on to justify a decree of divorce in the circumstances.)*~~

6. Particulars of relationship:

(a) Date and place of marriage:

5 May 2008 in Winnipeg Manitoba
(day) *(month)* *(year)* *(city/town)* *(province/country)*

(b) If parties cohabited before marriage to each other, date cohabitation commenced:

1 February 2005
(day) *(month)* *(year)*

(c) Date cohabitation ceased:

15 October 2017
(day) *(month)* *(year)*

(d) Surname of each party immediately before marriage:

Petitioner: unchanged; or

Respondent: unchanged; or
 Carman

(e) Full name at birth:

Philip Henry Pine

Melanie Jane Carman

Petitioner

Respondent

(f) Marital status of spouses at time of marriage:

Petitioner: never married

Respondent: never married

divorced

divorced

widowed

widowed

(g) The petitioner was born at St. Pierre Jolys Manitoba
(city/town) (province/country)

on 25 September 1984
(day) (month) (year)

(h) The respondent was born at Edmonton Alberta
(city/town) (province/country)

on 3 February 1983
(day) (month) (year)

7. (a) The petitioner's full address *(including postal code)*:

931 Dunwoody Avenue, Winnipeg, Manitoba R5C 7J9

(b) The respondent's full address *(including postal code)*:

62 Greenway Street, Winnipeg, Manitoba R4P 8V5

(c) One of the parties has been habitually resident in the Province of Manitoba for at least one year preceding the date of the filing of this petition.

8. Children:

(a) The names and dates of birth of all children of the parties or either of them, and of any child for whom either stand in the place of a parent:

Andrea Pine, born May 7, 2012

Jackson Pine, born June 13, 2015

(b) The petitioner proposes the following parenting arrangements:

(Set out the kind of parenting order requested [specifics of parenting time and decision-making responsibility] for each child in respect of whom the petitioner claims a parenting order.)

The parties have had a shared parenting arrangement since their separation. The petitioner proposes that they continue to have shared and equal parenting time and shared decision making responsibility, with mediation in the event the parties cannot agree.

(c) The petitioner claims child support for:

Andrea Pine, born May 7, 2012 and

Jackson Pine, born June 13, 2015

(d) The petitioner proposes the following child support arrangements:

The parties have agreed to child support arrangements in accordance with s. 9 of the Child Support Guidelines.

9. The dates of all written or oral agreements between the parties are:

Separation Agreement dated February 14, 2020.

10. The particulars of all orders, processes and court proceedings affecting any party to this proceeding, including any of the following:

(Give details of any such orders, processes, proceedings, etc. – e.g. nature of the matter, date, court, court file/incident number, status, etc. or state NONE if there are no orders, processes and court proceedings affecting any party.)

(a) an order or proceeding in relation to parenting arrangements, child support, spousal support or property; NONE

(b) a civil protection order or a proceeding in relation to such an order; NONE

(c) a child protection order, proceeding, agreement or measure; NONE

(d) an order, proceeding, undertaking or recognizance in relation to any matter of a criminal nature. NONE

11. Financial Information:

Attached is the petitioner's financial statement (Form 70D).

(Note: If the petitioner is not claiming any child or spousal support or division of property, the petitioner does not need to attach a financial statement nor an affidavit containing the documents required by section 21 of the applicable Child Support Guidelines.)

(If the petition contains a claim for child support, add:)

Attached is the petitioner's affidavit containing the documents required under section 21 of the applicable *Child Support Guidelines*.

~~12. (a) The legal description of real property in respect of which partition or sale is sought:~~

~~(b) The municipal address of the above described property is:~~

~~(c) The property is registered in the name(s) of:~~

~~(d) The market value of the property is:~~

~~(e) Particulars of registered encumbrances are:~~

13. Certification of petitioner under the *Divorce Act* (Canada):

I certify that I am aware of my duties and responsibilities under the *Divorce Act* (Canada), as follows:

(Strike out paragraph 13(a) if parenting time or decision-making responsibility is not being sought under the Divorce Act (Canada).)

(a) If I am granted parenting time or decision-making responsibility:

- (i) I will exercise it in a manner that is consistent with the best interests of the child.
- (ii) Before changing my place of residence or that of the child I must give notice in the manner required by the *Divorce Act* (Canada) to anyone who has parenting time, decision-making responsibility or contact under a contact order respecting the child*.
- (iii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations under the *Divorce Act* (Canada), to any other person who has

-
- *Any move — including a local move — is a change of residence.
 - A "relocation" is a move — either by a child or a person with parenting time or decision-making responsibility — that could have a significant impact on the child's relationship with a person with or applying for parenting time or decision-making responsibility or a person who has contact under a contact order.
 - A person with parenting time or decision-making responsibility must give notice before any proposed move to any person with parenting time, decision-making responsibility or contact of a change of their residence or that of the child.
 - Notice of a relocation must be given at least 60 days in advance.
 - A person with contact who proposes any change of residence, must give notice to any person with parenting time, decision-making responsibility or contact. If the proposed change of residence is likely to have a significant impact on the relationship with the child, the notice must be given at least 60 days in advance.
 - **The specific details of the notice requirements are set out in the *Divorce Act*, Canada (s. 16.7 to 16.96) and the required notice forms and descriptions of how to give notice are set out in the [Notice of Relocation Regulations](#) under the *Divorce Act*, Canada. See Justice Canada web site: www.laws-lois.justice.gc.ca**

parenting time, decision-making responsibility or contact under a contact order respecting the child of my intention*.

(Strike out paragraph 13(b) if there are no children of the marriage.)

- (b) I will, to the best of my ability, protect any child of the marriage from conflict arising from this proceeding;
- (c) I will, to the extent that is appropriate to do so, try to resolve this matter with the respondent through a family dispute resolution process;
- (d) I will provide all complete, accurate and up-to-date information that is required by the *Divorce Act* (Canada);
- (e) I will comply with any order made under the *Divorce Act* (Canada).

(Strike out all of paragraph 14 if relief is not being claimed under The Family Law Act.)

~~14. — Certification of petitioner under *The Family Law Act*:~~

~~I certify that I am aware of my duties and responsibilities under *The Family Law Act* as follows:~~

- ~~(a) I will act in a way that strives
 - ~~(i) to minimize conflict;~~
 - ~~(ii) to promote cooperation; and~~
 - ~~(iii) to meet the best interests of any child involved in the dispute.~~~~

~~*(Strike out paragraph 14(b) if parenting time, decision-making responsibility or contact is not being sought under The Family Law Act.)*~~

- ~~(b) If I am granted parenting time or decision-making responsibility or contact with a child under a contact order:
 - ~~(i) I will exercise my parental responsibilities or contact in a manner that is consistent with the best interests of the child.~~
 - ~~(ii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form and manner prescribed by *The Family Law Act* and the *Family Law Regulation* to anyone who:
 - ~~(1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law;~~
 - ~~(2) is a guardian who has a guardianship order;~~
 - ~~(3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*;~~~~~~

- ~~(4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act*, and~~
- ~~(5) has applied for a parenting order, a guardianship order or a contact order where the application is pending**.~~

~~(iii) Before changing my place of residence or that of the child I must give notice in the form and manner required by *The Family Law Act* and the *Family Law Regulation* to anyone who:~~

- ~~(1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,~~
- ~~(2) is a guardian who has a guardianship order,~~
- ~~(3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*, and~~
- ~~(4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act***~~

~~I understand that if the proposed change of residence is likely to have a significant impact on the relationship with the child, I must give the notice at least 60 days in advance.~~

~~(Strike out paragraph 14(c) if there are no children in the relationship.)~~

- ~~(c) I will, to the best of my ability, protect any child from conflict arising from the proceeding.~~
- ~~(d) I will, to the extent that it is appropriate to do so, try to resolve the matters that may be the subject of an order under *The Family Law Act* through a family dispute resolution process.~~
- ~~(e) I will provide all complete, accurate and up-to-date information that is required by *The Family Law Act* or any other applicable law.~~
- ~~(f) I will comply with any order made under *The Family Law Act*.~~

**The specific details of the notice requirements under *The Family Law Act* are set out in *The Family Law Act* and the *Family Law Regulation*. The Forms: Notice of Proposed Relocation, Notice of Change of Residence and Notice of Objection to Proposed Relocation are prescribed in the *Family Law Regulation*.

15. Declaration of petitioner:

I have read and understand this petition. Those statements contained in this petition of which I have personal knowledge are true, and those of which I do not have personal knowledge, I believe to be true.

Dated at Winnipeg, Manitoba, this 5th day of July, 20xx.

Signature of petitioner

The petitioner's address for service is:
931 Dunwoody Avenue,
Winnipeg, Manitoba R5C 7J9

The petitioner's lawyer is:

ROBERT ANDERSON

(Name of lawyer)

BENSON LAW LLP

(Firm name)

123 Maple Avenue

Winnipeg, Manitoba R6Y 3Z7

(Address)

204-765-4321

(Phone)

204-765-1234

(Fax)

randerson@bensons.com

(E-mail address)

Statement of Lawyer under the *Divorce Act* (Canada):

I, Robert Anderson, the lawyer for Philip Henry Pine, the petitioner, certify to this court that I have complied with the requirements of subsections 7.7(1) and 7.7(2) of the *Divorce Act* (Canada).

Dated at Winnipeg, Manitoba, this 5th day of July, 20xx.

Signature of lawyer

Robert Anderson
Name of lawyer

(Strike out the Statement of Lawyer below if petitioner is not claiming relief under The Family Law Act.)

~~Statement of Lawyer under *The Family Law Act*:~~

~~I, _____, the lawyer for _____,
the petitioner, certify to this court that I have complied with the requirements of subsection 9(1) of
The Family Law Act.~~

~~Dated at _____, this _____ day of _____.~~

Signature of lawyer

Name of lawyer

**THE KING’S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

PHILIP HENRY PINE

petitioner,

- and -

MELANIE JANE PINE

respondent.

ACKNOWLEDGEMENT OF SERVICE

I, **MELANIE JANE PINE**, the respondent in this petition have this day received a copy of the petition. My mailing address for further service of documents is

[address, postal code and telephone number, or name, address, postal code and telephone number of your lawyer]

Date: _____

Witness

Respondent

2. Affidavit of Service

Form 701

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

ALEXANDER PAUL GARDNER,

petitioner,

- and -

CASSANDRA MAE GARDNER,

respondent.

**AFFIDAVIT OF SERVICE
Affirmed August , 20xx**

**MAXWELL LLP
Barristers and Solicitors,
76 Kennedy Avenue
Winnipeg, Manitoba.
R4C 6B7**

RALPH MAXWELL

204-891-8765

Fax - 204-891-8764

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

ALEXANDER PAUL GARDNER,

petitioner,

- and -

CASSANDRA MAE GARDNER,

respondent.

AFFIDAVIT OF SERVICE

1. I, RALPH MAXWELL (*name*), did on Friday, the 23rd day of July, 20xx (*day of week*) (*date*) (*month*) (*year*) personally serve CASSANDRA MAE GARDNER (*name of respondent*), by delivering to the respondent at the offices of Maxwell LLP, Barristers and Solicitors, 76 Kennedy Avenue, Winnipeg, Manitoba R4C 6B7 (*address of respondent*) a true copy of:

(fully describe documents served including content and date filed)

(a) the Petition for Divorce, filed July 5, 20xx

2. At the time of service the respondent completed and signed the Acknowledgment of Service (Form 70C) that accompanied the Petition and I signed as a witness to their signature. The original signed Acknowledgement of Service (Form 70C) is attached.

OR

~~2. At the time of service I requested the respondent complete and sign the Acknowledgment of Service (Form 70C) that accompanied the Petition and my request was denied.~~

3. My means of knowledge of the identity of the respondent are as follows: *(i.e. personal knowledge, type of ID presented, etc.)*

- (a) CASSANDRA MAE GARDNER admitted to me that she is the respondent in the withing proceedings and the proper person to be served.
- (b) CASSANDRA MAE GARDNER is known to me as a client of the firm Maxwell LLP.

4. To effect service I necessarily travelled nil kilometres.

AFFIRMED before me at the)
City of Winnipeg, in the)
Province of Manitoba,)
this ___ day of August, 20xx.)
)

RALPH MAXWELL

A Commissioner for Oaths in)
and for the Province of)
Manitoba.)

My Commission Expires:

3. Financial Statement

Form 70D

File # FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

MADLINE BERNICE STRINGER,

petitioner,

- and -

PAUL WILLIAM STRINGER,

respondent.

FINANCIAL STATEMENT OF PAUL WILLIAM STRINGER

AFFIRMED: JANUARY 20xx

**JONES LLP
Barristers and Solicitors,
156 Elmont Avenue
Winnipeg, Manitoba
R3M 4T7**

MARLA JONES

204-876-7684

Fax – 204-876-7685

Client File No: 1654-1

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

MADELINE BERNICE STRINGER,

petitioner,

- and -

PAUL WILLIAM STRINGER,

respondent.

FINANCIAL STATEMENT

FINANCIAL STATEMENT OF **PAUL WILLIAM STRINGER**
(Petitioner/Respondent)

I, **PAUL WILLIAM STRINGER**, of the City of Winnipeg, in the Province of Manitoba,
AFFIRM THAT:

- 1. Attached are the following:
 - Part 1 - Annual Income
 - Part 2 - Monthly Expenses
 - Part 3 - Assets of Both Parties
 - Part 4 - Debts of Both Parties

- 2. To the best of my knowledge, information and belief, the information set out in this financial statement is true and complete.

AFFIRMED before me at the City of
 Winnipeg, in the Province of Manitoba,
 this day of January, 20xx.

) _____
)
)
)
)
)
) **PAUL WILLIAM STRINGER**

A Barrister-at-law in and for the
Province of Manitoba.

PART 1 - ANNUAL INCOME

1. I am

employed as (*describe occupation*) _____

by (*name and address of employer*) _____

self-employed, carrying on business under the name of PAUL WILLIAM STRINGER Consultant Corporation

unemployed since _____

2. (a) Attached are copies of my Canada Revenue Agency income and deduction computer printouts for each of the three most recent taxation years

20xx , 20xx , 20xx
(years)

(b) I cannot obtain the printouts for the year _____ , _____ , _____
(give reasons) (years)

3. (a) I expect my total income for this year to be as follows:

SOURCES OF INCOME

Employment income (<i>wages, salary, commissions, including overtime and bonuses</i>)		548,820
Other employment income (<i>including tips and gratuities</i>)		_____
Old age security pension		_____
Canada or Quebec Pension Plan benefits		_____
Other pensions or superannuation		_____
Employment insurance benefits		_____
Taxable amount of dividends from taxable Canadian Corporations		115,000
Interest and other investment income		_____
Net partnership income		_____
Rental income	Gross _____	Net _____
Taxable capital gains		_____
Spousal Support		_____
Child support (<i>taxable only</i>)		_____
Registered Retirement Savings Plan income		_____
Business income	Gross _____	Net _____

Professional income	Gross	_____	Net	_____
Commission income	Gross	_____	Net	_____
Farming income	Gross	_____	Net	_____
Fishing income	Gross	_____	Net	_____
Workers' Compensation benefits				_____
Social Assistance payments				_____
Net federal supplements				_____
Other income (<i>specify</i>)				_____

(A) TOTAL ANNUAL INCOME: 663,920.00

Total income as declared in most recent personal income tax return
20xx (year) 673,104.00

ADJUSTMENTS TO INCOME

Additions:

Actual amount of dividends received from Canadian corporations				<u>100,000</u>
Actual capital gains realized in excess of actual capital losses				_____
Salaries, benefits or other payments paid to non-arm's length persons, and deducted from self-employment income, unless necessary to earn self-employment income				_____
Allowable capital cost allowance for real property				_____
Employee stock options with a Canadian-controlled private corporation exercised (<i>Do not include if you dispose of the shares in the same year you exercise the option</i>).				_____
Value of shares at the time the options are exercised		_____		
Less: Amount paid for the shares		_____		
Amount paid to acquire the options to purchase the shares		_____		

(B) TOTAL ADDITIONS: 100,000

Deductions

Union, professional dues and other employment expenses allowed under Schedule III				_____
Child support received and included in total income above				_____
Spousal support received from the other parent and included in total income above				_____
Social assistance received by the parent for other members of the household				_____
Taxable amount of dividends from taxable Canadian corporations				<u>115,000</u>
Taxable capital gains				_____
Actual amount of business investment losses				_____
Carrying charges and interest expenses				<u>500</u>
Self-employment income, net of reserves, included in income for tax purposes in excess of the self-employment income for the 12 months ending on December 31 of the reporting year				_____
Portion of partnership and sole proprietorship income that is required by the partnership to be re-invested				_____

(C) TOTAL DEDUCTIONS: 115,500

Annual Income for Child Support Guidelines Table Amount **648,420.00**
(Total income (A) plus additions (B) less deductions (C))

Annual Income for Special or Extraordinary Expenses Amount 571,620.00
(Annual Income for Child Support Guidelines Table Amount less spousal support paid to the other parent, or, plus spousal support received from the other parent, as applicable)

(b) I receive child support for the following persons who are not the subject of this application:

Name	Annual amount	Taxable or not <i>(indicate)</i>

(c) I receive the following non-taxable benefits, allowances or amounts: *(This includes items such as use of a vehicle and room and board. Where the benefit is not an amount, include an estimate of the value of the benefit on an annual basis.)*

Benefit	Benefit	Annual amount or value

5. (Complete only if claiming child support and special or extraordinary expenses).
I have the following special or extraordinary expenses for the named children:

(a) Child care expenses

Name of child: *	Gross annual cost	Net annual cost
_____	_____	_____
(specify expense)		

(b) Health-related expenses that exceed insurance reimbursement by at least \$100 annually.

Name of child: Mercedes	Gross annual cost	Net annual cost
_____	_____	_____
Orthodontia	\$ 2,400.00	\$ _____
(specify expense)		

(c) Extraordinary expenses for primary or secondary school education or for any educational programs that meet the child's particular needs.

Name of child: Alicia, Mercedes and Nelson	Gross annual cost	Net annual cost
_____	_____	_____
Laureate Collegiate	22,030.00	_____
(specify expense)		

(d) Post-secondary education

Name of child: *	Gross annual cost	Net annual cost
_____	_____	_____
(specify expense)		

(e) Extraordinary expenses for extracurricular activities

Name of child: Mercedes	Gross annual cost	Net annual cost
_____	_____	_____
AAA Hockey / spring hockey	\$ 12,000.00	\$ _____
(specify expense)		
Volleyball club	\$ 1,400.00	\$ _____
(specify expense)		
Name of child: Nelson		

Club volleyball	\$ 1,400.00	\$ _____
(specify expense)		
Hockey	\$ 750.00	\$ _____
(specify expense)		

PART 3 - ASSETS OF BOTH PARTIES

6. Our assets are as follows:

(Include all assets, whether or not shareable under The Family Property Act, including jointly owned assets. Where there is a claim under The Family Property Act, identify with an asterisk() those assets alleged to be non-shareable. Do not complete the column headed "Market Value at Date of Separation" if there is no claim under The Family Property Act.)*

	Asset in Possession of Petitioner (P) or Respondent (R)	Present Market Value	Market Value at Date of Separation
Real Estate (Municipal Address)			
17 Ash Avenue	R	\$ 480,000.00	N/A
98 Ash Avenue	P	480,000.00	N/A
Cars, boats, vehicles (year, make, model)			
2018 Toyota 4Runner	R	Leased	N/A
2018 Nissan Rogue	P	Leased	N/A
Household goods, furniture and appliances	P/R	Unknown	Unknown
Tools, sports and hobby equipment	P/R	Unknown	Unknown
Bank accounts and cash on hand	R	8,300.00	10,500.00
	P	Unknown	N/A
R.R.S.P.	R	57,966.92	56,200.12
	P	Unknown	14,000.00
Bonds, shares, term deposits, investment certificates, mutual funds			
TD Management Investment	R	836.67	751.00
RESP	Joint	43,721.46	41,634.00
Money owed to us		\$	\$
Life Insurance (cash value)	R	N/A	N/A
Pension plans – U of M	R	Unknown	Unknown
Business assets	R	Unknown	Unknown
Other (<i>specify</i>)		\$	\$
	TOTAL	\$ Unknown	\$ Unknown

PART 4 - DEBTS AND OTHER LIABILITIES OF BOTH PARTIES

7. Our debts and liabilities are as follows:

(List all your debts and liabilities as well as any joint debts and liabilities. Identify joint liabilities with an asterisk (). Do not complete the column headed "Amount Outstanding at Date of Separation" if there is no claim under The Family Property Act.)*

	Debt of Petitioner (P) or Respondent (R) or Joint (*)	Present Amount Outstanding	Amount Outstanding at Date of Separation	Present Monthly Payments
Mortgage				
17 Ash Avenue		\$ 395,395.04	N/A	\$ 1,748.02
Loans (<i>specify</i>)				
CIBC		\$ 6,500.00	N/A	\$ 1,000.00
		\$ _____	\$ _____	\$ _____
Credit Cards				
CIBC		\$ 7,500.00	N/A	\$ 750.00
AMEX		\$ 0.00	\$ 763.72	\$ 0.00
Other (<i>specify</i>)				
		\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____
		\$ _____	\$ _____	\$ _____
TOTAL:		\$ 409,395.04	\$ 763.72	\$ 3,498.02

4. Demand for Financial Information

Form 70D.1

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

ALBERT IRONS

petitioner,

- and -

NANCY MONROE

respondent.

DEMAND FOR FINANCIAL INFORMATION

**WOOLEY LLP
Barristers and Solicitors,
89 Portage Avenue
Winnipeg, Manitoba
R6Y 8U9**

**LANCE EMBERS
Ph – 204-338-9898
Fax – 204-338-9899**

Client File No: 6789

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

ALBERT IRONS

petitioner,

- and -

NANCY MONROE

respondent.

DEMAND FOR FINANCIAL INFORMATION

TO THE PETITIONER,

ALBERT IRONS

(specify full name of the party who is to provide information)

NANCY MONROE

demands that you provide the information

(specify full name of the party who is to requesting the information)

required in paragraphs 1 to 3 below.

