**B. motions AND APPLICATIONS**

For further guidance on motions and applications generally, parties should also consult Part V, the “General Directions: Motions and Applications” Practice Direction.

1. Originating Processes and Interim Relief
   1. Lawyers and self-represented parties are reminded that the originating process for the commencement of a divorce action is a petition, and interim relief is to be sought via a notice of motion.
   2. Lawyers and self-represented parties are also reminded of the following:
      1. The originating process for relief under the *Family Law Act,* RSPEI 1988 Cap. FF-2.1, or the *Children's Law Act*, RSPEI 1988 Cap. C-6.1 is generally a statement of claim, and interim relief is to be sought via a notice of motion.
      2. A notice of application is not to be used where interim relief is sought under the *Family Law Act* or the *Children's Law Act*. Rather, the appropriate approach is to issue a statement of claim and notice of motion.
   3. Where an application is initiated under the *Family Law Act* or the *Children's Law Act,* the parties are still subject to the pre-motion conference regime.
   4. The court recognizes that the Child Support Services Office (CSSO) frequently issues a notice of application. These applications are subject to the pre-motion conference regime. Further, the court will exercise its discretion in considering such applications, and provide such direction as is necessary and appropriate.
2. Designation of Address for Service

The *Rules* require service and filing of a designation of address for service for all originating processes, and pleadings responding to an originating process. In circumstances where a party views it is not appropriate for the opposing party to have their contact information, a request may be made to the Registrar to waive the requirement.

1. No Property Matters

With the exception of motions for exclusive possession of the family home, matters related to property in family matters are generally not dealt with by an interim motion under either *Rule* 70.15 or *Rule* 71.08.

1. Restrictions on Affidavits

To eliminate the filing of unfocused affidavits, and unnecessarily voluminous attachments, affidavits are to comply with the following:

1. Generally, each party is restricted to one primary affidavit in support of their position on the motion, which shall not exceed 10 pages.
2. Any reply affidavit shall not exceed 5 pages.
3. Exhibits to a party’s affidavit shall be limited to only the **necessary and relevant** evidence and are not to exceed 10 pages in total. Litigants **are not to** include voluminous texts, emails and/or social media postings.  Instead, only the relevant and necessary **excerpts** from these communications are to be attached as exhibits.
4. **Leave is required to file affidavits or exhibits beyond the page limits described above. Leave will only be granted in exceptional circumstances**.  Requests for leave are to be made in writing, by letter to the Registrar. Leave may also be sought from the presiding judge at the pre-motion conference.
5. These page limits do not apply to motions or applications in Director of Child Protection matters.
6. Cross-Examination

Subject to the direction 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.

1. Factum Required

Unless the court directs otherwise, a factum is required for both motions and applications in the Family Section. Failure to file a factum (and memorandum of authorities) may result in the matter being adjourned.

1. Motions By Responding Party
   1. If a responding party to a motion merely wishes to oppose the relief sought by the moving party, it is not necessary for the responding party to file a further motion.
   2. Pursuant to *Rules* 70.15(9) and 71.08, if the responding party to a motion seeks relief outside the subject matter of the relief sought by the moving party, a further motion is generally required. The additional motion shall have the same court file number as the moving party’s original motion.
   3. Depending on a multitude of factors, including the subject matter of the relief sought in the new motion, and the timing of the filing of the new motion, the court will either direct that the new motion be heard on the same date as the original motion, or a different date. The court may direct case management to address this issue.