

Nova Scotia Civil Procedure Rules
Amendment
December 14, 2018

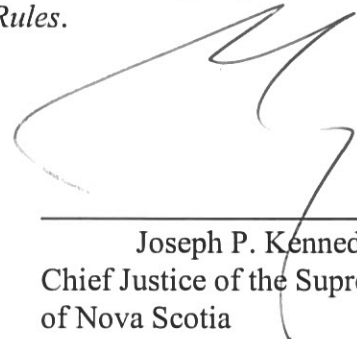
Rule 59 - Family Division Rules is amended as follows:

1. The attached Rule 59A - Judicial Dispute Resolution and Process Management is added after Rule 59 - Family Division Rules.
2. The table of contents is amended to change the page numbers to match the amended text and the title "Rule 59A - Judicial Dispute Resolution and Process Management" is added.

Certificate

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on December 14, 2018, a majority of the judges of the court made the foregoing amendments to *Nova Scotia Civil Procedure Rule 59 - Family Division Rules*.

Signed December 14, 2018



Joseph P. Kennedy
Chief Justice of the Supreme Court
of Nova Scotia

Rule 59A - Judicial Dispute Resolution and Process Management

Scope of Rule 59A

59A.01 This judicial dispute resolution and process management Rule applies to every proceeding in the Supreme Court Family Division including proceedings under Rule 60A, 60B and 61.

Object of Rule 59A

59A.02 The object of this Rule is to:

- (a) promote the proportional, just, timely, and cost- effective resolution of disputes;
- (b) minimize conflict and promote cooperation between the parties; and
- (c) reduce the negative impact that the Court's dispute resolution process(es) may have on the parties and their children.

Dispute Resolution Processes

59A.03(1) A judge may direct that the issues in dispute are to be resolved at a hearing, a trial, a focused hearing, or other appropriate process.

- (2) A focused hearing is a hearing that separates or prioritizes the issues to be heard within a dispute in accordance with Rule 59.65(9).

59A.04(1) Provided they do so on the record or in writing, the parties and a judge may agree that some, or all the issues in dispute may be resolved at:

- (a) a judicial settlement conference, which may include a binding or online settlement conference;
 - (b) an online hearing or process;
 - (c) an informal hearing;
 - (d) any other appropriate dispute resolution process.
- (2) An informal hearing is an alternative hearing process where the parties:
 - (a) waive the right of examination and cross-examination of witnesses;

- (b) waive the application of the rules of evidence.
- (3) The parties to an informal hearing agree that the informal hearing will proceed as follows:
- (a) the parties will agree on the record to their consent to proceed by informal hearing and the procedures within that process;
 - (b) the judge may ask the parties or their lawyer(s) for a summary of the issues to be decided;
 - (c) the applicant will be allowed to speak to the Court under oath or affirmation concerning the issues in dispute;
 - (d) the applicant will not be questioned by his or her lawyer, the other party or the other party's lawyer but may be questioned by the judge;
 - (e) the judge will ask the responding party if there are any other areas about which the responding party wishes to make inquiries of the applicant. The judge will make those inquiries if determined to be relevant and appropriate;
 - (f) the process referred to in (b), (c), (d) and (e) will be repeated for the other party or parties;
 - (g) the judge may require the attendance of witnesses other than the parties;
 - (h) Court ordered expert reports will be entered into evidence as the Court's exhibit. If either party requests, the expert will testify and be subjected to questioning if permitted by the judge;
 - (i) the parties may offer any documents they wish the judge to consider and must provide a copy of such documents to the other party. The judge will determine what weight, if any to give each document. The judge may order the parties to provide other relevant documents. Letters or other documents by the parties' children that are intended to suggest parenting preferences are permitted with permission of the judge;
 - (j) upon the conclusion of questioning and entry of documents into evidence, the applicant or applicant's lawyer will be offered the opportunity to make brief submissions and legal argument;
 - (k) the respondent or the respondent's lawyer will be offered the opportunity

to make brief submissions and legal argument and respond briefly to the applicant's submissions and legal argument;

- (l) the applicant or applicant's lawyer will be offered the opportunity to respond briefly to any new issues raised by the respondent. The parties or their lawyers will then be offered the opportunity to make a brief legal argument;
 - (m) upon consideration of the evidence and submissions, the judge may render judgment;
 - (n) the judge retains jurisdiction to modify these procedures as justice and fundamental fairness require.
- (4) Any other appropriate dispute resolution process.
- (5) A judge shall direct and instruct the parties with respect to the process and requirements of the chosen dispute resolution process.

Judicial Dispute Resolution: Process Management

59A.05 At every appearance, including a conference under Rule 59.38, a judge may by direction or order:

- (a) identify the parties to the dispute and identify the issues in dispute;
- (b) assist the parties to identify an appropriate dispute resolution process;
- (c) make orders to which all parties consent;
- (d) direct a party to attend the Parent Information Program;
- (e) provide for an immediate need by making an interim temporary time limited order based upon evidence contained in affidavits and documents filed with the court with or without cross-examination of a party;
- (f) require disclosure of documents, financial information or other relevant information within a fixed time and:
 - (i) name the party who is to receive the disclosure;
 - (ii) direct whether the disclosure is to be filed with the court.
- (g) make a ruling about an evidentiary or procedural matter that does not

- require a motion hearing;
- (h) require a motion to be made within a fixed time;
- (i) manage the hearing, trial, or dispute resolution process by:
 - (i) limiting the use of expert evidence;
 - (ii) limiting the number of witnesses;
 - (iii) limiting the number of affidavits;
 - (iv) limiting the number of paragraphs and pages in affidavits;
 - (v) specifying the issues to be addressed in affidavits;
 - (vi) setting page limits for written submissions;
 - (vii) limiting and apportioning the time available to complete any step in a hearing, trial or dispute resolution process including limiting the time allotted to complete oral evidence, examination, cross-examination and/or submissions;
 - (viii) specifying the order in which issues are to be examined and the time allotted to each issue;
 - (ix) separating and prioritizing the time for hearing specific issues within a dispute.
- (j) require a party, by a fixed date, to prepare and file calculations showing and rationalizing the amount that party is requesting for the following claims:
 - (i) child support, ongoing and retroactive;
 - (ii) spousal support, ongoing and retroactive;
 - (iii) division of property and/or debt.
- (k) give any direction and make any order that is appropriate to promote the proportional, just, fair, timely, and cost-effective resolution of issues in dispute.