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## Family Court Primer II

*Category: Representing Yourself*

By now, you are likely questioning your decision to represent yourself in Provincial Family Court. Don't worry, that feeling is quite natural and should subside.

In a prior column we discussed some of the available options for people who are either on the initiating or receiving end of family court applications, yet who do not have the financial resources to either pay for their own lawyer or receive the assistance of a legal aid lawyer. One option, is to consult with a family lawyer to obtain legal advice, to assist you prepare for your case and represent yourself at court.

When we ended our prior column readers will recall that you were in the process of providing your oral testimony on "direct" to the court. After giving your evidence, including entering any exhibits to support your application and answering any questions from the judge, it will be the opportunity of the other party to cross-examine you. If the other party is represented by legal counsel, the cross-examination will be conducted by the lawyer.

If the other party is unrepresented, they will conduct the cross-examination themselves. Under cross-examination you are required to answer questions asked of you, and it's always a good idea in responding to any questions to keep your answers as simple and concise as possible.

Often, individuals cannot resist the urge to answer questions at great length, usually providing details which are either irrelevant or damaging, or both. If you are asked questions which you believe are irrelevant, before answering, ask the judge to decide whether or not the question should be answered.

After your cross-examination is complete, you also have the opportunity to produce witnesses in support of your application, including any expert witnesses. You should be careful to ensure that anyone you expect to call as a witness is not present in the courtroom prior to their testimony. If this precaution is not taken, the court will take this factor into consideration and likely disregard or diminish the

evidentiary value or "weight" of such testimony.

It's a good idea to review with a lawyer beforehand your choice of witnesses, whether they should be subpoenaed to attend, and their intended evidence. If you expect to call experts to testify, ie: doctors, accountants, etc., you should provide advance notice to the other party that you intend to call expert witnesses.

You should also be aware, before the evidence of any expert witness is heard, the court must be satisfied that the individual is qualified as an expert to provide such evidence. This usually involves the court examining the qualifications and experience of the intended expert. To assist, it's a good idea to provide the court with a written resume of the expert.

After you have completed providing your evidence, it will be the other parties turn to present their evidence. The same evidentiary rules apply. When the other party has concluded, you will then both have the opportunity to present your final submissions to the court.

In your final submissions, it is helpful to briefly review your legal position and the evidence heard in support of it. You may also present to the court copies of any cases which support your position.

I recommend that you obtain the assistance of a lawyer to help with the preparation of your submissions, including any relevant case law.

While it's true there is no guarantee of success in any court proceeding, with proper preparation, you'll at least be guaranteed a more satisfying result. 