

Typical Procedural Steps in a Family Law Matter

1. A family law matter is started through the issuing of an **Application** at a court. For assistance with drafting your Application (a very important and crucial step in family law matters, it is recommended that you contact a lawyer).

Generally, an Application must be issued in the jurisdiction where one of the parties live, or if custody/access is an issue, the matter must be started in the jurisdiction where the children reside. Please note that the court staff must refuse your Application if you are in the wrong court.

2. The Application must then be **Served on the Respondent**. If you have a negative relationship with this person and do not wish to have direct contact (or cannot) with them, you can contact and hire a process server to provide you with this service.
3. Once the Application has been served, the “Respondent” (the person served with an Application) then has an opportunity to review the Application and must file an **Answer** and **Financial Statement** (if support or property issues are involved) within a timeframe of 60 days.
4. The first court date, a **First Appearance will be set out on the Application**.

A **First Appearance** takes place before a clerk of the court and is an informal appearance designed to ensure that all relevant documents have been filed. An example of this, is the court ensuring that a financial statement has been filed if support or property issues are involved. This is a key piece of disclosure which your lawyer will assist you with drafting.

If all is in order, the clerk will schedule your second court date, a Case Conference.

5. **Case Management Conference Notice**.
6. A **Case Conference**, according to the *Family Law Rules*, takes place before a judge and is designed to explore your and the other parties chances of settling/resolving the case. As such, the judge is likely to express his/her view of the likely outcome of the case in an effort to encourage settlement.

The judge also ensures that both parties exchange all relevant information needed to achieve a fair result by ordering disclosure to be made by a certain date, if required. At a Case Conference, a judge can make a temporary or final order (if notice has been given), give procedural directions, set a date for a motion, refer the parties to mediation, and so on.

7. Once a Case Conference has taken place, the judge may deem it necessary, to schedule another **Case Conference**, a **Settlement Conference** or **Pre-Trial** . As with the Case Conference, these

conferences all take place before a judge and their purpose is similar to that of a Case Conference – to encourage the parties to attempt to settle the matter if possible, and to ascertain the issues that cannot be settled and should be set for trial. The judge can make temporary orders at these stages, as with the Case Conference. These orders relate to the establishing of timeframes, disclosure, and the narrowing of issues to plan for trial. As such, at a trial management conference, the judge will ask the parties to advise the court of how many witnesses they plan to call and how long their evidence will take. The judge will then work towards scheduling a trial date.

8. **Motions** : A motion is a court procedure used by one of the parties a after the Case Conference has been held, asking the judge to decide a substantive issue (custody, access schedule, etc) on a temporary basis, if you have not been able to arrive at a settlement at your Case Conference. This order will stay in effect until the court has the time to hear your case in full, at a trial.

A motion can take place any time after your first Case Conference has been held, but **not** before, unless it is urgent, an emergency or procedural relief being sought. An example of an emergency would be seeking a restraining order by way of motion against your partner (if violence is an issue) prior to a Case Conference being held if you fear that your partner may harm you or the children without this protection.

9. **Trial** : The final step in your court matter is a trial (however, the majority of family law cases – approximately 97% will be resolved prior to this stage). The judge will decide any outstanding issues that have not been resolved prior, on a final basis.