

TAB 7

The *Family Law Rules* and the Child Protection  
Amendments

**Child Protection Amendments**

The Honourable Madam Justice Mary Lou Benotto  
Senior Justice - Family Court Branch  
*Superior Court of Justice*

**Best Practices For The Conduct of a Child  
Protection File - Part I**  
Enhancing Your Effectiveness at the Early Stages of Representation



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### **Child Protection Amendments**

The Family Rules Committee recommended and implemented a number of amendments in order to streamline the Family Law rules and forms in child protection cases. The Committee agreed that the amendments were necessary in order to ensure that the cases were adjudicated in a timely fashion. These amendments came into effect on April 28, 2003.

#### ***Answer & Plan of Care***

- The Family Rules Committee agreed that the parent's answer and the parent's plan of care should be consolidated. The Parent's Answer & Plan of Care became the only mandated form required from the parents. It must be served and filed within 30 days and, thus, before the Temporary Care and Custody Hearing. If circumstances change, the parents will be required to serve and file an updated plan.
- A separate Answer and Plan of Care for the C.A.S was also established.

#### ***Representation - rule 4***

- The Family Rules Committee approved the amendments of subrule 4(10) and form 4 in order to limit a party's right to file a notice of change in representation after a matter has been set down for trial or has been placed on a trial list. Now, the party will only be able to appear without a lawyer with the court's permission.

#### ***Amending an Application, Answer or Reply - rule 11***

- Subrule 11(2) was amended to permit both the parents and the C.A.S. to file an updated Answer & Plan of Care without leave.

#### ***Motions - rule 14***

- Subrule 14(6) was amended so that a case conference is not required prior to a motion in a child protection proceeding.

#### ***Summary Judgment - rule 16***

- A rule similar to subrule 20.04 of the Rules of Civil Procedure was added to the Family Law Rules. This new rule requires the respondent to file a response to a motion for summary judgment, rather than rest on mere allegations or denials. The respondent, therefore, needs to set out in an affidavit or other evidence, specific facts showing there is a genuine issue for trial.

### ***Conferences - rule 17***

- The mandatory case conference and case conference brief for child protection cases was eliminated. Now, a case conference will be conducted only if a party request it or the court considers it appropriate. The Committee also approved the amendment of subrule 17(24) to clarify that any judge who has not conducted a settlement conference on the disposition issue, may conduct the trial.

### ***Child Protection Rule & Timetable - rule 33***

- The Parent's Answer & Plan of Care must be served and filed within 30 days. The Temporary Care and Custody Hearing was moved to 35 days in order to accommodate the Parent's Answer & Plan of Care. The Case Conference and Settlement Conferences (although no longer mandatory) should be heard within 80 days. The Committee agreed that the protection hearing should continue to be heard at 120 days.
- A status review application must be served at least 30 days before the order for society supervision or society wardship expires.

- ***Previous timetable (before amendments)***

Steps in the Case	Maximum time for completion, from start of case
First hearing, if child has been apprehended	5 days
Temporary Care and Custody Hearing	30 days
Service and filing of plan of care	35 days
Case Conference	40 days
Settlement conference	80 days
Hearing	120 days

- ***Amended Timetable (as of April 28, 2003)***

Step in the case	Maximum time for completion, from start of case
First hearing, if child has been apprehended	5 days
Service and filing of answers and plans of care	30 days
Temporary care and custody hearing	35 days
Settlement conference	80 days
Hearing	120 days