

Hints and Tips for Supreme Court (Family Division)

November 2017

1) The Family Court and the Supreme Court (Family Division) do not use identical forms. The forms cannot be used interchangeably between the two levels of court. Court staff are directed to reject Family Court forms at the Supreme Court (Family Division). Court staff are also directed not to accept old versions (pre-May 26, 2017) of the court forms for filing.

2) Make your cover letters work well for both you and the court. Send your letters to Court Administration, not to the Judges directly [*Rule 59.59(1)*]. A letter with the file number, parties' names and a clear, concise summary of the situation and requests being made will aid in receiving responses that are faster and more accurately address the situation.

3) As a temporary measure, the Parenting Statement pilot may be shortened by deleting a section, or a portion of a section, that does not apply as long as each of the 10 sections remain.

4) Parties seeking to both enforce a provision of an order and make a variation application are permitted to use the "Other" category in the Notice of Variation Application and Response to Variation Application to seek relief under ss. 40, 40A and 41 of the *Parenting and Support Act*.

5) The Tables within the *Federal Child Support Guidelines* changed effective Nov. 22, 2017. Because of the wording of the provincial *Child Support Guidelines*, those changes automatically apply to proceedings under the *Parenting and Support Act* and are effective on the same date. For more information, go to <http://www.justice.gc.ca/eng/fl-df/child-enfant/ft-tf.html>.

6) The Maintenance Enforcement Program offers resources to assist in drafting enforceable orders for child or spousal support. For more information, please visit <https://mep.novascotia.ca/>.

7) When errors or omissions in a court order have been identified, they can be corrected by making a motion by correspondence [*Rule 27*] under the authority of *Rule 78.08* – Errors and extensions of time. A reference sheet that lists the authority and required documents is available at Family Division courthouses and online at http://www.courts.ns.ca/Bar_Information/documents/Order_Rule_78.08_Checklist_17_11.pdf.

8) Variation applications that involve an order that is still outstanding from counsel continue to be a challenge at the Family Division. The order may be outstanding because counsel is no longer retained or cannot obtain instructions to send the draft order to the court. When directed by a judge, counsel must prepare and deliver a draft order to the court for review, regardless of retention or instruction. *Rule 33.10(1)* provides:

“A lawyer who is discharged by a party the lawyer represented as counsel must complete all tasks the lawyer undertook to perform for the court, or was directed to perform for the court, such as to draft and submit a form of order.”

Judges will address any concern when assigning the task of preparing the draft order, if asked or reminded by counsel to do so. The judge can clarify with a party that, once directed by the judge, counsel is required to complete this task even if the party does not agree with the decision. Timelines may also be set and court staff are improving follow-up systems to ensure that draft orders are finalized and issued in a timely manner.

Also note: *Rule 78.04(3)* addresses order finalization in the absence of judicial directions.