

PRACTICE NOTE 45
of the Supreme Court of Prince Edward Island

Re: Children's Lawyer

The *Rules* Committee has not yet approved the *Rule* in relation to the Children's Lawyer. As such, the following shall apply on an interim basis:

Where, pursuant to authority granted under section 33.1 of the *Judicature Act*, the Children's Lawyer determines s/he shall (i) act in a proceeding as a legal representative or (ii) investigate and report on custody, access, support, health or education in relation to a child:

- (a) the Children's Lawyer shall first serve notice on the parties to the proceeding and file it with proof of service;
- (b) the parties shall, from the time they are served with notice pursuant to clause (a), serve the Children's Lawyer with every document in the proceeding that pertains to a child's custody, access, support, health or education as if the Children's Lawyer were a party to the proceeding;
- (c) the Children's Lawyer, upon filing of the notice in subsection (a), becomes a party to the proceeding and has all the rights of a party under the *Rules of Civil Procedures*, including but not limited to, document disclosure, examination of witnesses regarding any matter pertaining to a child's custody, access, support, health or education; the right to appear and make submissions on behalf of the child client; and, the right to file motions and applications in accordance with the *Rules*;
- (d) no proceeding dates shall be scheduled without notice to the Children's Lawyer; however, the Children's Lawyer shall determine within fourteen days of the notice of the proceeding, whether the appearance of the Children's Lawyer is necessary to promote the interests of the child client;
- (e) within sixty days after serving notice under clause (a), the Children's Lawyer shall serve a report on the parties to the proceeding and file it with proof of service;
- (f) within twenty days of being served with a report referred to in clause (e), a party may serve and file a statement disputing anything contained in the report;
- (g) a trial of the proceeding shall not be held and the court shall not make a final order in the proceeding until the twenty days referred to in clause (f) have elapsed, or the parties have filed a written statement waiving the time;
- (h) for greater certainty, filing a report referred to in clause (e) does not preclude the Children's Lawyer from appearing at a proceeding or exercising any of the rights of a party under the *Rules of Civil Procedure* relating to the proceeding on behalf of the child client.

DATED this 13th day of April, 2018, at Charlottetown, Prince Edward Island.

(Sgd.) The Honourable Tracey L. Clements
Chief Justice of the Supreme Court of
Prince Edward Island