IF YOU FAIL TO PROVIDE THE INFORMATION REQUIRED OF YOU WITHIN THE REQUIRED TIME PERIOD, THE COURT MAY MAKE ONE OR BOTH OF THE FOLLOWING ORDERS **WITHOUT FURTHER NOTICE TO YOU:**

- an order based on assumption about your financial situation
- an order of financial disclosure

NOTE: FAILURE TO PROVIDE THE REQUESTED INFORMATION MAY ALSO RESULT IN ONE OR BOTH OF THE FOLLOWING ORDERS BEING MADE:

- an order requiring you to pay costs to the other party to this litigation or a penalty of up to \$5,000
- an order preventing you from pursuing all or part of your case

YOU MUST

(Check applicable box)

1. Within
 - 30 days (select 30 days where the party who is to provide the information lives in Canada or, in a *Divorce Act (Canada)* proceeding, lives in the United States
 - 60 days (select 60 days in all other instances)

2. (Check all applicable boxes)

- provide the information requested in paragraph 3 to the other party, or their lawyer if they have one;
- provide the information requested in paragraph 3 to the other party, or their lawyer if they have one, in a sworn affidavit;
- file the information requested in paragraph 3 with the Court, in a sworn affidavit

3. The following information (check all applicable boxes):

a prepared and sworn financial statement in accordance with Rule 70.05, 70.07 or 70.08 in Forms 70D of the *Court of King's Bench Rules*, including:

- Part 1 -- Annual Income
- Part 2 -- Monthly Expenses
- Part 3 -- Assets of Both Parties
- Part 4 -- Debts of Both Parties
- copies of your Canada Revenue Agency income and deduction computer printouts showing your income as assessed by the Canada Revenue Agency for each of the three most recent taxation years in which you filed a tax return;
- a copy of every personal income tax return with supporting documentation filed by you for each of the three most recent taxation years;
- a copy of every notice of assessment and reassessment issued to you for each of the three most recent taxation years;

Additional information applicable to employees:

- your three most recent statements of earnings (pay stubs) indicating the total earnings paid to you in the year to date, including overtime or, if such a statement is not provided by your employer, a letter from your employer setting out that information including your rate of annual salary or remuneration;

Additional information applicable to self-employed individual:

- the financial statements of your business or professional practice, other than a partnership, for the three most recent taxation years;
- a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom you do not deal at arm's length, for the three most recent taxation years;

Additional information applicable to partners in a partnership:

- confirmation of your income and draw from, and capital in, the partnership for its three most recent taxation years;

Additional information from those who control a corporation:

- the financial statements of the corporation and its subsidiaries for its three most recent taxation years;
- a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the corporation, and every related corporation, does not deal at arm's length for its three most recent taxation years;

Additional information from beneficiaries under a trust:

- a copy of the trust settlement agreement;
- copies of the trust's three most recent financial statements;

Additional information from those who receive income from any other source (for example, employment insurance, social assistance, a pension, workers compensation, disability payments:

the most recent statement of income indicating the total amount of income from the applicable source during the current year or, if such a statement is not provided, a letter from the appropriate authority stating the required information;

- Other – 202x T4 Slip and all other T Slips issued for the 202x taxation year
-

Date:

_____ (month/day/year)

_____ LANCE EMBERS

Wooley LLP

Barristers and Solicitors

89 Portage Avenue

Winnipeg, MB R6Y 8U9

Phone: 204-338-9898

Fax: 204-338-9899

Email: lembers@wooley.com

(Name and address of lawyer or party filing)

TO: JAMES HAMMER
HAMMER LAW CORPORATION
18 Selkirk Avenue
Winnipeg MB R5T 7B3
(Name and address of other party's lawyer or of other party)

5. Answer and Petition for Divorce

Form 70J – Answer

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

MADLINE BERNICE STRINGER,

petitioner,

- and -

PAUL WILLIAM STRINGER,

respondent.

ANSWER AND PETITION FOR DIVORCE

**JONES LLP
Barristers and Solicitors
156 Elmont Avenue
Winnipeg, MB R3M 4T7
MARLA JONES**

Phone No. 204-87-7684

Fax No. 204-876-7685

marla@jones.ca

Client File No. 1654-1

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

MADLINE BERNICE STRINGER,

petitioner,

- and -

PAUL WILLIAM STRINGER,

respondent.

ANSWER AND PETITION FOR DIVORCE

1. The respondent agrees to the following relief sought by the petitioner:
 - a. Divorce based upon the parties having lived separate and apart in excess of one (1) year, since January 23, 2016;
 - b. Joint parental responsibility, including and shared parenting time and shared decision-making responsibility;
 - c. Financial Disclosure (on an ongoing basis in accordance with the Child Support Guidelines); and
 - d. Maintenance Enforcement.

2. The respondent contests the petition as to:
 - a. Child support (table amount and special or extraordinary expenses);
 - b. Spousal support;
 - c. An Order that the income of the respondent for child support purposes be imputed to a level higher than Line 150 of his Income Tax Returns;
 - d. An Order enforcing the provisions of the Separation Agreement executed August 3, 2017 with respect to RESP's for the children of the marriage;

- e. An Order enforcing the specific terms of the Parenting Plan attached as Schedule "A" to the Separation Agreement executed August 3, 2017;
 - f. Paragraph 8(b) – Parenting Arrangements; and
 - g. Costs;
 - h. Paragraph 9 – Oral Agreements.
3. The position of the respondent on the contested issues is:
- a. Child support – The parties have had shared parenting time and decision-making responsibility for their children since their separation. The Separation Agreement entered into by the parties confirms child support arrangements in accordance with s. 9 of the Child Support Guidelines with certain special and extraordinary expenses being shared equally. There is no basis in law or fact to vary the arrangement outlined in the parties' Separation Agreement except to update the parties' respective incomes.
 - b. Spousal Support – The respondent does not dispute that the petitioner currently has an entitlement to spousal support however the respondent is seeking a reduction from the support currently paid in accordance with the Separation Agreement having regard to the parties' respective means and needs as well as a time-limited order that provides both parties with certainty and finality.
 - c. Imputation of Income – There is no basis in law or fact for imputing income to the respondent, whose income should be calculated in accordance with the Child Support Guidelines.
 - d. Order Enforcing the Separation Agreement with respect to RESP contributions – There is no basis in law or in fact for this relief. The respondent has disproportionately paid for the children's extraordinary expenses contrary to the regime contemplated by the parties' Separation Agreement and a reconciliation is required.
 - e. An Order enforcing the specific terms of the Parenting Plan attached as Schedule "A" to the Separation Agreement executed July 28, 2017 – There is no basis in law or in fact for this relief as there are many provisions of the Parenting Plan that fall

outside the jurisdiction of the Court. In any event, there is no basis for this request because:

- i. The parties' Parenting Plan contemplated changes would be required as the children grow older at Paragraph 7(a) thereof. The parties have made such changes as needed including the move to a week-on/week off schedule of parenting time when same was appropriate;
 - ii. The Parenting Plan requires attendance before a neutral expert if there is a disagreement with respect to any change followed by attendance at mediation if there remains a dispute (at Paragraph 7(b)). The respondent has advised through counsel that he is prepared to attend before a neutral expert or to attend mediation if the petitioner has issues with respect to the Parenting Plan.
 - f. Paragraph 8(b) – The Parenting Plan was entered into over four (4) years ago and provided for a 2-2-3 schedule. The parties agreed by mutual consent to update it to better reflect the needs of the children.
 - g. Costs – The respondent has not acted in a manner that warrants an award of costs against him.
 - h. Paragraph 9 – The petitioner did not properly set out all of the parties' agreements. The parties have entered into an oral agreement after the execution of the Separation Agreement as follows:
 - i. The parties agreed to move to from a 2-2-3 schedule of parenting time as contemplated in their Parenting Plan to a week on/week off schedule in approximately July of 2018.
4. The respondent hereby seeks an order for the following relief:
- (Where the answer contains an application for child support, state whether the claim is for an amount of support in the applicable table, an amount for special or extraordinary expenses, or another amount under the guidelines.)*
- a. Divorce based on the parties having lived separate and apart for an excess of one year and since January 23, 2016;
 - b. Equal parenting time and joint decision making responsibility;

- c. That the children's residence not be changed from the City of Winnipeg;
 - d. That income be imputed to the petitioner;
 - e. That the petitioner be required to provide full and complete financial disclosure, including a proper Form 70D Financial Statement and legible complete copies of Income Tax Returns for the last three (3) taxation years as well as copies of her Notice(s) of Assessment/Re-Assessment for the last three (3) taxation years, along with all of the documents required pursuant to section 21 of the Child Support Guidelines.
 - f. Costs.
5. The respondent's grounds for seeking that relief are:
- a. The *Divorce Act*, including Section 8(2)(a), the parties having lived separate and apart for more than one year and since January 23, 2016;
 - b. *The Family Law Act*,
 - c. *The Court of King's Bench Act* and Rules;
 - d. Such further and other grounds as counsel may advise and this Honourable Court may deem fit.
6. Attached is the respondent's Financial Statement (Form 70D).
- ~~(Note: Where there is no claim by either party for support or division of property, the respondent does not need to attach a financial statement nor an affidavit containing the documents required by section 21 of the applicable child support guidelines.)~~
- ~~(If the petition or the answer contains a claim for child support under the Divorce Act (Canada) and either the petitioner or the respondent lives outside Manitoba, add:)~~
- ~~(Attached is the respondent's affidavit containing the documents required under section 21 of the applicable child support guidelines.)~~
- ~~(If a party is served with a Demand for Financial Information in Form 70D.1, they must also provide the financial information required within the time set out in the Demand for Financial Information. FAILURE TO FILE AND SERVE THE COMPLETED FINANCIAL INFORMATION ON TIME MAY RESULT IN SERIOUS PENALTIES).~~
7. ~~Where partition or sale is at issue, the market value of the property is:~~

8. The particulars of all orders, processes and court proceedings affecting any party to this proceeding, including any of the following:

(Give details of any such orders, processes, proceedings, etc. – e.g. nature of the matter, date, court, court file/incident number, status, etc. or state NONE if there are no orders, processes and court proceedings affecting any party.)

- a. an order or proceeding in relation to parenting arrangements, child support, spousal support or property; NONE
- b. a civil protection order or a proceeding in relation to such an order; NONE
- c. a child protection order, proceeding, agreement or measure; NONE
- d. an order, proceeding, undertaking or recognizance in relation to any matter of a criminal nature. NONE

(Strike out paragraphs 9(a) to 9(c) if the respondent is not claiming a divorce.)

9. Where the respondent is claiming a divorce under the *Divorce Act* (Canada), the following paragraphs must be included.

- a. Reconciliation:

There is no possibility of reconciliation or resumption of cohabitation.

- b. There has been no collusion in relation to this petition.

(Where the petition is under clause 8(2)(b) of the Divorce Act (Canada), add:)

~~There has been no condonation or connivance at the grounds for divorce set out in this petition.~~

(Where there has been condonation or connivance, give particulars and set out the facts relied on to justify a decree of divorce in the circumstances.)

- c. One of the parties has been habitually resident in the Province of Manitoba for at least one year preceding the date of the filing of this petition.

(Strike out all of paragraph 10 if relief is not being claimed under the Divorce Act (Canada).)

10. Where either party is claiming a divorce or another order under the *Divorce Act* (Canada), the respondent must sign the following certification:

Certification of respondent under the *Divorce Act* (Canada):

I certify that I am aware of my duties and responsibilities under the *Divorce Act* (Canada), as follows:

(Strike out all of paragraph 10(a) if parenting time or decision-making responsibility is not being sought under the Divorce Act (Canada).)

- a. If I am granted parenting time or decision-making responsibility under the *Divorce Act* (Canada):
- i. I will exercise it in a manner that is consistent with the best interests of the child.
 - ii. Before changing my place of residence or that of the child I must give notice in the manner required by the *Divorce Act* (Canada) to anyone who has parenting time, decision-making responsibility or contact under a contact order respecting the child*.
 - iii. Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations under the *Divorce Act* (Canada), to any other person who has parenting time, decision-making responsibility or contact under a contact order respecting the child of my intention*.

(Strike out paragraph 10(b) if there are no children of the marriage.)

- b. I will, to the best of my ability, protect any child of the marriage from conflict arising from this proceeding.
- c. I will, to the extent that is appropriate to do so, try to resolve this matter with the other party through a family dispute resolution process.
- d. I will provide all complete, accurate and up-to-date information that is required by the *Divorce Act* (Canada).
- e. I will comply with any order made under the *Divorce Act* (Canada).

(Strike out all of paragraph 11 if relief is not being claimed under The Family Law Act.)

-
- * Any move — including a local move — is a change of residence.
 - A “relocation” is a move — either by a child or a person with parenting time or decision-making responsibility — that could have a significant impact on the child’s relationship with a person with or applying for parenting time or decision-making responsibility or a person who has contact under a contact order.
 - A person with parenting time or decision-making responsibility must give notice before any proposed move to any person with parenting time, decision-making responsibility or contact of a change of their residence or that of the child.
 - Notice of a relocation must be given at least 60 days in advance.
 - A person with contact who proposes any change of residence, must give notice to any person with parenting time, decision-making responsibility or contact. If the proposed change of residence is likely to have a significant impact on the relationship with the child, the notice must be given at least 60 days in advance.
 - **The specific details of the notice requirements are set out in the *Divorce Act*, Canada (s. 16.7 to 16.96) and the required notice forms and descriptions of how to give notice are set out in the [Notice of Relocation Regulations under the *Divorce Act*, Canada](#). See Justice Canada web site: www.laws-lois.justice.gc.ca**

11. Certification of moving party under *The Family Law Act*:

I certify that I am aware of my duties and responsibilities under *The Family Law Act* as follows:

- a. I will act in a way that strives
 - i. to minimize conflict;
 - ii. to promote cooperation; and
 - iii. to meet the best interests of any child involved in the dispute.

(Strike out paragraph 11(b) if parenting time, decision-making responsibility or contact is not being sought under The Family Law Act.)

- b. If I am granted parenting time or decision-making responsibility or contact with a child under a contact order under *The Family Law Act*:
 - i. I will exercise my parental responsibilities or contact in a manner that is consistent with the best interests of the child.
 - ii. Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form and manner prescribed by *The Family Law Act* and the *Family Law Regulation* to anyone who:
 - (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*;
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act*, and
 - (5) has applied for a parenting order, a guardianship order or a contact order where the application is pending**.

**The specific details of the notice requirements under *The Family Law Act* are set out in *The Family Law Act* and the *Family Law Regulation*. The Forms: Notice of Proposed Relocation, Notice of Change of Residence and Notice of Objection to Proposed Relocation are prescribed in the *Family Law Regulation*.

- iii. Before changing my place of residence or that of the child I must give notice in the form and manner required by *The Family Law Act* and the *Family Law Regulation* to anyone who:
- (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*, and
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act***

I understand that if the proposed change of residence is likely to have a significant impact on the relationship with the child, I must give the notice at least 60 days in advance.

(Strike out paragraph 11(c) if there are no children in the relationship.)

- c. I will, to the best of my ability, protect any child from conflict arising from the proceeding.
- d. I will, to the extent that it is appropriate to do so, try to resolve the matters that may be the subject of an order under *The Family Law Act* through a family dispute resolution process.
- e. I will provide all complete, accurate and up-to-date information that is required by *The Family Law Act* or any other applicable law.
- f. I will comply with any order made under *The Family Law Act*.

12. Declaration of respondent:

I have read and understand this Answer and Petition for Divorce. Those statements contained in this Answer and Petition for Divorce of which I have a personal knowledge are true, and those of which I do not have personal knowledge, I believe to be true.

Dated:

PAUL WILLIAM STRINGER

The respondent's address for service is:
Jones LLP
Barristers and Solicitors
156 Elmont Avenue
Winnipeg, MB R3M 4T7

The respondent's Lawyer is:
Marla Jones
Jones LLP
Barristers and Solicitors
156 Elmont Avenue
Winnipeg, MB R3M 4T7
Phone No. 204-87-7684
Fax No. 204-876-7685
marla@jones.ca

Where the respondent claims a divorce in the answer, this form must be titled "ANSWER AND PETITION FOR DIVORCE" and the following statement must be included:

(Strike out the Statement of Lawyer below if no divorce is claimed.)

Statement of Lawyer under the *Divorce Act* (Canada):

I, Marla Jones, the lawyer for PAUL WILLIAM STRINGER, the respondent, certify to this court that I have complied with the requirements of subsections 7.7(1) and 7.7(2) of the *Divorce Act* (Canada).

Dated at _____, this _____ day of _____, _____

Signature of lawyer
Marla Jones
Name of lawyer

(Strike out the Statement of Lawyer below if no relief is being claimed under The Family Law Act.)

Statement of Lawyer under *The Family Law Act*:

I, Marla Jones, the lawyer for PAUL WILLIAM STRINGER, the respondent, certify to this court that I have complied with the requirements of subsection 9(1) of *The Family Law Act*.

Dated at _____, this _____ day of _____, _____

Signature of lawyer
Marla Jones
Name of lawyer

6. Reply to Answer and Petition for Divorce

Form 70K

File No. FD

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

BARBARA WATERS

petitioner,

- and -

KEVIN WATERS

respondent.

REPLY TO ANSWER AND PETITION FOR DIVORCE

DAVEY LLP
Barristers and Solicitors,
1175 Market Avenue
Winnipeg, Manitoba
R4R 5T5

GEORGE DAVEY

204-388-1234
Fax – 204-388-1235
Email - geod@davey.com

Client File No: 13579

THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE

BETWEEN:

BARBARA WATERS

petitioner,

- and -

KEVIN WATERS

respondent

REPLY TO ANSWER AND PETITION FOR DIVORCE

1. The petitioner admits the allegations contained in paragraphs 4(d) and 4(e) of the Answer and Petition for Divorce.

2. The petitioner denies the allegations contained in paragraphs 4(a), 4(b), 4(c) and 4(f) of the Answer and Petition for Divorce.

(a) paragraph 4(a) – *set out each allegation of material fact relied on in the reply*

(b) paragraph 4(b) – *set out each allegation of material fact relied on in the reply*

(c) paragraph 4(c) – *set out each allegation of material fact relied on in the reply*

(d) paragraph 4(f) – *set out each allegation of material fact relied on in the reply*

~~3. The petitioner has no knowledge in respect of the allegations contained in paragraphs _____ of the (answer/answer and petition).~~

(In separate paragraphs, numbered consecutively in sequence after the above numbered paragraphs, set out each allegation of material fact relied on in the reply.)

(Strike out all of paragraph 4 if the respondent is not claiming relief under the Divorce Act (Canada).)

4. Certification of petitioner under the *Divorce Act* (Canada):

I certify that I am aware of my duties and responsibilities under the *Divorce Act* (Canada), as follows:

(Strike out all of paragraph 4(a) if parenting time or decision-making responsibility is not being sought under the Divorce Act (Canada).)

- (a) If I am granted parenting time or decision-making responsibility under the *Divorce Act* (Canada):
- (i) I will exercise it in a manner that is consistent with the best interests of the child.
 - (ii) Before changing my place of residence or that of the child I must give notice in the manner required by the *Divorce Act* (Canada) to anyone who has parenting time, decision-making responsibility or contact under a contact order respecting the child*.
 - (iii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations under the *Divorce Act* (Canada), to any other person who has parenting time, decision-making responsibility or contact under a contact order respecting the child of my intention*.

(Strike out paragraph 4(b) if there are no children of the marriage.)

- (b) I will, to the best of my ability, protect any child of the marriage from conflict arising from this proceeding.
- (c) I will, to the extent that is appropriate to do so, try to resolve this matter with the respondent through a family dispute resolution process.
- (d) I will provide all complete, accurate and up-to-date information that is required by the *Divorce Act* (Canada).
- (e) I will comply with any order made under the *Divorce Act* (Canada).

(Strike out all of paragraph 5 if the respondent is not claiming relief under The Family Law Act.)

5. Certification of petitioner under *The Family Law Act*.

I certify that I am aware of my duties and responsibilities under *The Family Law Act* as follows:

- (a) I will act in a way that strives
 - (i) to minimize conflict;
 - (ii) to promote cooperation; and
 - (iii) to meet the best interests of any child involved in the dispute.

-
- * Any move — including a local move — is a change of residence.
 - A “relocation” is a move — either by a child or a person with parenting time or decision-making responsibility — that could have a significant impact on the child’s relationship with a person with or applying for parenting time or decision-making responsibility or a person who has contact under a contact order.
 - A person with parenting time or decision-making responsibility must give notice before any proposed move to any person with parenting time, decision-making responsibility or contact of a change of their residence or that of the child.
 - Notice of a relocation must be given at least 60 days in advance.
 - A person with contact who proposes any change of residence, must give notice to any person with parenting time, decision-making responsibility or contact. If the proposed change of residence is likely to have a significant impact on the relationship with the child, the notice must be given at least 60 days in advance.
 - **The specific details of the notice requirements are set out in the *Divorce Act*, Canada (s. 16.7 to 16.96) and the required notice forms and descriptions of how to give notice are set out in the [Notice of Relocation Regulations](#) under the *Divorce Act*, Canada. See Justice Canada web site: www.laws-lois.justice.gc.ca**

(Strike out paragraph 5(b) if parenting time, decision-making responsibility or contact is not being sought under The Family Law Act.)

- (b) If I am granted parenting time or decision-making responsibility or contact with a child under a contact order:
- (i) I will exercise my parental responsibilities or contact in a manner that is consistent with the best interests of the child.
 - (ii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form and manner prescribed by *The Family Law Act* and the *Family Law Regulation* to anyone who:
 - (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*,
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act*, and
 - (5) has applied for a parenting order, a guardianship order or a contact order where the application is pending**.
 - (iii) Before changing my place of residence or that of the child I must give notice in the form and manner required by *The Family Law Act* and the *Family Law Regulation* to anyone who
 - (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*, and
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act***

I understand that if the proposed change of residence is likely to have a significant impact on the relationship with the child, I must give the notice at least 60 days in advance.

**The specific details of the notice requirements under *The Family Law Act* are set out in *The Family Law Act* and the *Family Law Regulation*. The Forms: Notice of Proposed Relocation, Notice of Change of Residence and Notice of Objection to Proposed Relocation are prescribed in the *Family Law Regulation*.

