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Family Lawyer & Mediator

Family Court Primer

Category: Representing Yourself

So it looks as if you and your spouse have reached the end of the marital road. Despite your best efforts you have been unable to resolve matters either through discussion or family mediation. The outstanding issues remain child custody, guardianship, access and child support for the two children. Your two day trial has been scheduled in Provincial Family Court, and is fast approaching. What are your choices?.

One choice is to retain a lawyer to prepare the necessary materials, plan strategies, and appear in court on your behalf during the trial. While this may be the preferable option if money is no object, this is rarely the case since legal trial costs can easily exceed \$2,000 per day.

Increasingly, people are also being told that they do not qualify for Legal Aid. Unfortunately, this means there are large numbers of people who cannot afford to hire a lawyer, yet earn just enough to disqualify themselves from receiving Legal Aid. So, if retaining a lawyer to prepare for and attend at trial is not a realistic option, what can you do?

Another choice is to consult with a lawyer, on an hourly basis, to assist you prepare for your case and represent yourself at court. The lawyer will provide you with answers to your procedural questions, outline the legal principles and most importantly, help you organize the evidence and witnesses you will need in support of your application.

When the day of trial arrives, it is not essential for you to appear in your best clothes, however, it is not a good idea to appear in t-shirt, jeans and ball cap. I believe that a judge's first impression does count.

The party who initiated the application begins by introducing themselves and the fact they are representing themselves. They should then give a very brief overview of the application and any prior Orders, along with supplying any copies as needed to the court clerk and the other party.

After introductions, it is the responsibility of the party making the application to take the witness stand and give their evidence in support of their application.

This is known as giving "direct" evidence. Typically, it is your own lawyer who will ask you questions on "direct", but in the absence of a lawyer, you will need to provide the evidence yourself. Sometimes, the judge will ask you questions to elicit evidence or, you may be able to refer to your own notes.

The evidence you are giving on "direct" is crucial to the success of your application and having prepared "notes" is extremely helpful, although you will only be allowed to refresh your memory with the use of the notes and not simply read them. It's a wise investment to have a lawyer review the evidence you intend to give on "direct".

It's also prudent to be able to produce for the court evidence in support of your application by means of exhibits. For example, these could include copies of cancelled cheques, letters between the parties, school transcripts, medical records and any other relevant documents. If you intend to produce exhibits, you should also discuss their admissibility with a lawyer, as well as any potential objections which could be raised by the other party, since the court or the other party may object to their being entered as exhibits.

