



**GUIDELINES FOR THE HOLDING OF SETTLEMENT CONFERENCES
IN
FAMILY LAW PROCEEDINGS**

(Family Law Rules)

1. The purpose of a settlement conference is to allow parties to attend before a judge, in private, to try to reach a settlement.
2. (a) Subject to s. 2(b), unless otherwise ordered in a case management meeting or otherwise:
 - (i) No proceeding shall be set down for trial unless a settlement conference is held;
 - (ii) All parties shall appear with their counsel, if any, at all settlement conferences. Unless otherwise ordered, a corporation shall have a representative present, in addition to its counsel, at all settlement conferences;
 - (iii) The counsel representing a party at the settlement conference shall be the counsel who will be representing that party at the trial.
2. (b) In areas where Family Justice Services programs have been established in the Province and where Rule 56C applies or where only one judge is sitting in the court centre, settlement conferences will only occur where ordered at a case management meeting.
3. The process will usually be initiated when a matter has been, or is ready to be, set down for trial.
4. A trial judge, chambers judge or a judge at a case management meeting may, on his or her initiative, order a settlement conference to be held respecting any proceeding coming before him or her and may conduct the same if appropriate to do so.
5. To arrange a settlement conference, counsel must contact the Trial Coordinator, or a Deputy Registrar or Assistant Deputy Registrar, as the case may be, who will then forward to all counsel a copy of these Guidelines. The court will then arrange for the selection of an acceptable date for the conference and request that a judge be designated.



6. At least 7 days prior to the settlement conference, counsel are required to send to the court for the settlement conference judge:
 - (i) a synopsis of the facts and the relief which is being requested. Except in exceptional circumstances the synopsis should not exceed 5 pages;
 - (ii) a brief synopsis of the case law which will be relied upon, with important portions reproduced or highlighted;
 - (iii) a brief synopsis of any other relevant material;
 - (iv) all expert reports and a synopsis of all non-expert witness evidence, if applicable.

N.B. The foregoing information is not intended to be presented in a formal fashion nor with extensive briefs as are normally provided for trials. The objective is to inform the judge in a concise fashion of the essentials of the case. Especially important facts should be highlighted.
7. All settlement conference materials sent to the Court or the designated judge shall be sent in a sealed envelope marked with the case number, the title of the proceeding, the date and time of the settlement conference and the name of the settlement conference judge if one has been designated. All materials must be copied to the other party or parties.
8. At the option of counsel, or the parties, and with the consent of the designated judge, a preliminary meeting may be held, including by conference call or video conference, to agree upon any additional materials, special procedures or procedural amendments.
9. When the circumstances warrant, the judge may require the presence of a clerk at a settlement conference and may also record the proceedings either electronically or otherwise for his or her own use.
10. (a) A settlement conference may be adjourned from time to time at the discretion of the judge.

(b) A judge hearing a settlement conference may at any time request that any other person, whose attendance may be of assistance, be present at a settlement conference.
11. Counsel may request and the judge may agree to give opinions at appropriate times during a settlement conference, unless the parties wish otherwise.



12. A judge who conducts a settlement conference shall not preside at the trial unless all parties consent in writing. This shall not prevent or disqualify the trial judge from holding trial meetings subsequent to a settlement conference, including case management meetings, before or during the trial, to consider any matter that may assist in the just, most expeditious or least expensive disposition of the proceeding.
13. Parties and their representatives who have the authority to make settlement decisions must be present to participate in the process. If there are reasons to excuse a party or parties, the judge must be informed and his or her approval sought and obtained.
14. Settlement conferences are normally to be conducted informally in a conference room and gowns are not required.
15. The process is confidential. Statements made by counsel or the parties are confidential and without prejudice and cannot be used for any purpose other than to facilitate a settlement and they cannot be referred to at trial, if a trial should take place, except where permitted by law. After a settlement conference has been held, all briefs and submissions will be returned to the parties and any notes or recordings made by the judge will be destroyed when it becomes clear that the process has come to a conclusion.
16. The settlement conference judge will not, without the consent of the parties, hear any subsequent contested applications, not including case management meetings, or the trial of the matter and will not discuss the settlement conference with any other judge.
17. In the course of a settlement conference, parties and their counsel may meet privately, with or without a judge. If the judge meets privately with a party and counsel, anything said to the judge in confidence will remain confidential and will not be disclosed to the other parties, unless the confidentiality of the communication is waived.
18. At the close of the conference, all documentation will be returned to counsel other than the Settlement Conference Form which will be signed by the Supreme Court Judge. The only other document which may be prepared following a successful settlement conference will be a memorandum of agreement, should one be necessary. Various terms of the agreement may require consent orders, discontinuances, releases or other documents to be prepared and filed by counsel.
19. The settlement conference judge is non-compellable as a witness in any proceeding.
20. A judge conducting a settlement conference may at the conclusion set a date for a case management and set a hearing date or set a date for the hearing when all issues have not been resolved.



21. Within 15 days of a settlement conference, or such other time as permitted by the settlement conference judge, counsel must file with the court a report as to whether or not a settlement has been reached. If it has not, the report must contain a request for an extension of time or be accompanied by an application for a case management meeting so that a hearing date may be set. Such reports shall be headed as would any other document filed with the court and contain the date of the settlement conference and the name of the settlement conference judge.