(Strike out paragraph 5(c) if there are no children in the relationship.)

- (c) I will, to the best of my ability, protect any child from conflict arising from the proceeding.
- (d) I will, to the extent that it is appropriate to do so, try to resolve the matters that may be the subject of an order under *The Family Law Act* through a family dispute resolution process.
- (e) I will provide all complete, accurate and up-to-date information that is required by *The Family Law Act* or any other applicable law.
- (f) I will comply with any order made under *The Family Law Act*.

Dated at Winnipeg, Manitoba, this 29th day of March , 20xx .

Signature of petitioner

The petitioner's lawyer is:

GEORGE DAVEY

(Name of lawyer)

Davey LLP

(Firm name)

1175 Market Avenue

Winnipeg, Manitoba R4R 5T5

(Address)

204-388-1234

(Phone)

204-388-1235

(Fax)

geod@davey.com

(Strike out the Statement of Lawyer below if the respondent is not claiming a divorce.)

Statement of Lawyer under the *Divorce Act*:

I, GEORGE DAVEY, the lawyer for BARBARA WATERS, the petitioner, certify to this court that I have complied with the requirements of subsections 7.7(1) and 7.7(2) of the *Divorce Act* (Canada).

Dated at Winnipeg, Manitoba, this 29th day of March, 20xx.

Signature of lawyer
GEORGE DAVEY
Name of lawyer

(Strike out the Statement of Lawyer below if the respondent is not claiming relief under The Family Law Act.)

Statement of Lawyer under *The Family Law Act*:

I, GEORGE DAVEY, the lawyer for BARBARA WATERS, the petitioner, certify to this court that I have complied with the requirements of subsection 9(1) of *The Family Law Act*.

Dated at Winnipeg, Manitoba, this 29th day of March, 20xx.

Signature of lawyer
GEORGE DAVEY
Name of lawyer

TO: **Jennifer Johns**
Johns LLP
Barristers and Solicitors
1200 King Avenue
Winnipeg, MB R7U 8I9

(Name and address of respondent's lawyer or of respondent)

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

ANN JONES

petitioner,

- and -

RYAN TOWN

respondent.

PETITION

**ABCABC LLP
Barristers and Solicitors,
3726 Portage Avenue
Winnipeg, Manitoba
R5V 6H7**

LISA RAIL

204-233-4455

Fax – 204-233-4456

Client File No: 12345

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

ANN JONES

petitioner,

- and -

RYAN TOWN

respondent.

PETITION

TO THE RESPONDENT (full name)

RYAN TOWN

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the petitioner claiming relief. The details of the petitioner's claim are on the attached pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting on your behalf must prepare an answer in Form 70J of the *King's Bench Rules*, file it in this court office and serve it on the petitioner's lawyer or, where the petitioner does not have a lawyer, serve it on the petitioner:

- WITHIN 20 DAYS after this petition is served on you, if you are served in Manitoba;
- WITHIN 40 DAYS after this petition is served on you, if you are served in another province or territory of Canada or in the United States of America;
- WITHIN 60 DAYS after this petition is served on you, if you are served outside Canada or the United States of America.

FINANCIAL INFORMATION

If this petition contains a claim for child or spousal or common-law partner support or a division of property, you must prepare a financial statement in accordance with rule 70.07 and Form 70D of the *King's Bench Rules*. You must file and serve your financial statement within the time set out above for filing and serving your answer. If you file and serve an answer, your financial statement must accompany your answer.

In addition, if there is a claim for child support you must also prepare an affidavit containing the documents required by section 21 of the *Manitoba Child Support Guidelines Regulation*. If the claim for child support is made pursuant to the *Divorce Act* (Canada) and either the petitioner or you lives outside of Manitoba, you must prepare an affidavit containing the documents required by section 21 of the *Federal Child Support Guidelines*. You must file and serve the affidavit within the time set out above for filing and serving your answer. If you file and serve an answer, your affidavit must accompany your answer.

IF YOU ARE SERVED WITH A DEMAND FOR FINANCIAL INFORMATION IN FORM 70D.1, YOU MUST ALSO PROVIDE THE FINANCIAL INFORMATION REQUIRED OF YOU WITHIN THE TIME SET OUT IN THE DEMAND FOR FINANCIAL INFORMATION, WHICH MAY BE DIFFERENT THAN THE TIME SPECIFIED ABOVE FOR FILING AN ANSWER.

IF YOU FAIL TO FILE AND SERVE YOUR COMPLETED FINANCIAL INFORMATION ON TIME, YOU MAY INCUR SERIOUS PENALTIES.

NOTE: If there are no support or property issues raised in the petition or your answer, you do not need to file and serve a financial statement nor an affidavit containing the documents required by section 21 of the applicable child support guidelines at this time.

IF YOU FAIL TO FILE AND SERVE AN ANSWER, THE CASE MAY PROCEED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU, AN ORDER MAY BE GRANTED AGAINST YOU ON ANY CLAIM IN THIS PETITION.

Date

Issued by _____
Registrar

Court of King's Bench - WINNIPEG Centre
100C - 408 York Avenue
Winnipeg, Manitoba
R3C 0P9

DETAILS OF THE CLAIM

1. The petitioner seeks an order for the following relief pursuant to provincial legislation:

- | | |
|--|---|
| <input type="checkbox"/> Non-cohabitation | <input type="checkbox"/> Exclusive occupation of family home |
| <input checked="" type="checkbox"/> Parenting arrangements | <input type="checkbox"/> Partition or sale |
| <input checked="" type="checkbox"/> parenting time | <input type="checkbox"/> Postponement of sale |
| <input checked="" type="checkbox"/> decision-making responsibility | <input type="checkbox"/> Protective relief, including |
| <input type="checkbox"/> contact | <input type="checkbox"/> prohibition against following |
| <input type="checkbox"/> other (specify): _____ | <input type="checkbox"/> prohibition against contact/
communication |
| <input type="checkbox"/> Declaration of parentage | <input type="checkbox"/> prohibition against attendance |
| <input type="checkbox"/> Child support | <input type="checkbox"/> driving suspension/disqualification
(section 15(1) of <i>The Domestic
 Violence and Stalking Act</i>) |
| <input type="checkbox"/> table amount | <input type="checkbox"/> other (specify): _____ |
| <input type="checkbox"/> special or extraordinary expenses | <input type="checkbox"/> Financial disclosure |
| <input type="checkbox"/> other amount | <input checked="" type="checkbox"/> Costs |
| <input type="checkbox"/> Spousal support/common-law
partner support | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Division of family property | |
| <input type="checkbox"/> equal | |
| <input type="checkbox"/> unequal | |

2. ~~The petitioner, who is divorced from the respondent pursuant to a Divorce judgment granted under the *Divorce Act* (Canada), seeks an order for the following relief under the *Divorce Act* (Canada):~~

~~Parenting arrangements~~

~~parenting time~~

~~decision-making responsibility~~

~~other (specify):~~

~~Child support~~

~~table amount~~

~~special or extraordinary expenses~~

~~other amount~~

~~Spousal support~~

~~Other (specify):~~

3. Details of the relief claimed:

(When "Other" relief is claimed, set out in separate, consecutively numbered paragraphs the precise relief claimed and each allegation of material fact relied on to substantiate the claim.)

- (a) *The Family Law Act,*
- (b) *The Court of King's Bench Act, and*
- (c) *The Court of King's Bench Rules.*

4. Particulars of Relationship:

(a) Date and place of marriage: NOT APPLICABLE

_____ in _____
(day) (month) (year) (town/city) (province/country)

(b) If parties are not married to each other, or cohabited before marriage to each other, date cohabitation commenced:

_____ 1 April 2018
(day) (month) (year)

(c) Date cohabitation ceased:

19 February 2021
(day) (month) (year)

(d) Surname of each party immediately before marriage: Not Applicable

Petitioner

unchanged; or

Respondent

unchanged; or

(e) Full name at birth

ANN JONES

Petitioner

RYAN TOWN

Respondent

(f) Marital status of parties at time of marriage/commencement of cohabitation:

Petitioner:

never married

divorced

widowed

Respondent:

never married

divorced

widowed

(g) The petitioner was born at Winnipeg, Manitoba.

on 29 April 1980
(day) (month) (year)

(h) The respondent was born at Winnipeg, Manitoba.

on 15 August 1979
(day) (month) (year)

5. (a) The petitioner's full address (*including postal code*):

c/o ABCABC LLP, 3726 Portage Avenue, Winnipeg, Manitoba R5V 6H7

(b) The respondent's full address (*including postal code*):

7 Lily Avenue, Winnipeg, Manitoba, R5B 7N9

6. Children:

(a) The names and dates of birth of all children of the parties or either of them, and of any child for whom either stand in the place of a parent:

(i) Child of the petitioner ELLA JONES, born MAY 19, 2011; and

(ii) JOEL JONES-TOWN, born JUNE 27, 2018.

(b) The petitioner proposes the following parenting arrangements:

(Set out the kind of order requested [primary care and control, periods of care and control, parenting time, decision-making responsibility] for each child in respect of whom the petitioner claims a parenting order.)

(i) The parties have agreed that the petitioner will have the majority of parenting time of JOEL JONES-TOWN, born JUNE 27, 2018 and decision making authority, following consultation with the respondent in relation to major decisions. The respondent will have parenting time with JOEL JONES-TOWN as the parties may agree.

(c) The petitioner claims child support for: Not applicable

(d) The petitioner proposes the following child support arrangements: The respondent is paying child support directly to the petitioner in accordance with his income, pursuant to the Manitoba Table of the Child Support Guidelines.

7. The dates of all written or oral agreements between the parties are: Separation Agreement dated May 1, 2021.

8. The particulars of all orders, processes and court proceedings affecting any party to this proceeding, including any of the following:

(Give details of any such orders, processes, proceedings, etc. – e.g. nature of the matter, date, court, court file/incident number, status, etc. or state NONE if there are no orders, processes and court proceedings affecting any party.)

(a) an order or proceeding in relation to parenting arrangements, child support, spousal support or property;

The petitioner was involved in court proceedings with her former husband (Court Registry No. FD17-01-12567) in relation to the dissolution of that marriage and the child of that marriage, Ella Jones.

(b) a civil protection order or a proceeding in relation to such an order; None

(c) a child protection order, proceeding, agreement or measure; None

(d) an order, proceeding, undertaking or recognizance in relation to any matter of a criminal nature. None.

9. Financial Information. Not applicable.

~~(Attached is the petitioner's financial statement (Form 70D).)~~

~~(Note: If the petitioner is not claiming any child or spousal support or division of property, the petitioner does not need to attach a financial statement or an affidavit containing the documents required by section 21 of the applicable child support guidelines.)~~

~~(If the petition contains a claim for child support, add:)~~

~~(Attached is the petitioner's affidavit containing the documents required under section 21 of the applicable child support guidelines.)~~

10. ~~(a) The legal description of real property in respect of which partition or sale is sought:~~
- ~~(b) The municipal address of the above described property is: *~~
- ~~(c) The property is registered in the name(s) of: *~~
- ~~(d) The market value of the property is \$*~~
- ~~(e) Particulars of registered encumbrances are: *~~
11. ~~(Strike out all of paragraph 11 if relief is not being claimed under the Divorce Act (Canada).)~~

~~Certification of petitioner under the Divorce Act (Canada):~~

~~I certify that I am aware of my duties and responsibilities under the Divorce Act (Canada) as follows:~~

~~(Strike out paragraph 11(a) if parenting time or decision-making responsibility is not being sought under the Divorce Act (Canada).)~~

~~(a) If I am granted parenting time or decision-making responsibility:~~

~~(i) I will exercise it in a manner that is consistent with the best interests of the child.~~

~~(ii) Before changing my place of residence or that of the child I must give notice in the manner required by the Divorce Act (Canada) to anyone who has parenting time, decision-making responsibility or contact under a contact order respecting the child*.~~

~~(iii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations under the Divorce Act (Canada), to any other person who has parenting time, decision-making responsibility or contact under a contact order respecting the child of my intention*.~~

~~(Strike out paragraph 11(b) if there are no children of the marriage.)~~

~~(b) I will, to the best of my ability, protect any child of the marriage from conflict arising from this proceeding.~~

-
- *Any move — including a local move — is a change of residence.
 - A “relocation” is a move — either by a child or a person with parenting time or decision-making responsibility — that could have a significant impact on the child’s relationship with a person with or applying for parenting time or decision-making responsibility or a person who has contact under a contact order.
 - A person with parenting time or decision-making responsibility must give notice before any proposed move to any person with parenting time, decision-making responsibility or contact of a change of their residence or that of the child.
 - Notice of a relocation must be given at least 60 days in advance.
 - A person with contact who proposes any change of residence must give notice to any person with parenting time, decision-making responsibility or contact. If the proposed change of residence is likely to have a significant impact on the relationship with the child, the notice must be given at least 60 days in advance.
 - **The specific details of the notice requirements are set out in the Divorce Act, Canada (s. 16.7 to 16.96) and the required notice forms and descriptions of how to give notice are set out in the Notice of Relocation Regulations under the Divorce Act, Canada. See Justice Canada web site: www.laws-lois.justice.gc.ca**

- ~~(c) I will, to the extent that is appropriate to do so, try to resolve this matter with the respondent through a family dispute resolution process.~~
- ~~(d) I will provide all complete, accurate and up-to-date information that is required by the *Divorce Act (Canada)*.~~
- ~~(e) I will comply with any order made under the *Divorce Act (Canada)*.~~

(Strike out all of paragraph 12 if relief is not being claimed under The Family Law Act.)

12. Certification of petitioner under *The Family Law Act*:

I certify that I am aware of my duties and responsibilities under *The Family Law Act* as follows:

- (a) I will act in a way that strives
- (i) to minimize conflict;
 - (ii) to promote cooperation; and
 - (iii) to meet the best interests of any child involved in the dispute.

(Strike out paragraph 12(b) if parenting time, decision-making responsibility or contact is not being sought under The Family Law Act.)

- (b) If I am granted parenting time or decision-making responsibility or contact with a child under a contact order:
- (i) I will exercise my parental responsibilities or contact in a manner that is consistent with the best interests of the child.
 - (ii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form and manner prescribed by *The Family Law Act* and the *Family Law Regulation* to anyone who:
 - (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*,
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act*, and
 - (5) has applied for a parenting order, a guardianship order or a contact order where the application is pending**.

**The specific details of the notice requirements under *The Family Law Act* are set out in *The Family Law Act* and the *Family Law Regulation*. The Forms: Notice of Proposed Relocation, Notice of Change of Residence and Notice of Objection to Proposed Relocation are prescribed in the *Family Law Regulation*.

- (iii) Before changing my place of residence or that of the child I must give notice in the form and manner required by *The Family Law Act* and the *Family Law Regulation* to anyone who:
- (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*, and
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act***

I understand that if the proposed change of residence is likely to have a significant impact on the relationship with the child, I must give the notice at least 60 days in advance.

(Strike out paragraph 12(c) if there are no children in the relationship.)

- (c) I will, to the best of my ability, protect any child from conflict arising from the proceeding.
- (d) I will, to the extent that it is appropriate to do so, try to resolve the matters that may be the subject of an order under *The Family Law Act* through a family dispute resolution process.
- (e) I will provide all complete, accurate and up-to-date information that is required by *The Family Law Act* or any other applicable law.
- (f) I will comply with any order made under *The Family Law Act*.

13. Declaration of petitioner:

I have read and understand this petition. Those statements contained in this petition of which I have personal knowledge are true, and those of which I do not have personal knowledge, I believe to be true.

Dated at Winnipeg, Manitoba, this * day of

(Signature of petitioner)

The petitioner's address for service is:

c/o ABCABC LLP, 3726 Portage Avenue,
Winnipeg, Manitoba R5V 6H7

The petitioner's lawyer is:

LISA RAIL
ABCABC LLP
Barristers and Solicitors,
3726 Portage Avenue
Winnipeg, Manitoba R5V 6H7
Phone: 204-233-4455 Fax: 204-233-4456
lr@abcabc.ca

(Strike out the Statement of Lawyer below if petitioner is not claiming relief under the Divorce Act (Canada).)

Statement of Lawyer under the ~~Divorce Act (Canada)~~:

I, _____, the lawyer for _____, the petitioner, certify to this court that I have complied with the requirements of subsection 7.7(2) of the ~~Divorce Act (Canada)~~.

Dated at _____, this _____ day of _____.

Signature of lawyer

Name of lawyer

(Strike out the Statement of Lawyer below if petitioner is not claiming relief under The Family Law Act.)

Statement of Lawyer under *The Family Law Act*:

I, LISA RAIL, the lawyer for ANN JONES, petitioner, certify to this court that I have complied with the requirements of subsection 9(1) of *The Family Law Act*.

Dated at _____, this _____ day of _____.

Signature of lawyer

LISA RAIL

Name of lawyer

THE KING’S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

ANN JONES

petitioner,

- and -

RYAN TOWN

respondent.

ACKNOWLEDGEMENT OF SERVICE

I, RYAN TOWN, the respondent in this petition have this day received a copy of the petition. My mailing address for further service of documents is *(insert your address, postal code and telephone number and/or the name, address postal code and telephone number of your lawyer.)*

Date:

Witness

Respondent

7. Answer

Form 70J

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

ALBERT IRONS

petitioner,

- and -

NANCY MONROE

respondent.

ANSWER

**WOOLEY LLP
Barristers and Solicitors,
89 Portage Avenue
Winnipeg, Manitoba
R6Y 8U9**

LANCE EMBERS

204-338-9898

Fax – 204-338-9899

Client File No: 6789

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

ALBERT IRONS

petitioner,

- and -

NANCY MONROE

respondent.

ANSWER

1. The respondent agrees to the following relief sought by the petitioner:
 - (a) Non-cohabitation;
 - (b) Shared decision-making responsibility; and
 - (c) Financial disclosure (as required in accordance with the Child Support Guidelines Regulation).

2. The respondent contests the petition as to: *(State issues briefly)*
 - (a) The allocation of equal parenting time to the petitioner;
 - (b) Child Support - special or extraordinary expenses;
 - (c) Child Support - other amount - pursuant to s. 9 of the Manitoba Child Support Guidelines Regulation;
 - (d) Date of Cohabitation;
 - (e) Date of Separation;
 - (f) Marital status of the petitioner at date of commencement of cohabitation;
 - (g) Costs.

3. The position of the respondent on these issues is: *(Add schedules, if necessary)*
 - (a) The allocation of equal parenting time to the petitioner - The respondent mother has had the majority of parenting time with the parties' daughter since her birth and the respondent's position is that this arrangement continues to be in the child's best interests, particularly given her young age and the strong attachment that she has to her mother.

 - (b) Child Support - special or extraordinary expenses - There is no basis for this request as the petitioner does not and should not have the majority of parenting time of the parties' daughter as set out above. Furthermore, the petitioner has not

incurred special or extraordinary expenses for the child. It is the respondent who incurs said expenses, and the petitioner is required to contribute his proportionate share in accordance with the decision of the Child Support Service dated February 13, 20xx.

- (c) Child Support - other amount - pursuant to s. 9 of the Manitoba Child Support Guidelines Regulation- As set out above, the respondent has the majority of parenting time, and it is her position that a shared parenting arrangement is not in the child's best interests as set out above.
- (d) Date of Cohabitation - The respondent does not agree with the date of cohabitation alleged by the petitioner. The respondent says the date of cohabitation was March 17, 20xx however a determination of the date of cohabitation is no longer required given the matters that remain in dispute.
- (e) Date of Separation - The respondent does not agree with the date of separation alleged by the petitioner. The respondent says the date of separation was approximately 9-1/2 months later, on January 1, 20xx, however a determination of the date of separation is no longer required given the matters that remain in dispute.
- (f) Marital status of the petitioner at date of commencement of cohabitation - The Petition alleges that the petitioner was divorced at the time of commencement of cohabitation. This is false. The petitioner is not yet divorced as confirmed by the Court Registry File with respect to that proceeding (File No. FD_____).
- (g) Costs - The respondent has not conducted herself in a manner that warrants an order of costs.

4. The respondent hereby seeks an order for the following relief:

(Where the answer contains an application for child support, state whether the claim is for an amount of support in the applicable table, an amount for special or extraordinary expenses, or another amount under the guidelines.)

- (a) That the respondent have the majority of parenting time with the child of the relationship, MINDY IRONS, born November 30, 20xx;
- (b) Specified parenting time for the petitioner with exchanges of the child for parenting time to take place in a neutral public location;
- (c) Final decision-making responsibility to the respondent, in the event the parties are unable to agree;
- (d) Child Support, Table amount, retroactive and ongoing;
- (e) Child Support - Contribution to special or extraordinary expenses, retroactive and ongoing.
- (f) Financial disclosure;
- (g) Costs.

5. The respondent's grounds for seeking that relief are:

(a) *The Family Law Act*, and

(b) *The Court of King's Bench Act and Rules*.

6. Attached is the respondent's financial statement (Form 70D).

(Note: Where there is no claim by either party for support or division of property, the respondent does not need to attach a financial statement nor an affidavit containing the documents required by section 21 of the applicable child support guidelines.)

(If the petition or the answer contains a claim for child support under the Divorce Act (Canada) and either the petitioner or the respondent lives outside Manitoba, add:)

(Attached is the respondent's affidavit containing the documents required under section 21 of the applicable child support guidelines.)

(If a party is served with a Demand for Financial Information in Form 70D.1, they must also provide the financial information required within the time set out in the Demand for Financial Information. FAILURE TO FILE AND SERVE THE COMPLETED FINANCIAL INFORMATION ON TIME MAY RESULT IN SERIOUS PENALTIES).

~~7. Where partition or sale is at issue, the market value of the property is:~~

8. The particulars of all orders, processes and court proceedings affecting any party to this proceeding, including any of the following:

(Give details of any such orders, processes, proceedings, etc. – e.g. nature of the matter, date, court, court file/incident number, status, etc. or state NONE if there are no orders, processes and court proceedings affecting any party.)

