PART V – GENERAL DIRECTIONS: MOTIONS AND APPLICATIONS

Lawyers and self-represented parties in family law matters should also consult the Practice Directions relating to Family Law Matters and Divorce Proceedings, for further direction.

1. Contested and Uncontested Matters
   1. Contested chambers motions and applications are heard in Charlottetown and Summerside (Slemon Park) courthouses on dates and times as determined by the court.
   2. All motions and applications are treated as contested unless the *Rules of Civil Procedure* or applicable statutes direct otherwise, or the court directs otherwise.
   3. The court may also specifically designate matters which may proceed on an uncontested basis.
2. Scheduling
   1. Generally, a motion or application is scheduled once the party requests a hearing date from the court. For many reasons, including the administration of justice, some matters may be scheduled by a deputy registrar whereas other matters require scheduling by the trial coordinator.
   2. Before filing documents, the moving party is to contact the deputy registrar to obtain a date and time for the hearing of the motion or application. If required, the deputy registrar may direct the moving party to contact the trial coordinator. For various matters, case management may be required before a hearing is authorized.
3. Summary Judgment
   1. As contemplated in the *Rules,* prior to a summary judgment motion being set down for a hearing, the parties have a conference call or meeting with a judge. This is often referred to as a “triage” call or meeting.
   2. Unless the court orders otherwise, a triage call or meeting shall not be held until such time as the moving party serves and files, at a minimum, the notice of motion. The notice of motion shall refer to the date of the motion as a “date to be fixed”.
   3. The triage judge shall canvas with the lawyers or self-represented parties various matters including steps required, filing timelines and estimates of the amount of time needed for the motion.
   4. Once the judge has authorized the scheduling of the summary judgment motion, the trial coordinator may proceed with scheduling.
4. Contempt
   1. Lawyers and self-represented parties are reminded that contempt is available in the context of an order requiring a person to do an act, or to abstain from doing an act, other than the payment of money (*Rule*60.12(1)).
   2. The standard of proof required is proof beyond a reasonable doubt. The responding party is afforded the rights an accused would be afforded in a criminal matter, including the right to remain silent.
   3. Subject to the discretion of the hearing judge, contempt motions generally proceed in stages (citation stage, liability stage, and penalty stage, if applicable).
5. Authorized Hearing Time
   1. In order to maximize court and judicial resources, and promote access to justice, every effort is to be made to conclude a hearing within the time that has been authorized by the court.

* 1. Frequently, the time authorized for a hearing will be determined through the case management, pre-motion, pre-trial, or summary judgment triage regime. However, where a lawyer or self-represented party is seeking narrow relief and the hearing is anticipated to be relatively brief, the lawyer or self-represented party may contact the trial coordinator, estimate the time required for the hearing, and provide any additional information as requested by the trial coordinator.

1. Leave Required for Cross-Examination
   1. Leave from the court is generally required for a lawyer or self-represented party to cross-examine a witness during the hearing of a motion or an application.
   2. Subject to the discretion of the presiding judge, leave is generally not required to cross-examine a witness on their affidavit where parenting time, decision-making responsibility, child support or spousal support are at issue.