(a) an order or proceeding in relation to parenting arrangements, child support, spousal support or property;

Child Support Calculation Decision dated February 13, 20xx (Court Registry Document No. 36)

The petitioner is not divorced. See File No. FD_____ between the petitioner and his wife.

(b) a civil protection order or a proceeding in relation to such an order;

None

(c) a child protection order, proceeding, agreement or measure;

None

(d) an order, proceeding, undertaking or recognizance in relation to any matter of a criminal nature.

There was an incident between the parties where the police were called on July 4, 20xx. The Incident No. is C567890.

The respondent does not have the incident number or the specific details of the charges but she is aware that the petitioner was charged with some form of assault against his first (current) wife following their separation and it is her understanding that the charges were subsequently stayed and/or dropped.

(Strike out paragraphs 9(a) to 9(c) if the respondent is not claiming a divorce.)

~~9. Where the respondent is claiming a divorce under the *Divorce Act (Canada)*, the following paragraphs must be included:~~

~~(a) Reconciliation:~~

~~There is no possibility of reconciliation or resumption of cohabitation.~~

~~(b) There has been no collusion in relation to this petition.~~

~~*(Where the petition is under clause 8(2)(b) of the *Divorce Act (Canada)*, add:)*~~

~~There has been no condonation of or connivance at the grounds for divorce set out in this petition.~~

~~*(Where there has been condonation or connivance, give particulars and set out the facts relied on to justify a decree of divorce in the circumstances.)*~~

~~(c) One of the parties has been habitually resident in the Province of Manitoba for at least one year preceding the date of the filing of this petition.~~

~~*(Strike out all of paragraph 10 if relief is not being claimed under the *Divorce Act (Canada)*.)*~~

~~10. Where either party is claiming a divorce or another order under the *Divorce Act (Canada)*, the respondent must sign the following certification:~~

~~Certification of respondent under the *Divorce Act (Canada)*:~~

~~I certify that I am aware of my duties and responsibilities under the *Divorce Act (Canada)*, as follows:~~

~~*(Strike out all of paragraph 10(a) if parenting time or decision-making responsibility is not being sought under the *Divorce Act (Canada)*.)*~~

~~(a) If I am granted parenting time or decision-making responsibility under the *Divorce Act (Canada)*:~~

~~(i) I will exercise it in a manner that is consistent with the best interests of the child~~

~~(ii) Before changing my place of residence or that of the child I must give notice in the manner required by the *Divorce Act (Canada)* to anyone who has parenting time, decision-making responsibility or contact under a contact order respecting the child*.~~

-
- * Any move — including a local move — is a change of residence.
 - A “relocation” is a move — either by a child or a person with parenting time or decision-making responsibility — that could have a significant impact on the child’s relationship with a person with or applying for parenting time or decision-making responsibility or a person who has contact under a contact order.
 - A person with parenting time or decision-making responsibility must give notice before any proposed move to any person with parenting time, decision-making responsibility or contact of a change of their residence or that of the child.

~~(iii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations under the *Divorce Act* (Canada), to any other person who has parenting time, decision-making responsibility or contact under a contact order respecting the child of my intention*.~~

~~(Strike out paragraph 10(b) if there are no children of the marriage.)~~

~~(b) I will, to the best of my ability, protect any child of the marriage from conflict arising from this proceeding.~~

~~(c) I will, to the extent that is appropriate to do so, try to resolve this matter with the other party through a family dispute resolution process.~~

~~(d) I will provide all complete, accurate and up-to-date information that is required by the *Divorce Act* (Canada).~~

~~(e) I will comply with any order made under the *Divorce Act* (Canada).~~

~~(Strike out all of paragraph 11 if relief is not being claimed under *The Family Law Act*.)~~

11. Certification of moving party under *The Family Law Act*.

I certify that I am aware of my duties and responsibilities under *The Family Law Act* as follows:

- (a) I will act in a way that strives
- (i) to minimize conflict;
 - (ii) to promote cooperation; and
 - (iii) to meet the best interests of any child involved in the dispute.

~~(Strike out paragraph 11(b) if parenting time, decision-making responsibility or contact is not being sought under *The Family Law Act*.)~~

(b) If I am granted parenting time or decision-making responsibility or contact with a child under a contact order under *The Family Law Act*:

- (i) I will exercise my parental responsibilities or contact in a manner that is consistent with the best interests of the child.
- (ii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form and manner prescribed by *The Family Law Act* and the *Family Law Regulation* to anyone who:

-
- Notice of a relocation must be given at least 60 days in advance.
 - A person with contact who proposes any change of residence, must give notice to any person with parenting time, decision-making responsibility or contact. If the proposed change of residence is likely to have a significant impact on the relationship with the child, the notice must be given at least 60 days in advance.
 - **The specific details of the notice requirements are set out in the *Divorce Act*, Canada (s. 16.7 to 16.96) and the required notice forms and descriptions of how to give notice are set out in the [Notice of Relocation Regulations under the *Divorce Act*, Canada](#). See Justice Canada web site: www.laws-lois.justice.gc.ca**

- (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*,
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act*, and
 - (5) has applied for a parenting order, a guardianship order or a contact order where the application is pending**.
- (iii) Before changing my place of residence or that of the child I must give notice in the form and manner required by *The Family Law Act* and the *Family Law Regulation* to anyone who:
- (1) is a parent who has parental responsibilities (a parent with decision-making responsibility, parenting time, custody or access) under an order made under *The Family Law Act* or *The Family Maintenance Act* or by operation of law,
 - (2) is a guardian who has a guardianship order,
 - (3) stands in the place of a parent who has parental responsibilities under a parenting order made under *The Family Law Act*, and
 - (4) has contact with the child under a contact order made under *The Family Law Act* or an access order made under *The Child and Family Services Act***

I understand that if the proposed change of residence is likely to have a significant impact on the relationship with the child, I must give the notice at least 60 days in advance.

(Strike out paragraph 11(c) if there are no children in the relationship.)

- (c) I will, to the best of my ability, protect any child from conflict arising from the proceeding.
- (d) I will, to the extent that it is appropriate to do so, try to resolve the matters that may be the subject of an order under *The Family Law Act* through a family dispute resolution process.

**The specific details of the notice requirements under *The Family Law Act* are set out in *The Family Law Act* and the *Family Law Regulation*. The Forms: Notice of Proposed Relocation, Notice of Change of Residence and Notice of Objection to Proposed Relocation are prescribed in the *Family Law Regulation*.

- (e) I will provide all complete, accurate and up-to-date information that is required by *The Family Law Act* or any other applicable law.
- (f) I will comply with any order made under *The Family Law Act*.

12. Declaration of respondent:

I have read and understand this answer. Those statements contained in this answer of which I have personal knowledge are true, and those of which I do not have personal knowledge, I believe to be true.

(Date)

(Signature of Respondent)

The Respondent's address for service is:
c/o WOOLEY LLP
89 Portage Avenue
Winnipeg, Manitoba R6Y 8U9
The Respondent's Lawyer is

LANCE EMBERS
Name of Lawyer

WOOLEY LLP
Firm Name

89 Portage Avenue, Winnipeg,
Manitoba R6Y 8U9
(Address)

204-338-9898
(Phone)

204-338-9899
(Fax)

lembers@wooley.com
(E-mail address)

Where the respondent claims a divorce in the answer, this form must be titled "ANSWER AND PETITION FOR DIVORCE" and the following statement must be included:

(Strike out the Statement of Lawyer below if no divorce is claimed.)

Statement of Lawyer under the ~~Divorce Act (Canada)~~:

I, _____, the _____ lawyer
for _____,

~~the respondent, certify to this court that I have complied with the requirements of subsections 7.7(1) and 7.7(2) of the Divorce Act (Canada).~~

Dated at _____, this _____ day of _____.

~~Signature of lawyer~~
~~Name of lawyer~~

(Strike out the Statement of Lawyer below if no relief is being claimed under The Family Law Act.)

Statement of Lawyer under *The Family Law Act*:

I, LANCE EMBERS, the lawyer for NANCY MONROE, the respondent, certify to this court that I have complied with the requirements of subsection 9(1) of *The Family Law Act*.

Dated at Winnipeg, Manitoba this _____ day of _____.

Signature of lawyer

LANCE EMBERS
Name of lawyer

8. Notice of Motion

Form 70Q

File No. FD

THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE

BETWEEN:

ANITA MARKER

petitioner,

- and -

STEWART MARTIN MARKER

respondent.

NOTICE OF MOTION

HEARING DATE: THURSDAY, SEPTEMBER 23, 20XX AT 9:30 A.M.

LEEVES LLP
Barristers and Solicitors,
1100 - 14 Jefferson Avenue
Winnipeg, Manitoba R8J 9L9

TANIA LEEVES

Ph: 204-786-3456
Fax: 204-786-3457
Email: tleeves@leeves.com

Client File No: 56789

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

ANITA MARKER

petitioner,

- and -

STEWART MARTIN MARKER

respondent.

NOTICE OF MOTION

The respondent will make a motion before the presiding Master on Thursday, September 23, 20xx at 9:30 a.m., or as soon after that time as the motion can be heard at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR AN ORDER THAT:

1. Short leave, if necessary;
2. An order that ANITA MARKER be required to cooperate with scheduling and attending a four-way meeting;
3. An order that ANITA MARKER be required to file and serve a Financial Statement in Form 70D;
4. An order that ANITA MARKER be required to provide her 20xx Income Tax Return and Notice of Assessment;
5. An Order requiring ANITA MARKER to file any affidavit material that she wishes to rely upon by no later than September 27, 20xx.
6. Costs;
7. Such further and other relief as counsel may advise and this Honourable Court allows.

THE GROUNDS FOR THE MOTION ARE:

1. The *Divorce Act*,
2. The *Family Law Act*,
3. The *Court of King's Bench Act* and Rules; and
4. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Lou Peters affirmed September , 20xx and,
2. Such further and other documentary evidence as counsel may advise and this Honourable Court may permit.

Dated: September , 20xx

TANIA LEEVES
LEEVES LLP
Barristers and Solicitors
1100 - 14 Jefferson Avenue
Winnipeg, MB R8J 9L9
Phone: 204-786-3456
Fax: 204-786-3457
E-Mail: tleeves@leeves.com
Counsel for the respondent

9. Affidavit

File No. FD

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

ANITA MARKER,

petitioner,

- and -

STEWART MARTIN MARKER,

respondent.

**AFFIDAVIT OF LOU PETERS
AFFIRMED September 16, 20xx**

**LEEVES LLP
Barristers and Solicitors,
1100 - 14 Jefferson Avenue
Winnipeg, Manitoba R8J 9L9**

TANIA LEEVES

**Ph: 204-786-3456
Fax: 204-786-3457
Email: tleeves@leeves.com**

Client File No: 56789

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

ANITA MARKER,

petitioner,

- and -

STEWART MARTIN MARKER,

respondent.

AFFIDAVIT OF LOU PETERS

I, LOU PETERS, of the City of Winnipeg, in the Province of Manitoba, Legal Assistant,

AFFIRM AND SAY THAT:

1. I am a Legal Assistant employed by the law firm of Leeves LLP, counsel for the respondent in the within matter, and as such have personal knowledge of the facts and matters to which I hereinafter depose, except where same are stated to be based upon information, in which case I do verily believe same to be true.

2. I make this Affidavit in support of the Notice of Motion concurrently filed seeking an order for compliance with Triage Prerequisites, namely:

- a. An Order requiring the petitioner to file a Financial Statement in Form 70D;

- b. An Order requiring the petitioner to produce her 20xx Income Tax Return; and
- c. An Order requiring the petitioner to attend a settlement meeting.

3. I am advised by Ms. Leeves and verily believe that she requested compliance by the petitioner with the outstanding Triage Prerequisites on May 30, 20xx.

4. Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a copy of correspondence dated May 30, 20xx from Ms. Leeves, counsel for the respondent to Mr. Bracken, counsel for the petitioner.

5. I am advised by Ms. Leeves and verily believe that she has not received a response from Mr. Bracken with respect to her correspondence of May 30, 20xx.

6. Attached hereto and marked as **Exhibit "B"** to this my Affidavit is a copy of correspondence dated June 15, 20xx from Ms. Leeves, counsel for the respondent to Mr. Bracken, counsel for the petitioner.

7. On June 15, 20xx, I received an e-mail from Mr. Bracken in reply to Ms. Leeves' correspondence which stated:

"I have forwarded this on to my client and asked her to contact me."

8. I am advised by Ms. Leeves and verily believe that she has not received any other response from Mr. Bracken with respect to her correspondence of June 15, 20xx.

9. I make this Affidavit *bona fide*.

AFFIRMED before me at the)
City of Winnipeg, in the)
Province of Manitoba, this 16th)
day of September, 20xx.)

_____)
A Barrister-at-Law in and for)
the Province of Manitoba.)

LOU PETERS

10. Order to Compel

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

THE HONOURABLE
MASTER

)
) The 23rd day of September, 20xx
)

BETWEEN:

ANITA MARKER

petitioner,

- and -

STEWART MARTIN MARKER

respondent.

ORDER

- 1.0 This matter having proceeded at the Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba, R3C 0P9 at the request of STEWART MARTIN MARKER;
- 2.0 This matter being a request for an order requiring ANITA MARKER to complete the outstanding prerequisites required to proceed to a Triage Conference;
- 3.0 In the presence of:
 - 3.1 Stephen Bracken, counsel for the petitioner;
 - 3.2 Tania Leeves, counsel for the respondent;
- 4.0 The following documents having been filed in support of this matter:
 - 4.1 The Affidavit of LOU PETERS, affirmed September 16, 20xx;

5.0 THIS COURT ORDERS pursuant to *The Court of King's Bench Act* and Rules:

- 5.1 ANITA MARKER shall file her Notice of Opposition to Variation and any supporting Affidavit material including her Financial Statement in Form 70D, her 20xx Tax Return and proof of year-to-date income no later than October 15, 20xx;
- 5.2 STEWART MARTIN MARKER shall provide a copy of his 20xx Tax Return, his Financial Statement in Form 70D and proof of year to date income no later than October 15, 20xx;
- 5.3 ANITA MARKER is to cooperate with the scheduling of a settlement meeting;
- 5.4 a copy of this Order be served by facsimile addressed to ANITA MARKER c/o Bracken LLP, 65-2000 Lagimodiere Blvd., Winnipeg, Manitoba, R9U 8T4, attention: Stephen Bracken within (20) days of signing.

Date: September 23, 20xx

Judge / Master / Deputy Registrar

APPROVED AS TO FORM:

APPROVED AS TO FORM:

BRACKEN LLP
(Per: **STEPHEN BRACKEN**)
Solicitors for ANITA MARKER

LEEVEES LLP
(Per: **TANIA LEEVES**)
Solicitors for STEWART MARTIN
MARKER

(Send Order to:)

Lawyer of record for STEWART MARTIN MARKER

TANIA LEEVES
LEEVEES LLP
Barristers & Solicitors
1100 – 14 Jefferson Avenue
Winnipeg, Manitoba, R8J 9L9
Phone Number: 204-786-3456
Fax Number: 204-786-3457
E-Mail Address: tleeves@leeves.com

11. Certificate of Prerequisite Completion

Form 70D.3

File # FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

MADLINE BERNICE STRINGER

petitioner/applicant

- and -

PAUL WILLIAM STRINGER

respondent.

CERTIFICATE OF PREREQUISITE COMPLETION

Filed by: petitioner/applicant lawyer for the petitioner/applicant
 respondent lawyer for the respondent

**JONES LLP
Barristers and Solicitors,
156 Elmont Avenue
Winnipeg, Manitoba
R3M 4T7**

MARLA JONES

**204-876-7684
Fax – 204-876-7685**

Client File No: 1654-1

CERTIFICATE OF PREREQUISITE COMPLETION

I am the Lawyer for the respondent, PAUL WILLIAM STRINGER
(petitioner/applicant/respondent or lawyer for the petitioner/applicant/respondent)

The following issues have been settled in the family proceeding:

Claims under the <i>Divorce Act</i> (Canada)	Claims under <i>The Family Law Act</i> or <i>The Domestic Violence and Stalking Act</i>	Claims related to property
<input type="checkbox"/> a divorce	<input type="checkbox"/> spousal/common law support	<input type="checkbox"/> accounting equalization of net family assets
<input type="checkbox"/> spousal support	<input type="checkbox"/> support for child(ren) – table amount	<input type="checkbox"/> unequal division of family assets
<input type="checkbox"/> support for child(ren) – table amount	<input type="checkbox"/> support for child(ren) – other than table amount	<input type="checkbox"/> non-shareable assets
<input type="checkbox"/> support for child(ren) – other than table amount	<input checked="" type="checkbox"/> parenting time	<input type="checkbox"/> exclusive occupation of family home
<input checked="" type="checkbox"/> parenting time	<input checked="" type="checkbox"/> decision-making responsibility	<input type="checkbox"/> sale of family home
<input checked="" type="checkbox"/> decision-making responsibility	<input type="checkbox"/> contact	<input type="checkbox"/> other (specify):
<input type="checkbox"/> contact	<input type="checkbox"/> protective relief	
<input type="checkbox"/> variation of final order	<input type="checkbox"/> declaration of parentage	
<input checked="" type="checkbox"/> other (specify): determination of the respondent's income for child support purposes	<input type="checkbox"/> variation of final order	
	<input type="checkbox"/> set aside/vary/revoke protection order	
	<input checked="" type="checkbox"/> other (specify): determination of the respondent's income for child support purposes	

(Check all those boxes that are the subject of a claim in the family proceeding that the parties have settled.)

The following issues remain unresolved in the family proceeding:

Claims under the <i>Divorce Act</i> (Canada)	Claims under <i>The Family Law Act</i> or <i>The Domestic Violence and Stalking Act</i>	Claims related to property
<input checked="" type="checkbox"/> a divorce	<input checked="" type="checkbox"/> spousal/common law support	<input type="checkbox"/> accounting equalization of net family assets
<input checked="" type="checkbox"/> spousal support	<input type="checkbox"/> support for child(ren) – table amount	<input type="checkbox"/> unequal division of family assets
<input type="checkbox"/> support for child(ren) – table amount	<input checked="" type="checkbox"/> support for child(ren) – other than table amount	<input type="checkbox"/> non-shareable assets
<input checked="" type="checkbox"/> support for child(ren) – other than table amount	<input type="checkbox"/> parenting time	<input type="checkbox"/> exclusive occupation of family home
<input type="checkbox"/> parenting time	<input type="checkbox"/> decision-making responsibility	<input type="checkbox"/> sale of family home
<input type="checkbox"/> decision-making responsibility	<input type="checkbox"/> contact	<input type="checkbox"/> other (specify):
<input type="checkbox"/> contact	<input type="checkbox"/> protective relief	
<input type="checkbox"/> variation of final order	<input type="checkbox"/> declaration of parentage	
<input type="checkbox"/> other (specify):	<input type="checkbox"/> variation of final order	
	<input type="checkbox"/> set aside/vary/revoke protection order	
	<input type="checkbox"/> other (specify):	

(Check all those boxes that are the subject of a claim in the family proceeding that the parties have been unable to reach settlement.)

PREREQUISITE COMPLETION

(Check all applicable boxes and strike out any statements that do not apply)

GENERAL PREREQUISITES

- The pleadings are closed and no amendments to the pleadings are sought. ~~In the case of a motion or application seeking a variation, I have filed all affidavits I intend to file.~~
- Affidavits of service have been filed with respect to all pleadings and other documents that are required to be served on the other party.
- I am not seeking to conduct examinations for discovery ~~OR examinations for discovery have been completed or are scheduled.~~
- ~~I am not seeking to conduct cross-examinations on affidavits ~~OR cross-examinations on affidavits have been completed or are scheduled and notices of cross-examination have been served.~~~~
- I have filed a financial statement (Form 70D).
- The parties have met and attempted to resolve the issues in dispute ~~OR a court order prohibits contact or communication between the parties.~~

PREREQUISITES FOR CASES INVOLVING SUPPORT CLAIMS OR VARIATION OF SUPPORT

- Proof of year-to-date income from all sources has been filed.
- Copies of Canada Revenue Agency income and deduction computer printouts or filed income tax returns for the immediately preceding three consecutive years have been filed.
- I am not seeking remission, variation or suspension of arrears ~~OR if I am seeking remission, variation or suspension of arrears, copies of Canada Revenue Agency income and deduction computer printouts or filed income tax returns for each year for which remission, variation or suspension is sought have been filed.~~
- I have made all requests for financial information and the requested information has been received ~~or, if the requested information has not been received, I have obtained an order respecting financial disclosure.~~
- ~~An Affidavit of Service of pleadings on the Director of Assistance has been filed (variation of child and/or spousal support cases only)~~
- I am not seeking a suspension of enforcement of a support order ~~OR if I am seeking a suspension of enforcement of a support order, I have already requested an administrative suspension from the Maintenance Enforcement Program.~~

**PREREQUISITES FOR CASES WITH CLAIMS FOR PARENTING ARRANGEMENTS
(parenting time/decision-making responsibility/contact)**

- Proof of completion of For the Sake of the Children Parent Information Program has been filed.
- A written parenting plan has been filed.
- ~~Mediation has not been undertaken~~ **OR** if Mediation was undertaken. The mediator's report or a letter from the mediator has been filed (the parties successfully mediated the terms of a comprehensive parenting plan through mediation with Sandi Forrest - a copy of the parenting plan is included as a tab of the respondent's Triage Brief).
- A parenting assessment is not sought ~~OR a parenting assessment has been filed~~ **OR a parenting assessment is underway** ~~OR a parenting assessment was sought and denied.~~

PREREQUISITES FOR CASES WITH PROPERTY CLAIMS

- ~~A Comparative Family Property Statement (Form 70D.5) has been filed.~~
- ~~I have made all requests for financial information and the requested information has been received or, if the requested information has not been received, I have obtained an order respecting financial disclosure.~~
- ~~There is no dispute as to the date of cohabitation or separation **OR** if there is a dispute as to the date of cohabitation or separation, an order of reference has been obtained respecting those dates and the parties have received a master's recommendation on those issues.~~
- ~~The partition or sale of real property is not sought **OR** if partition or sale of real property is sought, an affidavit of service of the pleadings on a mortgagee or other person with a registered interest in the property in question has been filed.~~

SPECIFIC DOCUMENTARY AND SERVICE REQUIREMENTS

The following documents have been filed (if applicable):

Divorce cases

- Certificate of marriage or lawyer's undertaking to file certificate of marriage

Declaration of parentage cases

- ~~Certificate of birth or birth registration search or lawyer's undertaking to file certificate or search~~

~~Affidavit of service of pleadings on the Director of Child & Family Services~~

Protection orders

~~The transcript has been ordered or filed if an application to set aside or vary protection order has been made.~~

~~Letter from Victim Services if an application to revoke protection order has been made by the applicant.~~

LAWYER'S CERTIFICATION

I CERTIFY THAT THE FOREGOING REPRESENTS THE COMPLETION OF ALL PREREQUISITES IN THIS MATTER. I CERTIFY THAT I HAVE INFORMED MY CLIENT THAT HE/SHE MUST BE IN PERSONAL ATTENDANCE AT THE TRIAGE CONFERENCE AND THAT FAILURE TO ATTEND MAY RESULT IN AN ORDER BEING MADE IN HIS/HER ABSENCE EVEN IF I ATTEND ON THEIR BEHALF.

Dated (month/day/year)

Signature of Lawyer

SELF-REPRESENTED PARTY'S CERTIFICATION

I CERTIFY THAT THE FOREGOING REPRESENTS THE COMPLETION OF ALL PREREQUISITES IN THIS MATTER. I CERTIFY THAT I UNDERSTAND THAT I MUST BE IN PERSONAL ATTENDANCE AT THE TRIAGE CONFERENCE AND THAT FAILURE TO ATTEND MAY RESULT IN AN ORDER BEING MADE AGAINST ME WITHOUT FURTHER NOTICE TO ME.

Dated (month/day/year)

Signature of Party

TRIAGE BRIEF

(Check all applicable boxes and strike out any statements that do not apply)

PART 1 – FAMILY FACTS

1. PETITIONER/APPLICANT: Age: 48
Occupation/Employer Home Economics Teacher – School Division #3
Days of week/hours of work Monday to Friday, 8:30 a.m.- 4:00 p.m.
Place of residence/Neighbourhood Sage Creek, Winnipeg

2. RESPONDENT: Age: 48
Occupation/Employer Consultant – PAUL WILLIAM STRINGER
Consultant Corporation
Days of week/hours of work Varies
Place of residence/Neighbourhood Sage Creek, Winnipeg

3. RELATIONSHIP DATES:

Married Common law Never cohabited

Date of marriage April 17, 20xx

Date cohabitation started July 5, 19xx

Date of separation January 23, 20xx

Duration of Relationship 17.5 years

4. The basic information about the child(ren) is as follows:

Child's name	Age	Grade (commencing in September 20xx)	Now living with
Alicia Stringer	17	N/A	Both parents - will be living in residence at University in September
Mercedes Stringer	15	10	Both parents
Nelson Stringer	13	9	Both parents

PART 2 – ISSUES IN THIS CASE

5. List all issues that **have been** settled.
1. Joint decision making responsibility;
 2. Shared and equal parenting time;
 3. An order that the children's place of residence will not be changed from Winnipeg, Manitoba;
 4. Determination of income- respondent;
 5. Child Support for the two youngest children (each parent will pay the other in accordance with the Child Support Guidelines, section 9);
 6. Child Support (equal sharing of special and extraordinary expenses as defined in the parties' separation agreement);
 7. Financial disclosure.
6. List all issues in this case **HAVE NOT** been settled (still in dispute between the parties):
1. Child support for the parties' eldest child who will be over the age of majority and living outside of the Province of Manitoba to attend university;
 2. Spousal support;
 3. The petitioner's request to vary the provisions of the Separation Agreement; and
 4. Costs.
7. Is this a variation of an existing family court order?
- No Yes (attach copy of the order/agreement you are seeking to vary)
8. Is there a protection order in place?
- No Yes (attach copy of protection order)
- ~~9. Are you seeking/opposing the protection order being set aside/varied/revoked?~~
- ~~No Yes (explain the basis of your position in concise paragraphs)~~
10. Is there a criminal court recognizance or bail order in place?
- No Yes (attach copy of document)

~~11. Have you sought or are you seeking a variation of the criminal court recognizance or bail order?~~

- No Yes (attach variation order or provide date when variation order is being heard)

12. Are there any proceedings under *The Child & Family Services Act* that affect the custody or care and control of any child in this matter?

- No Yes (provide details)

~~13. Are there matters you are seeking to have addressed before the first case conference? If so, briefly state why:~~

- ~~Set aside/vary/revoke protection order~~
- ~~Opposing confirmation of Master's recommendation regarding dates of cohabitation and/or separation~~
- ~~Other (specify)~~

PART 3 – AREAS IN DISPUTE

PARENTING ARRANGEMENTS (Parenting time/decision-making responsibility/contact)

14. If parenting arrangements are an issue, is there a parenting assessment or mediated parenting agreement in this case?

- Yes – (attach copy of ~~assessment~~ or agreement)
- No – (the assessment is not yet finished – must explain why the assessment is not ready and provide anticipated date of completion)
- No – (neither party is seeking an assessment or mediated agreement)

15. Provide a brief description of the specific disagreements with respect to parenting arrangements of the children and your proposed resolution of the disagreements. Proposed parenting plan must be attached.

1. A copy of the parties' parenting plan which was reached through mediation is attached hereto at **Tab "A"**. This document was attached as Schedule "A" to the parties' Separation Agreement.
2. The Parenting Plan at paragraph 7 specifically contemplates how changes will be made as follows:

7. FUTURE DECISIONS:

a) We understand that as our children get older and their needs change, or changes occur in either of our circumstances, changes may need to be made to this agreement. We agree that any changes to this agreement need to be made by mutual consent.

b) If we cannot agree on a change, we agree to consult a neutral expert in the appropriate area and follow the advice of the neutral expert. **In the event that we are unable to resolve issues at that time, we agree to consider further mediation prior to seeking a litigated resolution.**

3. The Father proposed that the parties attempt to mediate the issues raised by the Mother with respect to parenting when the issues were initially raised in September of 20xx. The Mother refused to return to parenting coaches at that time. This matter was raised again in the Father's Answer and Petition for Divorce and again at the settlement meeting held in April of 20xx. Unfortunately the Mother continued to raise complaints through counsel throughout this time including that the Father's conduct was harming the children. There was no foundation to the Mother's complaints and no willingness to attempt to address these issues in an appropriate forum.
4. In particular, the Father has asserted several times that the children should be permitted to return to counseling if in fact the Mother believes the allegations being made through her counsel with respect to the direct impact on the children. The Parenting Plan contains the following provision:

COUNSELING

We agree to continue support the children receiving counseling if necessary and agree that if the children are in any situation where they feel upset or negative emotions, we agree to discuss the issue with the children, and advise the other parent.

5. Recently, the Mother agreed to return to their parenting coaches and the parties have had two meetings to attempt to improve their communication. The Father understood that these meetings had been productive and that both parties were committed to working together for the sake of their children, acknowledging that communication through lawyers and advancing these issues through the litigation process were counterproductive to the parties' co-parenting relationship and their children's best interests. The Father remains committed to the parenting coach process and accordingly will not address the complaints in the Mother's Triage Brief.
6. It is respectfully submitted that a Final Order should be pronounced based on the parties' shared parenting arrangement (a week on/week off parenting time schedule) and the communication issues should be left to be addressed through the parenting coach process. The parties' Parenting Plan was intended to change and be flexible so that it could evolve as the parties' children got older and their needs changed (as specifically contemplated in paragraph 7 above). It is not appropriate for the Mother to seek to have the Court pronounce an order incorporating the terms of this document as a court order for a multitude of reasons including that a court order does not allow for the flexibility that is specifically contemplated in the Parenting Plan. There are for instance several sections that are no longer applicable given that five years have passed since it was entered into and the children are now almost 18, 16 and 13.5 years old respectively rather than 13, 11

and 8). For instance, there is clearly no need for a right of first refusal for parenting time when the scheduled parent is unavailable and whether the parties attend at a medical or dental appointment for at least the two eldest children should be based on their wishes.

7. As outlined in the Answer and Petition for Divorce, the Respondent Father seeks a Final Order for shared parenting time and shared decision-making responsibility consistent with the parties' Separation Agreement.

CHILD SUPPORT AND EXTRAORDINARY EXPENSES

16. If child support (or variation/termination of child support) is an issue, provide the current income of the parties and the income for the previous three years:

Petitioner/Applicant:	\$	<u>50,640.88</u>	(current – year to date)	
	\$	<u>94,678.00¹</u>	in 20	<u>xx</u>
	\$	<u>90,784.56²</u>	in 20	<u>xx</u>
	\$	<u>65,306.00³</u>	in 20	<u>xx</u>

Respondent:	\$	<u>264,916.77</u>	(current –year to date - estimate)	
	\$	<u>\$648,420</u>	in 20	<u>xx</u>
	\$	<u>658,181⁴</u>	in 20	<u>xx</u>
	\$	<u>779,947⁵</u>	in 20	<u>xx</u>

(Attach relevant Child Support Guideline calculations)

(Attach Sworn Form 70D Financial Statement and proof of current income and copies of Canada Revenue Agency income and deduction computer printouts or filed income tax returns for the immediately preceding three consecutive years)

¹ Line 150 less spousal support received
² Line 150 less spousal support received
³ Line 150 less spousal support received
⁴ Income for support purposes (includes adjustment for dividend income)
⁵ Income for support purposes (includes adjustment for dividend income)

RELEVANT FINANCIAL DOCUMENTATION

1. Attached hereto at **Tab "B"** is a copy of the Father's Financial Statement in Form 70D.
2. Attached hereto at **Tab "C"** is a copy of e-mail correspondence from the Father's accountant confirming the Father's year-to-date income for 20xx (salary income of \$247,392 and dividend income of \$17,524.77).
3. Attached hereto at **Tab "D"** is a copy of the Father's 20xx Income Tax Return.
4. Attached hereto at **Tab "E"** is a copy of the Father's 20xx Income Tax Return.
5. Attached hereto at **Tab "F"** is a copy of the Father's 20xx Income Tax Return.
6. Attached hereto at **Tab "G"** is a copy of the Mother's recent pay statement confirming her year-to-date income of \$50,640.88.

MOTHER'S INCOME FOR CHILD SUPPORT PURPOSES

7. At the parties' settlement meeting, the parties agreed that the Mother's income would be set, in accordance with the Child Support Guidelines, using all sources of income (other than spousal support received).
8. The Child Support Guidelines require that a parent's income be calculated based on their total income less any adjustments provided for pursuant to Schedule III. For ease of reference the relevant provision of the Child Support Guidelines is outlined below:

16 A parent's annual income is determined pursuant to sections 17 to 20 using the same sources of income set out under the heading "Total income" in the T1 General form issued by the Canada Revenue Agency, adjusted in accordance with Schedule III.

9. There is no basis for excluding the Mother's other sources of income particularly given that she has failed to take reasonable steps to complete her PHD which would increase her annual income for child support purposes.
10. Based on the disclosure of the Mother's pay statement and the terms of the Collective Agreement (which provide for approximately \$5,000 increases as each level of seniority is achieved) as well as the Arbitration Award announced earlier this year increasing the salary of teachers in the Mother's school division, it is anticipated that the Mother's 20xx income will be significantly higher than her 20xx income. Despite this, the Father remains prepared to agree to use 20xx incomes at this time.
11. A Child View printout based on the parties' respective incomes in 20xx is attached hereto at **Tab "H"**.

17. Are special or extraordinary expenses in dispute (i.e., children's medical costs, dental costs, daycare, university etc.)?

- No Yes (attach relevant expense calculations with supporting documentation)

18. Provide a brief description of the specific disagreement(s) with respect to child support and your proposed resolution of the disagreement(s). (set out in concise paragraphs)

1. As outlined above, the parties agree as to the Father's income for child support purposes and that it is appropriate that each party pay support to the other based upon their respective incomes for the two younger children. The issues related to the Mother's income are addressed above.
2. There is no basis for the Mother's position that child support should continue to be paid for the eldest child when she will be living in residence at University in Alberta and the parties will be sharing her living costs for that time. It is unknown at this time whether the parties' daughter will return to Winnipeg for the summer and if she does where she will reside.
3. The Mother has caused both parties to incur unnecessary legal costs related to the issue of available RESP funds. Not only was this unnecessary because the Mother had direct access to the account and therefore there was no need to request documentation through counsel but also because the parties have clearly agreed to share the children's post-secondary education costs equally. The Father seeks a Final Order confirming that each party is responsible for half of all of the children's post-secondary education expenses. This will allow each party to use their respective RESP funds towards their respective contributions and thereafter be responsible for the balance of their share of the costs.

19. If you are owner of an interest in a corporation, state percentage of ownership and net corporate income for the last three years.

<u>100</u>	State percentage of ownership	
<u>2,866</u>	Net corporate income in 20	<u>xx</u>
<u>95,707</u>	Net corporate income in 20	<u>xx</u>
<u>276,253</u>	Net corporate income in 20	<u>xx</u>

20. Is there a dispute over imputation of income? No Yes (If so, details must be provided, i.e., unreported income, unreasonable business deductions, capital cost allowance, optional inventory adjustments)

1. The Mother's Brief incorrectly asserts that the Father's position with respect to his income changed. The Father has been clear throughout that his income for support purposes comes from two sources (and must be adjusted as per the Child Support Guidelines as it relates to dividend income). As clearly outlined in the Father's 70D, the Father's current income is \$648,420.00 (including the adjustment for dividend income).

SPOUSAL /COMMON-LAW SUPPORT

21. If spousal/ common-law support is an issue, provide the current income of the parties and the income for the previous three years:

Petitioner/Applicant:	\$ <u>unknown</u>	(current)
	\$ <u>94,678.00⁶</u>	in 20 <u>xx</u>
	\$ <u>90,784.56⁷</u>	in 20 <u>xx</u>
	\$ <u>65,306.00⁸</u>	in 20 <u>xx</u>
 Respondent:	 \$ <u>264,916.77</u>	 (current)
	\$ <u>648,420</u>	in 20 <u>xx</u>
	\$ <u>658,181⁹</u>	in 20 <u>xx</u>
	\$ <u>779,947¹⁰</u>	in 20 <u>xx</u>

22. Compensatory claim? No Yes percentage

Non-compensatory claim? No Yes 100 percentage

23. Provide a brief description of the specific disagreement(s) with respect to spousal or common-law support and your proposed resolution of the disagreement(s) (set out in concise paragraphs)

1. The Mother is a teacher and has been in the process of completing her PHD since prior to the parties' separation in 20xx. The last information received in regards to the status of the Mother's PHD was on April 12, 20xx when the Mother confirmed through her counsel that she was "awaiting Ethics Approval from the School Division".
2. If the Mother took reasonable steps to complete her PHD, she would be earning in excess of \$100,000 per year.
3. The Mother's Brief identifies that the Mother's claim is a non-compensatory claim.

⁶ Line 150 less spousal support received

⁷ Line 150 less spousal support received

⁸ Line 150 less spousal support received

⁹ Income for support purposes (includes adjustment for dividend income)

¹⁰ Income for support purposes (includes adjustment for dividend income)

4. The Father is not disputing that the Mother has ongoing entitlement to spousal support at this time. Both parties have been clear that they want to be divorced and to finalize all matters so that they can move on with their lives. Accordingly the Father has suggested that an end-date for spousal support would achieve this goal and provide the parties both with certainty and finality as well as the ability to plan their finances going forward.
5. The Father has suggested a termination date of spousal support following the youngest child graduating from high school (in June of 20xx). This timeframe is consistent with the recommended range for duration in the Spousal Support Advisory Guidelines both as it relates to the with child formula (maximum duration- number of years until the youngest child finishes high school) and as it relates to the length of the parties' relationship (9 years of support on a 17.5 year relationship).
6. The Mother's Brief incorrectly states that the spousal support provided for in the parties' Separation Agreement was based on the mid-range when in fact it was based on the shared parenting time range in order to equalize the parties' monthly cash projections.
7. Attached hereto at **Tab "I"** is a copy of the Child View Printout based on the parties' 20xx Incomes showing that the low-end of the Guidelines (\$6,650) provides for a 50/50 division of monthly cash.

FAMILY PROPERTY

~~24. If family property is an issue, attach the Comparative Family Property Statement (Form 70D.5)~~

~~25. Provide a brief description of the specific disagreement(s) with respect to family property and your proposed resolution of the disagreement(s) (set out in concise paragraphs)~~

26. I have NOT obtained a prior reference to a master and I am seeking a reference for a family property accounting on the following terms:

Valuation of joint assets/liabilities _____

Shareability/Tracing _____

Ownership _____

Other _____

27. I have received the master's recommendation identifying the dates of cohabitation and/or separation and I consent to this recommendation being confirmed.

28. I have received the master's recommendation identifying the dates of cohabitation and/or separation and I am opposed to this recommendation being confirmed and I am seeking a prioritized hearing to address this issue.

VARIATION OF SUPPORT/CANCELLATION OF ARREARS

29. If you are seeking to reduce/delete arrears of support, you must complete the following chart for each year in which arrears accrued

Court-Ordered Monthly Support	Year	Line 150 of Income Tax Return	Support Payable	Support Paid	Arrears/ Overpayment

30. What is your settlement proposal with respect to the arrears?
 — (set out in concise paragraphs)

31. Do you require an order suspending maintenance enforcement?

- No Yes (provide letter from the Director of Assistance regarding the Department's position on the matter)

OTHER ISSUES (Not previously identified)

32. Identify any other issues that are at issue between the parties (set out in concise paragraphs)

1. none

If party is not represented by counsel, party signs:

 Date of party's signature

 Signature of party

If party is represented by counsel, only counsel signs:

 Date of lawyer's signature

 Signature of lawyer

13. Motion Brief

Form 70R

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

B E T W E N:

ALBERT IRONS,

petitioner,

- and -

NANCY MONROE,

respondent.

MOTION BRIEF

**WOOLEY LLP
Barristers and Solicitors,
89 Portage Avenue
Winnipeg, Manitoba
R6Y 8U9**

LANCE EMBERS

204-338-9898

Fax – 204-338-9899

Client File No: 6789

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

ALBERT IRONS,

petitioner,

- and -

NANCY MONROE,

respondent.

MOTION BRIEF

A MOTION BY ALBERT IRONS, is set for hearing on Friday, September , 20xx
at 10:00 a.m. for a period of one (1) hour.

1. The contested issues to be determined are:

- | | |
|--|--|
| <input type="checkbox"/> Non-cohabitation | <input type="checkbox"/> Exclusive occupation of family home |
| <input type="checkbox"/> Parenting arrangements | <input type="checkbox"/> Partition or sale |
| <input type="checkbox"/> parenting time | <input type="checkbox"/> Postponement of sale |
| <input type="checkbox"/> decision-making responsibility | <input type="checkbox"/> Protective relief, including |
| <input type="checkbox"/> contact | <input type="checkbox"/> prohibition against following |
| <input type="checkbox"/> other (<i>specify</i>): _____ | <input type="checkbox"/> prohibition against contact/
communication |
| <input type="checkbox"/> Declaration of parentage | <input type="checkbox"/> prohibition against attendance |
| <input type="checkbox"/> Child support | <input type="checkbox"/> driving suspension/ disqualification
(section 15(1) of <i>The Domestic Violence
and Stalking Act</i>) |
| <input type="checkbox"/> table amount | <input type="checkbox"/> set aside protection order |
| <input type="checkbox"/> special or extraordinary expenses | <input type="checkbox"/> other (<i>specify</i>): _____ |
| <input type="checkbox"/> other amount | <input type="checkbox"/> Remission of Arrears |
| <input type="checkbox"/> Spousal support | <input type="checkbox"/> Financial disclosure |
| <input type="checkbox"/> Common-law partner support | <input type="checkbox"/> Costs |
| <input type="checkbox"/> Division of family property | <input checked="" type="checkbox"/> Other (<i>specify</i>): Request for emergent
hearing _____ |
| <input type="checkbox"/> equal | |
| <input type="checkbox"/> unequal | |

2. The following material is relevant to the issues and should be read in preparation for the hearing:

(Where transcripts of examinations are to be used, identify particular questions and answers to be relied upon by page and number.)

- a. Affidavit of ALBERT IRONS, affirmed September 16, 2022;
- b. Affidavit of NANCY MONROE, affirmed September 18, 2022.

3. Concise statement of facts (optional)

- a. The parties cohabited from August 17, 20xx to June 1, 20xx (approximately 9-1/2 months).
- b. There is one child of the relationship, namely Mindy Irons, born November 30, 20xx (21 months) (hereinafter referred to as "Mindy")

4. The position of the respondent on the contested issue is:

(Identify each contested issue in a separate paragraph and state your position on that issue.)

- a. It is the respondent's position that the facts put forward by the petitioner in his materials do not support a finding that this matter is emergent. It is the respondent's position that the petitioner's motion ought to be dismissed on the basis that the petitioner has not met the required threshold defined at Rule 70.24(12) which states:

70.24(12) A judge may hear a motion or application prior to the triage conference for a family proceeding if the motion or application relates to a situation involving one of the following:

(a) an immediate or imminent risk of harm to a party or a child of a party;

(b) the removal of a child from Manitoba;

(c) the loss or destruction of property.

- b. It is respectfully submitted that there is insufficient evidence to meet the definition of "an immediate or imminent risk of harm to a party or a child of a party" as contemplated at Rule 70.24(12).
- c. The parties agree that they separated over a year ago on June 1, 20xx. They have been separated for most of Mindy's life. The petitioner elected not to move this matter forward in any meaningful way until filing a Petition just weeks ago, and then filing a Request for an Emergent Hearing on September , 20xx.
- d. It is plain the parties should not be permitted to create a situation by their own inaction, that they then characterize as emergent, alleging without evidence that there has been an abrupt change.
- e. The current parenting arrangement essentially mirrors the status quo in place for over a year now. Had the petitioner moved with dispatch and diligence as required

by the practice direction the parties would have been well through the triage conference process, and would have already had the opportunity to have the assistance of a triage conference judge in attempting to resolve this matter, with both parties having a fulsome opportunity to provide their positions to the Court. Below is an excerpt from that practice direction on point, a copy of which is attached hereto at **Tab 1**:

[insert no.1]

- f. The petitioner, having filed a Request for an Emergent Hearing on a without notice basis, had the onus to make frank and full disclosure of the facts underlying the parties' parenting arrangements, which the petitioner now alleges amounts to immediate or eminent risk of harm to a child (*Maquimot v. Maquimot*, 2020 MBQB 40).
- g. The petitioner has not met that onus by failing to advise the Court in his Request for an Emergent Hearing that for many months the parties have been discussing engaging in mediation to try to resolve the parenting and other issues. The respondent confirmed last year that she was ready to proceed to mediation. It is the petitioner who has held up the commencement of mediation.
- h. The practice direction with respect to emergent hearings is clear that the parties must avail themselves of resources to assist them in coming to an agreement regarding the care and control of children, rather than using the emergent hearing process as a form of settlement conference. Below is an excerpt from the practice direction on point, a copy of which is attached hereto at **Tab 2**:

[insert no.2]

- i. Further, the petitioner alleges in his Request for an Emergent Hearing that there has been an abrupt, unilateral virtual elimination of his relationship with Mindy, without explanation or justification. What is clear from reviewing the petitioner's own evidence is that in fact that there has been no abrupt elimination of any parenting relationship, as the parties have been separated for over a year, and have been following essentially the same parenting status quo the entire time.
- j. In any event, the practice direction is clear that if one parent unilaterally changes the care and control schedule, such that the other parent's time is reduced, even significantly, this will not result in an emergent hearing. Below is an excerpt from the practice direction on point, a copy of which is attached hereto at **Tab 3**:

[insert no.3]

- k. Consistent with this Honourable Court's decision in *Aleshka v. Fettes*, 2019 MBQB 93 (CanLII), a copy of which is attached hereto at **Tab 4**, the moving party on any request for emergent hearing must first satisfy their onus of showing that the prevailing circumstances constitute an actual risk of immediate or imminent harm to the child. The petitioner must then satisfy this Honourable Court that without an order the child is at risk for immediate or imminent harm as a result of the abrupt, unilateral virtual elimination of all access and/or contact between the petitioner and the child, without explanation or justification.

- l. The respondent respectfully submits that the petitioner has not discharged his onus on either front.
- m. In the case at bar there has been nothing that has been abrupt, as the parties have been following approximately the same parenting arrangement since they separated over a year ago. Further, there is no evidence that there has been any sort of significant change in the parenting arrangement that would constitute a virtual elimination of the parenting relationship between the child and the petitioner.
- n. In the Affidavit filed by the petitioner, he states that he is unhappy with the parenting arrangements that have been in place for over a year. Rather than engage in the long-discussed mediation process to try to resolve issues, the petitioner is attempting to obtain an order for shared parenting on an emergent basis before the mediation process begins.
- o. In support of his argument that the matter is emergent, the petitioner quotes the respondent out of context in alleging that she will not agree to any parenting schedule. In fact, the respondent told the petitioner that she will not agree to immediately set the parenting schedule he desires before the mediation process begins. She is hopeful that with the mediator's help, and with guidance from knowledgeable professionals, the parties will be able to implement a parenting schedule that is in the child's best interests, and also works for the parties.
- p. The respondent has no intention of denying the child regular and consistent contact with the petitioner, and has not done so. The specifics of the parenting arrangements need to be addressed without the petitioner attempting to coerce the respondent to agree to something that might not be in the child's best interests by threatening her that if she will not agree he will seek an order from the Court on two days' notice without a chance for the respondent to fully articulate her position supported by evidence.
- q. Further mischaracterization takes place in the Request for an Emergent Hearing with respect to the phrases "abruptly" and "unilaterally" strewn throughout the request referring to things that happened over a year ago, and describing them in a way that makes it sound like the events have just occurred. With respect, it is plain that this has been done to paint a picture that there has recently been some sort of change when the reality is that there has been a status quo in place for over a year, and the parties are just about to begin mediation to try to resolve all outstanding issues, including the parenting arrangements.
- r. Having particular regard to the clarification set out in the Practice Direction dated February 13, 2020, this is not a situation where one parent has "abruptly, unilaterally and without explanation or apparent justification, completely cut off or has virtually eliminated all access and /or contact between the other parent and a child".
- s. The Practice Direction is clear that in order to be emergent the situation:

must involve a virtual elimination of access/contact that is abrupt, unilateral **and** unexplained"(page 9). (emphasis added)
Respectfully, the situation in the case at bar does not meet any of the three (3) requirements outlined above, let alone all of them.

- t. It is respectfully submitted that this matter is not properly characterized as emergent, and rather is a situation where the Father needs to move forward with completing the Triage requirements if he believes he needs the Court's assistance (as outlined at page 9 of the Practice Direction).
5. A specific point of law will be argued on this motion and I have attached the authorities on which I intend to rely. I have highlighted those portions of the authorities which are relevant.

OR

- ~~No specific point of law is intended to be argued and accordingly no authorities are attached.~~
6. ~~(Where child support, income determination, S. 7 re child support guideline contributions, undue hardship or quantum of spousal support are in issue.) I have attached to this brief all required calculations including tax calculations where applicable.~~
7. ~~(where remission of arrears is in issue:)~~
- ~~I have attached all necessary calculations showing the payor's income situation during any period of time for which remission of arrears is sought; and~~
- ~~A copy of the motion to remit arrears was served on a "the Director of Assistance designated under *The Manitoba Assistance Act*" or their authorized representative and the Director under *The Disability Support Act* or their authorized representative on.~~
8. The undersigned does not expect to file any additional material with regard to this motion.

September , 2022

(signature of lawyer)

LANCE EMBERS
WOOLEY LLP
Barristers and Solicitors
89 Portage Avenue
Winnipeg, Manitoba R6Y 8U9
Direct Line: 204-338-9898
Fax: 204-338-9899
Email: lembers.wooley.com

TO: _____

JAMES HAMMER
HAMMER LAW CORPORATION
18 Selkirk Avenue
Winnipeg MB R5T 7B3

14. Notice of Motion

File No. FD

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

CLAIRE MILTON

petitioner,

- and -

ARNOLD ELDER,

respondent.

NOTICE OF MOTION
HEARING DATE: TUESDAY, , 20XX AT 9:00 A.M.

GRASSY LLP
Barristers and Solicitors,
1500 Selkirk Avenue
Winnipeg, Manitoba R6G 7J9

WILLIAM GRASSY

Ph: 204-786-0909
Fax: 204-786-0908
Email: bill@grassy.com

Client File No: 98765

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

CLAIRE MILTON

petitioner,

- and -

ARNOLD ELDER,

respondent.

NOTICE OF MOTION

The respondent will make a motion before the presiding Judge on Wednesday, , 20xx at 9:00 a.m., or as soon after that time as the motion can be heard at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR:

1. Short leave;
2. An Interim Order granting the respondent, ARNOLD ELDER decision-making responsibility with respect to health care and vaccinations against Covid-19 for SETH MILTON-ELDER, born April 10, 20xx.
3. Costs;
4. Such further and other relief as counsel may advise and this Honourable Court allows.

THE GROUNDS FOR THE MOTION ARE:

1. *The Family Law Act*;
2. *The Court of King's Bench Act* and Rules; and
3. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of **ARNOLD ELDER** affirmed _____, 20xx and,
2. Such further and other documentary evidence as counsel may advise and this Honourable Court may permit.

Dated: _____, 20xx

WILLIAM GRASSY

GRASSY LLP
Barristers and Solicitors
1500 Selkirk Avenue
Winnipeg, MB R6G 7J9

WILLIAM GRASSY
Phone: 204-786-0909
Fax: 204-786-0908
E-Mail: bill@grassy.com

Counsel for the respondent

TO: MICHAEL JOHNSON
Community Law Centre
76 Main Street
Winnipeg MB R5T 7U8
Counsel for the petitioner

15. Affidavit

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

CLAIRE MILTON

petitioner,

- and -

ARNOLD ELDER,

respondent.

**AFFIDAVIT OF ARNOLD ELDER
AFFIRMED , 20XX**

**GRASSY LLP
Barristers and Solicitors,
1500 Selkirk Avenue
Winnipeg, Manitoba R6G 7J9**

WILLIAM GRASSY

Ph: 204-786-0909

Fax: 204-786-0908

Email: bill@grassy.com

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

BETWEEN:

CLAIRE MILTON,

petitioner,

- and -

ARNOLD ELDER,

respondent.

AFFIDAVIT OF ARNOLD ELDER

I, **ARNOLD ELDER**, of the City of Winnipeg, in the Province of
Manitoba,

AFFIRM AND SAY THAT:

1. I am the respondent in the within matter and as such have personal knowledge of the facts and matters to which I hereinafter depose, except where same are stated to be based upon information, in which case I do verily believe same to be true.
2. This Affidavit is being filed in support of my request for an interim order granting me decision-making responsibility in relation to health care and vaccinations for my son, **SETH MILTON-ELDER**, born April 10,

20xx as permitted by the Form 70DD- Request for Motion that was approved by the Court on, _____, 20xx.

BACKGROUND

3. The petitioner and I started living together in September of 20xx and separated on September 28, 20xx.
4. The petitioner and I have two (2) children, SELINA MILTON-ELDER, born November 16, 20xx and SETH MILTON-ELDER, born October 10, 20xx (hereinafter referred to as "Seth"). Seth is 11 years old. Selina is an adult.
5. The petitioner caused a Petition to be filed on July 25, 20xx. I filed an Answer on October 14, 20xx which has recently been amended to address the relief I am now seeking from the Court.
6. An Assessment was conducted in 20xx by Family Resolution Service (hereinafter referred to as "the Family Resolution Assessment"). I am advised by my counsel and verily believe that this document is filed with the Court Registry as Document No. 28.
7. At page 14 of the Family Resolution Service Assessment, the assessor recommended that the petitioner and I have equal parenting time with me having final decision-making responsibility.
8. After the Family Resolution Service Assessment was completed, I tried to resolve matters with the petitioner based on its recommendations without success.

INTERIM DECISION-MAKING

9. I have attempted to address the issue of Seth getting vaccinated against Covid-19 with the petitioner without success. To this end, I communicated with her by text message. Additionally, I attempted to address the issue in mediation and when that did not work, I retained counsel.
10. Attached hereto and marked as **Exhibit "A"** to this my Affidavit are copies of my communication by text with the petitioner wherein she confirms that she is not prepared to cooperate with Seth's wishes to be vaccinated prior to school starting this year.
11. Attached hereto and marked as **Exhibit "B"** to this my Affidavit is a copy of the e-mail chain between the petitioner, Seth's school principal and myself with respect to the vaccine wherein the petitioner confirms that she is not prepared to honour Seth's wish to be vaccinated.
12. Attached hereto and marked as **Exhibit "C"** to this my Affidavit is a copy of e-mail correspondence dated July 16, 20xx from my counsel, Mr. William Grassy to counsel for the petitioner, Mr. Michael Johnson which included the Practice Direction on the issue of decision making for the Covid-19 vaccination dated December 14, 2021.
13. Attached hereto and marked as **Exhibit "D"** to this my Affidavit is a copy of e-mail correspondence dated July 17, 20xx from Mr. Johnson to Mr. Grassy in response to his e-mail correspondence from the previous day.

14. I am advised by Mr. Grassy and verily believe that he received correspondence from Mr. Johnson on July 22, 20xx indicating that the petitioner intended to communicate with me directly in relation to this issue. At the time that I am affirming this Affidavit, I have received no further direct communication from the petitioner since the text messages referred to at Exhibit "A" above.
15. I am further advised by Mr. Grassy and verily believe that he filed a Request for a Motion in Form 70DD on July 22, 20xx prior to receiving Mr. Johnson's e-mail and notified Mr. Johnson of same less than ten minutes after his e-mail was received.
16. I am advised by Mr. Grassy and verily believe that he has not heard from Mr. Johnson since July 22, 20xx.
17. I am further advised by Mr. Grassy and verily believe that he caused the approved Form 70DD to be served on Mr. Johnson immediately upon receipt from the Court on August 3, 20xx.
18. It is important for me that Seth is vaccinated not just because I believe it is what is best for him and because he wants to be vaccinated but also because my wife has an autoimmune disease and I have a heart condition that our doctor has told me and I verily believe puts both of us at a higher risk of adverse consequences of Covid-19.
19. As referenced in my communication with the petitioner, there is also an issue related to a memorial service for my mother that is being planned and to which I believe Seth should only go if he is vaccinated.

20. I am only seeking to proceed with my motion because I feel that there is no other option to protect my son against the risk of Covid-19 and will be seeking an order from the Court on a final basis for all decision-making responsibility for Seth as recommended by the Family Resolution Service Assessment.

21. I make this Affidavit *bona fide*.

Affirmed before me at the City)
of Winnipeg, in the Province)
of Manitoba this _____ day)
of _____, 20xx)
_____)

A Barrister at Law in and for
the Province of Manitoba

ARNOLD ELDER

16. Interim Order

File No. FD

**THE KING’S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

THE HONOURABLE)
)
)

The day of . 20xx

BETWEEN:

CLAIRE MILTON

petitioner,

- and -

ARNOLD ELDER

respondent.

INTERIM ORDER

- 1.0 This matter having proceeded at the Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba, R3C 0P9 at the request of **ARNOLD ELDER**.
- 2.0 This matter being a request for an Interim Order for decision-making responsibility with respect to vaccination against Covid-19 for Seth Milton-Elder, born October 10, 20xx .
- 3.0 In the absence of the parties and their counsel.
- 4.0 The following documents having been filed in support of this matter:
 - 4.1 70DD Request for Motion, approved August 3, 20xx;
 - 4.3 Notice of Motion, returnable, 20xx; and
 - 4.4 Affidavit of **ARNOLD ELDER**, affirmed , 20xx;

5.0 THIS COURT ORDERS pursuant to *The Family Law Act* that:

5.1 ARNOLD ELDER shall have the right to make decisions for SETH MILTON-ELDER born October 10, 20xx with respect to vaccination against Covid-19.

6.0 THIS COURT ORDERS pursuant to *The Court of King's Bench Act* and Rules that:

6.1 The request of ARNOLD ELDER for costs is adjourned.

6.2 a copy of this Order be served by fax addressed to CLAIRE MILTON care of Michael Johnson, Community Law Centre, 76 Main Street, Winnipeg, Manitoba, R5T 7U8 within twenty (20) days of signing;

Date: _____, 20xx

Judge / Master / Deputy Registrar

APPROVED AS TO FORM AND CONTENT:

GRASSY LLP
(Per: **WILLIAM GRASSY**)
Solicitors for ARNOLD ELDER

APPROVED AS TO FORM AND CONTENT:

COMMUNITY LAW CENTRE
(Per: **MICHAEL JOHNSON**)
Solicitor for CLAIRE MILTON

(Send Order to:)

Lawyer of record for ARNOLD ELDER
WILLIAM GRASSY
GRASSY LLP
Barristers & Solicitors
1500 Selkirk Avenue
Winnipeg, Manitoba, R6G 7J9
Phone Number: 204-786-0909
Fax Number: 204-786-0908
E-Mail Address: bill@grassy.com

17. Request for Motion or Subsequent Case Conference

File 70DD

File No. FD

THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE

BETWEEN:

CLAIRE MILTON

petitioner,

- and -

ARNOLD ELDER

respondent.

REQUEST FOR MOTION OR SUBSEQUENT CASE CONFERENCE

GRASSY LLP
Barristers and Solicitors,
1500 Selkirk Avenue
Winnipeg, Manitoba R6G 7J9

WILLIAM GRASSY

Ph: 204-786-0909
Fax: 204-786-0908
Email: bill@grassy.com

Client File No: 98765

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

CLAIRE MILTON

petitioner,

- and -

ARNOLD ELDER

respondent.

REQUEST FOR MOTION OR SUBSEQUENT CASE CONFERENCE

I am the Lawyer for the respondent, ARNOLD ELDER
(petitioner/applicant/respondent or lawyer for the petitioner/applicant/respondent)

The most recent case conference in this matter was held on April 2, 20xx
(date)

before Justice Jones
(Name of Justice)

A trial or final hearing date is scheduled for _____ ; or
(date)

There is no trial or final hearing date set.

I am requesting that a date be set for a ~~motion or a~~ subsequent case conference in this matter for the following reasons:

1. No progress has been made to resolve this matter despite multiple attempts through mediation and negotiations.
2. Recently, the Father has retained new counsel because he was unable to obtain cooperation with respect to the issue of vaccination of the parties' youngest son against Covid-19 despite months of trying through direct discussions, mediation and through counsel. The day after the Mother was served with the Father's Notice of Motion and Affidavit, she provided her consent for the vaccination.
3. While the Father does not want to proceed to trial, it is not in the best interests of the parties' son or the parties to continue without a comprehensive agreement or Final Order

in place. In particular it is clear both from the Family Resolution Service Assessment on file and from the Mother's conduct to date (including in relation to the vaccine) that she is unwilling or unable to make decisions in her son's best interests.

4. The Father is seeking a Case Conference in hopes that the Court can assist the parties in reaching a resolution or alternatively set trial dates so that the outstanding issues can be determined.

The other party agrees with this request: Yes No Unknown-

~~Attendance by telephone requested (if one of the following applies, check applicable box.)~~

~~There is a no-contact order between the parties affecting their attendance at court proceedings, and a teleconference courtroom is requested, or~~

~~A teleconference courtroom is requested because of the following extenuating circumstances: (set out concisely the extenuating circumstances)~~

_____, 20xx
Date

Party's signature/signature of counsel on behalf of party

DECISION OF CASE CONFERENCE JUDGE

Permission to hear the requested motion or to hold a subsequent case conference is denied for the following reasons:

Permission to hear the requested motion or to hold a subsequent case conference is granted.

Required Documents and Directions

(if applicable, the case conference judge may specify the documents the parties are required to file and any specific directions in relation to the motion or case conference below)

Date

Case Conference Judge

NOTICE OF MOTION OR SUBSEQUENT CASE CONFERENCE

A motion or subsequent case conference date has been scheduled for _____
the _____ day of _____, 20xx, at _____ a.m./p.m.

You must file the documents as directed above and serve those documents on the other party 14 days in advance of the motion or subsequent case conference.

Personal attendance of the party and their counsel is required under Rule 70.24(37) unless the exceptions under Rules 70.24(38) and (39) apply.

Failure to attend the motion or subsequent case conference may result in an order being made against you, including an order of costs, without further notice to you.

18. Request for Motion or Subsequent Case Conference

File 70DD

File No. FD

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

DONALD DAYTON

petitioner,

- and -

JENNA DAYTON

respondent.

REQUEST FOR MOTION OR SUBSEQUENT CASE CONFERENCE

JEFFERS LLP
Barristers and Solicitors,
789 Elm Avenue
Winnipeg, Manitoba
R6Y 8J3

Leslie Jeffers

204-786-8989
Fax – 204-786-8988

Client File No: 176-1

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

DONALD DAYTON

petitioner,

- and -

JENNA DAYTON

respondent.

REQUEST FOR MOTION OR SUBSEQUENT CASE CONFERENCE

I am the Lawyer for the petitioner, DONALD DAYTON
(petitioner/applicant/respondent or lawyer for the petitioner/applicant/respondent)

The most recent Triage Conference in this matter was held on December 1, 20xx
(date)

before Justice Fieldstone
(Name of Justice)

[X] A trial or final hearing date is scheduled for October 1, 20xx
(date)

[] There is no trial or final hearing date set.

I am requesting that a date be set for a motion or a subsequent case conference in this matter for the following reasons:

- 1. The petitioner (hereinafter referred to as "the Father") is seeking permission for a motion to dispense with the respondent's consent to renew the passport for the parties' daughter and for permission to travel with her for vacation to Hawaii in March of 20xx.
2. In July of 20xx, the Father sought the cooperation of the respondent (hereinafter referred to as "the Mother") to renew their daughter's passport. He also provided notice to the Mother that he was looking to book a holiday and confirmed that he would provide details of his request in hopes that she would consent to his travel with their daughter.

3. Initially the Mother indicated that the Father should fill out the passport application and provide it to her for signature. When the Father did so, the Mother refused to sign calling the application “garbage” because the Father had not listed the maternal grandmother as an alternate emergency contact.
4. A further attempt to address this matter through reasonable cooperation was made through counsel on August 4th. In this correspondence the father suggested other options for a mutually acceptable alternate emergency contact. The Mother was put on notice that if her cooperation was not forthcoming by August 18th at the close of business that the Father would seek the assistance of the Court. The Mother did not respond to this correspondence.
5. The paternal grandmother has offered and wants to take her granddaughter and the Father on a holiday during spring break in March of 20xx. The Father strongly believes that the child would benefit from a holiday with her paternal family and a break from her day to day life given that they have not been able to have a holiday since before the pandemic began in March of 2020. The Mother has provided no justification for her position and therefore the Father is seeking an order from the Court and costs.

The other party agrees with this request: Yes No Unknown-

~~Attendance by telephone requested (if one of the following applies, check applicable box.)~~

~~There is a no-contact order between the parties affecting their attendance at court proceedings, and a teleconference courtroom is requested, or~~

~~A teleconference courtroom is requested because of the following extenuating circumstances:~~

Date

Party’s signature/signature of counsel on behalf of party

DECISION OF CASE CONFERENCE JUDGE

- Permission to hear the requested motion or to hold a subsequent case conference is denied for the following reasons:

- Permission to hear the requested motion or to hold a subsequent case conference is granted.

Required Documents and Directions

(if applicable, the case conference judge may specify the documents the parties are required to file and any specific directions in relation to the motion or case conference below)

Date

Case Conference Judge

NOTICE OF MOTION OR SUBSEQUENT CASE CONFERENCE

A motion or subsequent case conference date has been scheduled for _____

the _____ day of _____, 20xx, at _____ a.m./p.m.

You must file the documents as directed above and serve those documents on the other party 14 days in advance of the motion or subsequent case conference.

Personal attendance of the party and their counsel is required under Rule 70.24(37) unless the exceptions under Rules 70.24(38) and (39) apply.

Failure to attend the motion or subsequent case conference may result in an order being made against you, including an order of costs, without further notice to you.

19. Notice Withdrawing Opposition

FORM 70L – Notice Withdrawing Opposition

File No. FD

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

BETWEEN:

BETHANY ALMA CURTIS

petitioner,

- and -

RAYMOND PAUL CURTIS

respondent.

NOTICE WITHDRAWING OPPOSITION

**RAYMOND PAUL CURTIS
6 Anderson Crescent
Winnipeg, Manitoba
R7H 8K2**

Email – raycurtis@hotmail.com

THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE

BETWEEN:

BETHANY ALMA CURTIS

petitioner,

- and -

RAYMOND PAUL CURTIS

respondent.

NOTICE WITHDRAWING OPPOSITION

TAKE NOTICE that the respondent hereby withdraws all opposition to the divorce claimed in the Petition for Divorce and consents to the claim for divorce being heard on an uncontested basis.

(Date)

RAYMOND PAUL CURTIS

Consented to:

Greta Grand counsel for
BETHANY ALMA CURTIS

20. Requisition

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

HERBERT HARVEY GRANT,

petitioner,

- and -

SALLY RANDA GRANT,

respondent.

**REQUISITION
(FAMILY PROCEEDINGS)**

TO THE REGISTRAR

I REQUIRE YOU TO

1.	X	Note default against the respondent
2.		To set this matter down for an oral hearing on
3.	X	To set this matter down for hearing without an oral hearing pursuant to Rule 70.12
4.		Other –
5.		Default noted.
DATED: September 18, 20xx		JONES LLP Barristers and Solicitors 345 – 678 Main Street Winnipeg, MB R5T 6H8 ALINA JONES Telephone: 204-987-8765 Facsimile: 204-987-8766

Deputy Registrar

Date

21. Affidavit of Petitioner's Evidence

Form 70M

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

PHILIP HENRY PINE,

petitioner,

- and -

MELANIE JANE PINE,

respondent.

**AFFIDAVIT OF PETITIONER'S EVIDENCE
AFFIRMED THIS DAY OF SEPTEMBER, 20xx**

**BENSON LAW LLP
Barristers and Solicitors
123 Maple Avenue
Winnipeg, MB R6Y 3Z7**

**ROBERT ANDERSON
Phone No. 204-765--4321
Fax No. 204-765-1234
Client File No. 1165-1**

**THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre**

BETWEEN:

PHILIP HENRY PINE,

petitioner,

- and -

MELANIE JANE PINE,

respondent.

**AFFIDAVIT OF PETITIONER'S EVIDENCE
AFFIDAVIT OF PHILIP HENRY PINE (PETITIONER)**

I, PHILIP HENRY PINE am the petitioner, and as such have personal knowledge of the facts and matters hereinafter deposed to by me save and except where same are stated to be based upon information and belief, in which case I verily believe them to be true.

1. **Service:**

(Identify the signature or photograph of the respondent.)

- (a) Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a copy of the Acknowledgment of Service attached to my Petition for Divorce herein. I confirm that the signature appearing on the bottom of the page on the right-hand side is in fact the signature of the respondent, MELANIE JANE PINE.

(b) *(State the current address of each party.)*

My address for service of documents is c/o Benson Law LLP, 123 Maple Avenue, Winnipeg, Manitoba R6Y 3Z7. The respondent can be served at 62 Greenway Street, Winnipeg, Manitoba, R4P 8V5.

~~(c) *(If the address for service given by the respondent has changed, explain where service should now be made)*~~

~~The respondent's address has changed and the respondent should now be served at ^{*}.~~

2. **Petition:**

(Confirm that all the information contained in the petition is true, or an explanation of any changes.)

I confirm that the facts set out in the Petition for Divorce herein were true and correct at the time I executed same and continue to be true and correct to the best of my knowledge at the present date.

3. **Reconciliation:**

(Provide evidence upon which a judge can decide whether there is any possibility of reconciliation.)

The respondent and I have been living separate and apart from each other since October 15, 2017. I have no desire to reconcile or resume cohabitation with the respondent.

4. **Marriage:**

(Attach a copy of marriage certificate as an exhibit. State the date of marriage and that the particulars of the marriage certificate correspond exactly with the petition.)

I confirm that the respondent and I were married on May 5, 2008 at the City of Winnipeg, in the Province of Manitoba. The particulars of the Certificate of Marriage, a copy of which is

attached hereto and marked **Exhibit "B"** to this my Affidavit, correspond exactly with the information contained in my Petition for Divorce.

5. Separation:

(Confirm the date of separation and that the parties have not resumed co-habitation, or provide particulars of any periods of attempted reconciliation.)

I confirm that the respondent and I have been living separate and apart from one another since October 15, 2017, and have not resumed cohabitation.

6. Separation Agreement:

(State the date of any agreement and attach a copy as an exhibit. If there is none, state "there are no separation agreements".)

A Separation Agreement was signed by the respondent on February 13, 2020, and signed by me on February 14, 2020. A copy of the Separation Agreement is attached hereto and marked as **Exhibit "C"** to this my Affidavit.

7. Court Orders:

(State the date of any order and attach a copy as an exhibit. If there is none, state "there are no court orders".)

There are no Court Orders.

8. Divorce:

(Set out the grounds in some detail (e.g.: explain why the date of separation is recalled; explain any admission of adultery - what was said and how the discussion arose).

The respondent and I separated on October 15, 2017. I recall that date because it was a very important day in my life.

9. (a) **Children:**
(Provide the names, birth dates and present circumstances of all children who are or ever have been children of either party. If none, state "there have never been children of either party".)

- i) Andrea Pine, born May 7, 2012;
- ii) Jackson Pine, born June 13, 2015.

- (b) **Parenting Arrangements:**
(Provide particulars of the arrangements for parenting time and decision-making responsibility. Where there is no proposal for parenting time and/or decision-making responsibility for one of the parents, explain.)

The respondent and I have a shared parenting arrangement, as we have had since our separation, which we continue to follow in accordance with the terms of our Separation Agreement.

- (c) **Support for Children:**

- i) *(Identify which party is to pay support)*

The respondent and I are each paying support to the other in accordance with paragraph 5 of our Separation Agreement.

- ii) *(State the names of the children for whom support is sought)*

Andrea Pine, born May 7, 2012 and

Jackson Pine, born June 13, 2015.

- iii) *(State the table amount of support)*

I am paying \$825.00 per month to the respondent, and the respondent is paying \$400.00 per month to me, pursuant to paragraph 5 of our Separation Agreement, in accordance with the Manitoba Table of the Child Support Guidelines for our incomes and our shared parenting arrangements as set out in Section 9 of the Child Support Guidelines.

- iv) *(State the amount and the category of any special or extraordinary expenses and the child or children to whom the amount relates)*

In accordance with paragraph 4.5 of our Separation Agreement, the respondent and I are proportionately sharing the net costs of the children's special or extraordinary expenses, as defined in Section 7 of the Child Support Guidelines.

- v) *(Where a non-table amount is sought, state the amount requested and an explanation of why the amount is reasonable)*

Not applicable.

- vi) *(State the proposed commencement date)*

We have each been paying child support in accordance with our Separation Agreement since February 1, 2020.

- vii) *(State whether the payment should be made through the Maintenance Enforcement Program)*

We each pay child support directly to each other in accordance with the terms of our Separation Agreement. Payments should not be made through the Maintenance Enforcement Program.

- viii) *(Where no amount is sought, give an explanation as to why this is reasonable)*

Not applicable.

10. Relocation / Change of Residence / Best Interests of the Child:

I acknowledge that:

(Strike out paragraph 10(a) if parenting time or decision-making responsibility is not being sought.)

- (a) If I am granted parenting time or decision-making responsibility:

- i) I will exercise it in a manner that is consistent with the best interests of the child.

- ii) Before changing my place of residence or that of the child I must give notice in the manner required by the *Divorce Act (Canada)* or *The Family Law Act*, as the case may be.
- iii) Before relocating myself or the child I must give notice at least 60 days before the expected date of the proposed relocation and in the form prescribed by the regulations under the *Divorce Act (Canada)* or *The Family Law Act*, as the case may be.

(Strike out paragraph 10(b) if there are no children of the marriage or no children in the relationship.)

- (b) I will, to the best of my ability, protect any children of the marriage or children in the relationship from conflict arising from this proceeding.

11. **Support for Spouse:**
(Particulars of proposed support.)

In accordance with section 6 of our Separation Agreement, the respondent and I have waived our respective rights to spousal support.

12. **Financial Information:**
(Where there are children of the marriage or where spousal support is sought, attach as an exhibit information as required by Rules 70.05 and 70.07.)

Attached hereto and marked as **Exhibits "D", "E" and "F"** respectively to this my Affidavit are copies of my 3 most recent Income Tax Returns and Notices of Assessment for the years 20xx, 20xx and 20 xx. Attached hereto and marked as **Exhibits "G", "H", and "I"** respectively to this my Affidavit are copies of

the respondent's three most recent Income Tax Returns and Notices of Assessment for the years 20xx, 20xx and 20xx.

Attached hereto and marked as Exhibit "J" to this my affidavit is a copy of a recent statement of earnings from my employer showing my year to date income.

13. Counsel:

(Provide the name of counsel for the respondent. That counsel shall consent to the form and content of any draft judgment. If none state "the respondent is not represented by counsel".)

The respondent is not presently represented by counsel. Both the respondent and I had counsel at the time we entered into the Separation Agreement.

14. Costs:

(a) *(State whether costs are still being sought.)*

At paragraph 22 of our Separation Agreement the respondent and I have each agreed to bear our own costs.

~~(b) *(If costs are being sought, attach a list of disbursements.)*~~

15. I make this affidavit bona fide and in support of my petition for divorce.

AFFIRMED before me at the)
City of Winnipeg, in the Province)
of Manitoba, on the day)
of September, 2022.)

PHILIP HENRY PINE

A Barrister-at-Law in and for the
Province of Manitoba.

22. Divorce Judgment

FORM 700 - Divorce Judgment

File No. FD

**THE KING'S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

THE HONOURABLE

(name of judge)

(day and date judgment made)

BETWEEN:

PHILIP HENRY PINE

petitioner,

- and -

MELANIE JANE PINE

respondent.

DIVORCE JUDGMENT

1.0 The matter having proceeded at the Court of King's Bench, Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba, R3C 0P9 at the request of PHILIP HENRY PINE

2.0 THIS COURT ORDERS pursuant to the *Divorce Act* (Canada) that:

2.1 PHILIP HENRY PINE and MELANIE JANE PINE, who were married at the City of Winnipeg in the Province of Manitoba on May 5, 2008 are divorced and, unless appealed, this Divorce Judgment will take effect and the marriage will be dissolved on the 31st day after the date this Divorce Judgment was made;

DATED: _____

Judge/Deputy Registrar

THE SPOUSES ARE NOT FREE TO REMARRY UNTIL THIS JUDGMENT TAKES EFFECT, AT WHICH TIME A CERTIFICATE OF DIVORCE MAY BE OBTAINED FROM THIS COURT. IF ANY APPEAL IS TAKEN, IT MAY DELAY THIS DIVORCE JUDGMENT TAKING EFFECT.

Lawyer of record for PHILIP HENRY PINE is:

**ROBERT ANDERSON - BENSON LAW LLP
123 Maple Avenue
Winnipeg, MB R6Y 3Z7
Phone No. 204-765-4321
Fax No. 204-765-1234**

23. Final Order

NOTE: VERSION 6 OF THE STANDARD CLAUSES SHOULD BE USED FOR ORDERS PRONOUNCED PRIOR TO JULY 1, 2023. FOR ORDERS PRONOUNCED JULY 1, 2023 OR THEREAFTER, WATCH FOR VERSION 7 OF THE STANDARD CLAUSES. VERSION 6 CLAUSES MAY BE USED, MODIFIED AS REQUIRED, UNTIL VERSION 7 IS AVAILABLE. SEE THE PRACTICE DIRECTION OF MAY 30, 2023

FORM 70N – Order

File No. FD

**THE KING’S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

THE HONOURABLE)
MADAM JUSTICE) The day of September, 20xx

B E T W E N:

BETHANY ALMA CURTIS,

petitioner,

- and -

RAYMOND PAUL CURTIS,

respondent.

FINAL ORDER

- 1.0 This matter having proceeded at the Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba, R3C 0P9, at the request of BETHANY ALMA CURTIS;
- 2.0 This matter being a request for a Final Order;
- 3.0 No one appearing for either party on this matter;
- 4.0 The following documents having been filed in support of this matter:
 - 4.1 The Affidavit of BETHANY ALMA CURTIS affirmed , 20xx;
- 5.0 Upon considering the materials filed in this matter;

- 6.0 BETHANY ALMA CURTIS and RAYMOND PAUL CURTIS having consented to the content of this Order;
- 7.0 BETHANY ALMA CURTIS and RAYMOND PAUL CURTIS having been divorced by Divorce Judgment pronounced this date;
- 8.0 THIS COURT ORDERS pursuant to the *Divorce Act*, that:
- 8.1 BETHANY ALMA CURTIS and RAYMOND PAUL CURTIS shall consult with one another (through a third party) on all major decisions respecting ZOE ANN CURTIS, born May 13, 2013;
- 8.1.1 In the event of a disagreement on major issues respecting ZOE ANN CURTIS, born May 13, 2013, BETHANY ALMA CURTIS shall have decision-making authority;
- 8.2 ZOE ANN CURTIS, born May 13, 2013 shall attend for counseling and/or therapy with Ms. Wendy Desrochers or if Ms. Desrochers is not available such other counselor or therapist as selected by BETHANY ALMA CURTIS that is available to provide said services;
- 8.3 BETHANY ALMA CURTIS shall have parenting time with ZOE ANN CURTIS, born May 13, 2013 except as otherwise specified herein;
- 8.4 RAYMOND PAUL CURTIS shall have parenting time with ZOE ANN CURTIS, born May 13, 2013 at the following times:
- 8.4.1 Each Tuesday at 3:40 p.m. with RAYMOND PAUL CURTIS to pick up ZOE ANN CURTIS, born May 13, 2013 at St. John's Elementary School at the commencement of his parenting time and drop her off

at school at the conclusion of his parenting time the following day at 8:50 a.m.;

8.4.2 On Alternate Fridays commencing on December 11, 20xx at 3:40 p.m. with RAYMOND PAUL CURTIS to pick up ZOE ANN CURTIS, born May 13, 2013 at St. John's Elementary School at the commencement of his parenting time and continue his parenting time until Sunday at 7:00 p.m. when ZOE ANN CURTIS, born May 13, 2013 shall be dropped off at the Pizza Zone, 1400 Pembina Highway by a third party arranged by RAYMOND PAUL CURTIS;

8.4.3 In the event there is no school or daycare, exchanges shall take place at the Pizza Zone, 1400 Pembina Highway by a third party arranged by RAYMOND PAUL CURTIS;

8.4.4 In the event that RAYMOND PAUL CURTIS is scheduled to have parenting time on a long weekend, his parenting time shall be extended until Monday at 3:00 p.m. or if there is a statutory holiday on a Friday, the parenting time shall commence on Thursday at 6:00 p.m.;

8.4.5 In the event that RAYMOND PAUL CURTIS is scheduled to attend the Evolve Men's Program during his scheduled parenting time as outlined at paragraph 8.4.1 herein, he shall forthwith notify BETHANY ALMA CURTIS in writing through a third party and this paragraph will be varied to provide that RAYMOND PAUL CURTIS shall have parenting time on Monday instead of Tuesday to ensure that RAYMOND PAUL CURTIS can continue his participation in the Evolve Men's Program;

- 8.4.6 During the 20xx Winter School Break, from Wednesday, December 23rd at 8:50 a.m. until 4:00 p.m. and on Wednesday, December 30th at 8:50 a.m. until Thursday, December 31st at 10:00 a.m.;
- 8.5 At such time as RAYMOND PAUL CURTIS has completed six (6) months of the Evolve Men's Program his parenting time shall increase to include each alternate Thursday at 3:40 p.m. with RAYMOND PAUL CURTIS to pick up ZOE ANN CURTIS, born May 13, 2013 at St. John's Elementary School at the commencement of his parenting time and drop her off at school at the conclusion of his parenting time the following day at 8:50 a.m. once the following conditions have been met:
- 8.5.1 RAYMOND PAUL CURTIS shall provide hair follicle drug test results to BETHANY ALMA CURTIS which shall be completed between 30 to 45 days before the increase in parenting time contemplated at paragraph 8.5 herein and which must confirm that RAYMOND PAUL CURTIS has not consumed any illicit drug during the testing period; and
- 8.5.2 RAYMOND PAUL CURTIS shall provide written confirmation from the Evolve Men's Program as to the status of his participation including how many months that he has been attending;
- 8.6 RAYMOND PAUL CURTIS and BETHANY ALMA CURTIS shall participate in the Evolve family counselling program upon the completion by RAYMOND PAUL CURTIS of the Evolve Men's Program;

- 8.7 The parenting time of RAYMOND PAUL CURTIS as provided for herein shall be reviewable immediately following his completion of the Evolve Men's Program without the necessity of a change in circumstances;
- 8.8 RAYMOND PAUL CURTIS and BETHANY ALMA CURTIS shall each refrain from consuming alcohol or using illicit drugs during their parenting time of ZOE ANN CURTIS, born May 13, 2013;
- 8.9 RAYMOND PAUL CURTIS and BETHANY ALMA CURTIS may travel internationally with ZOE ANN CURTIS, born May 13, 2013 only with the written consent of the other which consent will not be unreasonably withheld;
- 8.10 The current annual income of RAYMOND PAUL CURTIS is determined by the Court to be \$xxx.00 based on the agreement of the parties;
- 8.11 RAYMOND PAUL CURTIS shall pay BETHANY ALMA CURTIS support for ZOE ANN CURTIS, born May 13, 2013 in the sum of \$600.00 per month commencing September 15, 2022 and continuing on the 15th of each month thereafter until further order of the Court;
- 8.12 RAYMOND PAUL CURTIS and BETHANY ALMA CURTIS shall equally share all special and extraordinary expenses for ZOE ANN CURTIS, born May 13, 2013 except for the cost of before and after school care which shall be borne solely by BETHANY ALMA CURTIS;
- 8.13 The claim of RAYMOND PAUL CURTIS for spousal support shall be dismissed as if heard on its merits;

9.0 THIS COURT ORDERS pursuant to *The Family Law Act* that:

9.1 The payments of the child support ordered shall be made by cash, electronic transfer of funds, pre-authorized debit from a financial institution, money order or bank draft payable to the Province of Manitoba – Minister of Finance and be sent to the Director, Maintenance Enforcement Program, Canada Building, 100 – 352 Donald Street, Winnipeg, Manitoba, R3B 2H8, pursuant to *The Family Support Enforcement Act*;

9.2 RAYMOND PAUL CURTIS shall forthwith provide a completed Enforcement Information document to the Director, Maintenance Enforcement Program, Canada Building, 100 – 352 Donald Street, Winnipeg, Manitoba, R3B 2H8;

9.3 The claim of RAYMOND PAUL CURTIS for spousal support shall be dismissed as if heard on its merits;

10.0 THIS COURT ORDERS pursuant to *The Domestic Violence and Stalking Act* that:

10.1 RAYMOND PAUL CURTIS shall not follow BETHANY ALMA CURTIS from place to place;

10.2 RAYMOND PAUL CURTIS shall not directly or indirectly communicate with or contact BETHANY ALMA CURTIS except in writing through a third party which may include text or email to arrange parenting or child care issues;

10.3 RAYMOND PAUL CURTIS shall not attend within 200 meters or enter a place where BETHANY ALMA CURTIS:

10.3.1 resides;

10.3.2 works or carries on business;

10.4 RAYMOND PAUL CURTIS shall not enter or remain in a place where BETHANY ALMA CURTIS is, except to attend school events or extracurricular activities of ZOE ANN CURTIS, born May 13, 2013 which RAYMOND PAUL CURTIS may attend provided that he remains at least 15 meters from BETHANY ALMA CURTIS;

11.0 THIS COURT ORDERS pursuant to *The Family Property Act* that:

11.1 RAYMOND PAUL CURTIS shall transfer the sum of \$32,467.12 from the locked in retirement account in his name to the locked in retirement account held by BETHANY ALMA CURTIS by way of inter-spousal transfer on marriage breakdown using the appropriate Canada Revenue Agency Form;

12.0 THIS COURT ORDERS pursuant to *The Court of King's Bench Act* and Rules, that:

12.1 BETHANY ALMA CURTIS and RAYMOND PAUL CURTIS shall each bear their own costs;

12.2 A copy of this Final Order shall be served by ordinary mail addressed to RAYMOND PAUL CURTIS, 886 Anderson Crescent, Winnipeg, MB R7H 8K2 within twenty (20) days of signing.

Date: _____, 20xx

Judge / Master / Deputy Registrar

APPROVED AS TO FORM AND
CONTENT:

APPROVED AS TO FORM AND
CONTENT:

GRAND JOHNSON LLP
(Per: GRETA GRAND)
Solicitors for BETHANY ALMA CURTIS

RAYMOND PAUL CURTIS, the
respondent

(Return Order to:)

Lawyer of record for BETHANY ALMA CURTIS
GRETA GRAND
Grand Johnson
Barristers & Solicitors
1115 Trunk Street
Winnipeg, Manitoba, R5B 7N8
Phone: 204-786-7866
Fax: 204-786-7865
E-Mail: ggrand@gjlaw.com
Firm File No.: 34567

THE KING'S BENCH (FAMILY DIVISION)
Winnipeg Centre

B E T W E E N:

BETHANY ALMA CURTIS,

petitioner,

- and -

RAYMOND PAUL CURTIS,

respondent.

AFFIDAVIT OF EXECUTION

I, JANE SMITH, of the City of Winnipeg, in the Province of Manitoba, Legal Assistant,

AFFIRM AND SAY THAT:

1. I was personally present and did see RAYMOND PAUL CURTIS named in the consent Final Order duly execute same.
2. The said RAYMOND PAUL CURTIS appeared to me to be of the full age of 18 years.
3. THAT the said Final Order was executed at the City of Winnipeg and that I am a subscribing witness thereto.

AFFIRMED before me at the City of)
 Winnipeg, in the Province of)
 Manitoba, on the day)
 of , 20xx.)
)
)

 JANE SMITH

 A Commissioner for Oaths
 in and for the Province of Manitoba
 My commission expires:

24. Final Order

NOTE: VERSION 6 OF THE STANDARD CLAUSES SHOULD BE USED FOR ORDERS PRONOUNCED PRIOR TO JULY 1, 2023. FOR ORDERS PRONOUNCED JULY 1, 2023 OR THEREAFTER, WATCH FOR VERSION 7 OF THE STANDARD CLAUSES. VERSION 6 CLAUSES MAY BE USED, MODIFIED AS REQUIRED, UNTIL VERSION 7 IS AVAILABLE. SEE THE PRACTICE DIRECTION OF MAY 30, 2023

File No. FD

THE KING’S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE

THE HONOURABLE)
) The day of , 20xx
)

BETWEEN:

THOMAS MORLEY BARBER,
petitioner,

- and -

SUSAN DAWN BARBER ALSO KNOWN AS SUZANNE DAWN BARBER,
respondent.

FINAL ORDER

1.0 This matter having proceeded at the Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba, R3C 0P9, at the request of **THOMAS MORLEY BARBER** and **SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER;**

2.0 **THOMAS MORLEY BARBER** and **SUSAN DAWN BARBER ALSO KNOWN AS SUZANNE DAWN BARBER,** having been divorced by Divorce Judgment pronounced this date.

3.0 In the presence of:

3.1 No one appearing for either party on this matter;

- 4.0 **SUSAN DAWN BARBER**, ALSO KNOWN AS SUZANNE DAWN BARBER, having withdrawn her opposition to the divorce;
- 5.0 The following documents having been filed in support of this matter
- 5.1 The Acceptance of Service on **SUSAN DAWN BARBER**, ALSO KNOWN AS **SUZANNE DAWN BARBER**, by her lawyer, HOMER BURNS on June 30, 20xx;
- 5.2 The Affidavit **THOMAS MORLEY BARBER**, sworn the _____ day of June, 20xx;
- 6.0 UPON considering the pleadings and material filed in this matter;
- 7.0 **THOMAS MORLEY BARBER** and **SUSAN DAWN BARBER**, ALSO KNOWN AS **SUZANNE DAWN BARBER**, having consented to the content of this Order;
- 8.0 THIS COURT ORDERS pursuant to the *Divorce Act* that:
- 8.1 THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have shared parenting time with TIFFANY JAN BARBER, born May 1, 2013 and OLIVER MAX BARBER, born August 5, 2016 (“the children”) as follows:
- 8.1.1 SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children 57% of the time and THOMAS MORLEY BARBER shall have parenting time with the children 43% of the time, according to the following four-week rotating schedule:
- 8.1.1.1 In week one, SUSAN DAWN BARBER, also known as SUZANNE DAWN BARBER, shall have parenting time with the children from Monday at 8:15 a.m. until Wednesday at 8:15 a.m., and from Friday at 8:15 a.m. until Monday at 8:15

a.m., and THOMAS MORLEY BARBER shall have parenting time with the children from Wednesday at 8:15 a.m. until Friday at 8:15 a.m., commencing Monday, September __, 20xx;

8.1.1.2 In week two, THOMAS MORLEY BARBER shall have parenting time with the children from Monday at 8:15 a.m. until Wednesday at 8:15 a.m. and from Saturday at 9:00 a.m. until Monday at 8:15 a.m., and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children from Wednesday at 8:15 a.m. until Saturday at 9:00 a.m., commencing Monday, September __, 20xx;

8.1.1.3 In week three, SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children from Monday at 8:15 a.m. until Wednesday at 8:15 a.m. and from Friday at 8:15 a.m. until Monday at 8:15 a.m., and THOMAS MORLEY BARBER shall have parenting time with the children from Wednesday at 8:15 a.m. until Friday at 8:15 a.m., commencing Monday, October __, 20xx;

8.1.1.4 In week four, THOMAS MORLEY BARBER shall have parenting time with the children from Monday at 8:15 a.m. until Wednesday at 8:15 a.m., and from Saturday at 9:00 a.m. until Monday at 8:15 a.m., and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER,

shall have parenting time with the children from Wednesday at 8:15 a.m. until Saturday at 9:00 a.m., commencing Monday, October ____, 20xx;

8.1.2 The parent who has parenting time with the children from Monday to Friday is responsible for transporting the children to the home of the other parent when parenting time with the children is being transitioned from one parent to the other, no later than 8:15 a.m. and, on Saturdays, Sundays and holidays or vacation days, the parent who has parenting time of the children is responsible for transporting the children to the home of the other parent when parenting time with the children is being transitioned from one parent to the other, no later than 9:00 a.m.;

8.1.3 For the school Christmas Break, the regular schedule shall apply, with the exception of the period from December 24th to December 26th and from December 31st to January 1st, when the schedule shall be as follows:

8.1.3.1 For Christmas in odd-numbered years, SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children from December 24th at 12:00 noon until December 25th at 12:00 noon, and THOMAS MORLEY BARBER shall have parenting time with the children from December 25th at 12:00 noon until December 26th at 12:00 noon, commencing with Christmas, 2023; and in even-numbered years, THOMAS MORLEY BARBER shall have parenting time with the children from December 24th at 12:00 noon until December 25th at 12:00

noon, and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children from December 25th at 12:00 noon until December 26th at 12:00 noon, commencing with Christmas, 2024;

8.1.3.2 For New Year's Eve and New Year's Day, in odd-numbered years, THOMAS MORLEY BARBER shall have parenting time with the children from December 31st at 12:00 noon until January 1st at 12:00 noon, commencing with New Year's Eve for the new year of 2023; and in even-numbered years, SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children from December 31st at 12:00 noon until January 1st at 12:00 noon, commencing with New Year's Eve for the new year of 2024;

8.1.4 For Mother's Day and Father's Day, SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children on Mother's Day, from 9:00 a.m. until 8:00 a.m. the following day, regardless of the regular schedule, and THOMAS MORLEY BARBER shall have parenting time with the children on Father's Day, from 9:00 a.m. until 8:00 a.m. the following day, regardless of the regular schedule;

8.1.5 For Easter, in odd-numbered years, THOMAS MORLEY BARBER shall have parenting time with the children on Easter Sunday from 9:00 a.m. until 8:00 a.m. the following day, regardless of the regular schedule,

commencing with Easter, 2025; and in even-numbered years, SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with the children on Easter Sunday from 9:00 a.m. until 8:00 a.m. the following day, regardless of the regular schedule, commencing with Easter, 2024;

8.1.6 For birthdays, in odd-numbered years, THOMAS MORLEY BARBER shall have parenting time with TIFFANY JAN BARBER from 9:00 a.m. until 6:00 p.m. on TIFFANY'S birthday, May 1, and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with OLIVER MAX BARBER on OLIVER'S birthday, August 5, from 9:00 a.m. until 6:00 p.m., regardless of the regular schedule, commencing in 2023; and in even-numbered years, SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall have parenting time with TIFFANY JAN BARBER from 9:00 a.m. until 6:00 p.m. on TIFFANY'S birthday, May 1, and THOMAS MORLEY BARBER shall have parenting time with OLIVER MAX BARBER on OLIVER'S birthday, August 5, from 9:00 a.m. until 6:00 p.m., regardless of the regular schedule, commencing in 2024;

8.1.7 For Spring Break, commencing with the 2023/2024 academic year, the parties shall each have parenting time for one-half of the school Spring Break, with the party having parenting time with TIFFANY JAN BARBER and OLIVER MAX BARBER, according to the regular schedule for the first weekend of Spring Break, to have parenting time with them until Wednesday at 12:00 noon and the other party to have parenting time with the children for the balance of the Spring Break from Wednesday at 12:00 noon until Monday at 8:00 a.m.;

- 8.1.8 For the school summer break, THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall each have one week of continuous uninterrupted parenting time comprised of six nights and seven days, commencing in the summer of 2024; and commencing with the summer of 2024, THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall each have two non-consecutive weeks of uninterrupted parenting time, comprised of six nights and seven days in each week. The weeks of continuous uninterrupted parenting time during the summer months shall be determined no later than May 31st of each year, commencing May 31, 2024;
- 8.1.9 The parenting arrangements set out herein at paragraphs 8.1.1 to 8.1.8 are reviewable on or before May 31, 2026 without the need to establish a material change in circumstances provided that any change in the schedule will not take place prior to July 1, 2026.
- 8.1.10 THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall each consult with the other on all major decisions respecting TIFFANY JAN BARBER and OLIVER MAX BARBER, regarding the children's medical health, dental health, education and extracurricular activities.
- 8.1.11 In the event of a disagreement between the parties respecting parenting time or any other matter involving TIFFANY JAN BARBER and OLIVER MAX BARBER, the issue will be determined by mediation/arbitration before a lawyer with no less than ten (10) years'

experience practicing family law who is trained in mediation/arbitration. In the event the parties cannot agree on the identity of the mediator/arbitrator, in accordance with the terms of this provision, each shall submit the name of two trained mediator/arbitrators to the Family Arbitration Mediation Legal Institute (FAMLI), and the mediator/arbitrator will be determined by FAMLI. If FAMLI is unwilling or unable to determine the mediator/arbitrator, the Court may determine the selection of the mediator/arbitrator in accordance with The Arbitration Act.

- 8.1.12 THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall not change the place of residence of TIFFANY JAN BARBER and OLIVER MAX BARBER from the City of Winnipeg, in the Province of Manitoba, without the written consent of the other party or further order of the court;
- 8.1.13 THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall provide the other party with an itinerary and contact information for any period of travel at least seven (7) days before the travel will commence;
- 8.1.14 SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall hold the passports of TIFFANY JAN BARBER and OLIVER MAX BARBER and shall provide same to THOMAS MORLEY BARBER as may be necessary for travel;
- 8.1.15 THOMAS MORLEY BARBER shall return the passports to SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, at the end of each period of travel;

- 8.1.16 THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall provide each other access to the passports of TIFFANY JAN BARBER and OLIVER MAX BARBER and/or travel authorization documents sufficient for airline travel or border crossing purposes within seven (7) days prior to the date of the departure of the parent travelling with the children;
- 8.2 The current annual income of THOMAS MORLEY BARBER is determined by the court to be \$90,223.00, based on the agreement of the parties;
- 8.3 The current annual income of SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, is determined by the court to be \$64,330.00, based on the agreement of the parties;
- 8.4 THOMAS MORLEY BARBER and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, having shared parenting time with TIFFANY JAN BARBER and OLIVER MAX BARBER:
- 8.4.1 THOMAS MORLEY BARBER shall pay support to SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, for the children pursuant to the Manitoba Table of The Child Support Guidelines in the sum of \$1,267.00 per month, payable on the 1st day of each and every month, commencing the 1st day of October, 20xx and continuing until further order of the court;
- 8.4.2 SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall pay support to THOMAS MORLEY BARBER for the children in the sum of \$914.00 per month, payable on the 1st day of each and every month, commencing the 1st day of October, 20xx and continuing until further order of the court;

8.4.3 THOMAS MORLEY BARBER shall pay his proportionate share of agreed-to special or extraordinary expenses in the amount of 58% of the said expenses and SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER shall pay her proportionate share of agreed-to special or extraordinary expenses in the amount of 42% of the said expenses;

9.0 THIS COURT ORDERS pursuant to *The Family Law Act* that:

9.1 THOMAS MORLEY BARBER shall provide to SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, copies of his Canada Revenue Agency Income Tax Returns and Notices of Assessment and Re-Assessment for each and every taxation year no later than the 1st day of June of the following calendar year, commencing with the 20xx Canada Revenue Agency Income Tax Return and Notice of Assessment and Re-Assessment to be provided by June 1, 20xx;

9.2 SUSAN DAWN BARBER, ALSO KNOWN AS SUZANNE DAWN BARBER, shall provide to THOMAS MORLEY BARBER copies of her Canada Revenue Agency Income Tax Returns and Notices of Assessment and Re-Assessment for each and every taxation year no later than the 1st day of June of the following calendar year, commencing with the 20xxCanada Revenue Agency Income Tax Return and Notice of Assessment and Re-Assessment to be provided by June 1, 20xx;

9.3 The payments of child support ordered be made by cash, electronic transfer of funds, pre-authorized debit from a financial institution, money order or bank draft payable to the Province of Manitoba – Minister of Finance and be sent to the Director, Maintenance Enforcement Program, 100 - 352 Donald Street Winnipeg, Manitoba R3B 2H8, pursuant to *The Family Support Enforcement Act*.

10.0 THIS COURT ORDERS pursuant to *The Court of King's Bench Act* and Rules,
that:

10.1 The claim for costs in the Petition for Divorce of THOMAS MORLEY BARBER filed
on _____, is dismissed;

10.2 The claims for final decision-making responsibility, financial disclosure and costs
in the Answer and Petition for Divorce of SUSAN DAWN BARBER, ALSO KNOWN
AS SUZANNE DAWN BARBER, filed on _____, are dismissed;

10.3 A copy of this Order shall be served on SUSAN DAWN BARBER ALSO KNOWN
AS SUZANNE DAWN BARBER by regular letter mail/fax/e-mail addressed to
SUSAN DAWN BARBER ALSO KNOWN AS SUZANNE DAWN BARBER, c/o
Burns LLP, 83 Mandalay Avenue, Winnipeg, Manitoba, R6B 8M9, Attention:
Homer Burns, with twenty days of the date of signing.

Date: _____, 20xx

Judge / Master / Deputy Registrar

APPROVED AS TO FORM AND
CONTENT:

APPROVED AS TO FORM AND
CONTENT:

BLACK AND WHITE LLP
(Per: **ANDREW BLACK**)
Solicitors for THOMAS MORLEY
BARBER

BURNS LLP
(Per: **HOMER BURNS**)
Solicitors for to SUSAN DAWN BARBER
ALSO KNOWN AS SUZANNE DAWN
BARBER

(Return Order to:)

Lawyer of record for THOMAS MORLEY BARBER

Andrew Black
Black and White LLP
Barristers & Solicitors
17 Graham Avenue
Winnipeg, Manitoba, R7H 5L8
Phone: 204-891-3456
Fax: 204-891-3455E-Mail: ablack@bwlaw.com

25. Final Order

NOTE: VERSION 6 OF THE STANDARD CLAUSES SHOULD BE USED FOR ORDERS PRONOUNCED PRIOR TO JULY 1, 2023. FOR ORDERS PRONOUNCED JULY 1, 2023 OR THEREAFTER, WATCH FOR VERSION 7 OF THE STANDARD CLAUSES. VERSION 6 CLAUSES MAY BE USED, MODIFIED AS REQUIRED, UNTIL VERSION 7 IS AVAILABLE. SEE THE PRACTICE DIRECTION OF MAY 30, 2023

**THE KING’S BENCH (FAMILY DIVISION)
WINNIPEG CENTRE**

File No FD

THE HONOURABLE)
)
) The day of , 2022

BETWEEN:

CLAIRE MILTON

petitioner,

- and -

ARNOLD ELDER

respondent.

FINAL ORDER

1.0 This matter having proceeded at the Court of King's Bench, Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba at the request of CLAIRE MILTON and ARNOLD ELDER;

2.0 This matter being a request for a Final Order with respect to parental responsibility;

3.0 In the presence of:

3.1 CLAIRE MILTON, petitioner;

3.2 MICHAEL JOHNSON, counsel for CLAIRE MILTON, petitioner;

3.3 ARNOLD ELDER, respondent and;

- 3.4 WILLIAM GRASSY, counsel for ARNOLD ELDER, respondent;
- 4.0 Upon considering the evidence presented and submissions made in this matter;
- 5.0 CLAIRE MILTON and ARNOLD ELDER having consented to the content of this Order;
- 6.0 THIS COURT ORDERS pursuant to *The Family Law Act* that:
- 6.1 CLAIRE MILTON and ARNOLD ELDER have shared parental responsibility of SETH MILTON-ELDER, born April 10, 20xx;
- 6.2 CLAIRE MILTON and ARNOLD ELDER shall consult with each other on all significant decisions respecting SETH MILTON-ELDER, born April 10, 20xx.
- 6.2.1 In the event of a disagreement on major issues respecting SETH MILTON-ELDER, born April 10, 20xx ARNOLD ELDER shall have final decision-making responsibility;
- 6.3 CLAIRE MILTON and ARNOLD ELDER shall have shared parenting time with SETH MILTON-ELDER, born April 10, 20xx as follows:
- 6.3.1 Commencing on October 1, 20xx and continuing each alternate Wednesday thereafter, ARNOLD ELDER shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx for a seven day period; and
- 6.3.2 Commencing on October 8, 20xx and continuing each alternate Wednesday thereafter, CLAIRE MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx for a seven day period.
- 6.4 CLAIRE MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx on Mother's Day each year. In the event that Mother's Day does not fall during CLAIRE MILTON's regularly scheduled parenting time in accordance with paragraph 6.3 herein, CLAIRE MILTON will have parenting time with SETH MILTON-ELDER, born April 10, 20xx from 11:00 a.m. to 7:00 p.m.
- 6.5 ARNOLD ELDER shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx on Father's Day each year. In the event that Father's Day does not fall during ARNOLD ELDER's regularly scheduled parenting time in accordance

with paragraph 6.3 herein, ARNOLD ELDER will have parenting time with SETH MILTON-ELDER, born April 10, 20xx from 11:00 a.m. to 7:00 p.m.

- 6.6 Commencing in 20xx and continuing in even years thereafter, CLAIRE MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx on Christmas Eve from 3:30 p.m. until Christmas Day at 12:00 p.m. and ARNOLD ELDER shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx from Christmas Day at 12:00 p.m. until December 27th at 3:30 p.m. when the schedule set out in paragraph 6.3 herein shall re-commence;
- 6.7 Commencing in 20xx and continuing in odd years thereafter, ARNOLD MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx on Christmas Eve from 3:30 p.m. until Christmas Day at 12:00 p.m. and CLAIRE MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx from Christmas Day at 12:00 p.m. until December 27th at 3:30 p.m. when the schedule set out in paragraph 6.3 herein shall re-commence;
- 6.8 Commencing in December 20xx and continuing in even years thereafter, CLAIRE MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx from December 31st at 3:30 p.m. until January 1st at 3:30 p.m.
- 6.9 Commencing in December 20xx and continuing in odd years thereafter, ARNOLD MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx from December 31st at 3:30 p.m. until January 1st at 3:30 p.m.
- 6.10 Commencing in 20xx, CLAIRE MILTON shall have parenting time with SETH MILTON-ELDER, born April 10, 20xx for a period of fourteen (14) consecutive days during the Summer School Break and shall provide to ARNOLD ELDER with written notice of her choice of weeks by no later than May 15 of each year;
- 6.11 Commencing in 20xx, ARNOLD ELDER shall have care and control with SETH MILTON-ELDER, born April 10, 20xx for a period of fourteen (14) consecutive days during the Summer School Break and shall provide to CLAIRE MILTON with written notice of his choice of weeks by no later than June 1 of each year;

- 6.12 CLAIRE MILTON and ARNOLD ELDER shall only communicate in writing (via text message or email) which communication shall be directly related to SETH MILTON-ELDER, born April 10, 20xx;
- 6.13 The home address of ARNOLD ELDER shall be used for all registration for school and extra-curricular activities for SETH MILTON-ELDER, born April 10, 20xx;
- 6.14 ARNOLD ELDER and CLAIRE MILTON shall each cause SETH MILTON-ELDER, born April 10, 20xx to attend at his scheduled extra-curricular activities during his or her parenting times.
- 6.15 ARNOLD ELDER and CLAIRE MILTON shall follow the treatment recommendations of the medical professionals treating SETH MILTON-ELDER, born April 10, 20xx.
- 6.16 CLAIRE MILTON shall not change the residence of SETH MILTON-ELDER, born April 10, 20xx from the City of Winnipeg without the written consent of ARNOLD ELDER or further Order of the Court;
- 6.17 CLAIRE MILTON shall not travel outside of the Province of Manitoba with SETH MILTON-ELDER, born April 10, 20xx without the consent of ARNOLD ELDER;
- 6.18 ARNOLD ELDER shall not travel outside of the Province of Manitoba with SETH MILTON-ELDER, born April 10, 20xx without the consent of CLAIRE MILTON;
- 6.19 CLAIRE MILTON shall provide ARNOLD ELDER with an itinerary and contact information for any period of travel outside the Province of Manitoba at least fourteen (14) days before the travel will commence;
- 6.20 ARNOLD ELDER shall provide CLAIRE MILTON with an itinerary and contact information for any period of travel outside the Province of Manitoba at least fourteen (14) days before the travel will commence;
- 7.0 THIS COURT ORDERS pursuant to *The Court of King's Bench Act* and Rules that:
- 7.1 All other claims in the Petition of CLAIRE MILTON filed on _____ not addressed in this Order are withdrawn;

- 7.2 All other claims in the Amended Answer of ARNOLD ELDER filed on _____ not addressed in this Order are withdrawn;
- 7.3 A copy of this Order shall be served by ordinary mail addressed to CLAIRE MILTON c/o Community Law Centre, Barristers and Solicitors, 76 Main Street, Winnipeg, Manitoba R5T 7U8, Attention: Michael Johnson within twenty days of signing.

Date: _____, 20xx

Judge / Master / Deputy Registrar

APPROVED AS TO FORM AND
CONTENT:

APPROVED AS TO FORM AND
CONTENT:

COMMUNITY LAW CENTRE
(Per: Michael Johnson)
Counsel for CLAIRE MILTON

GRASSY LLP
(Per: William Grassy)
Counsel for ARNOLD ELDER

(Return Order to:)

Lawyer of record for ARNOLD ELDER

WILLIAM GRASSY
Grassy LLP
Barristers & Solicitors
1500 Selkirk Avenue
Winnipeg, Manitoba, R6G 7J9
Phone: 204- 786-0909
Fax: 204- 786-0908
E-Mail: bill@grassy.com
Firm File No.: 98765