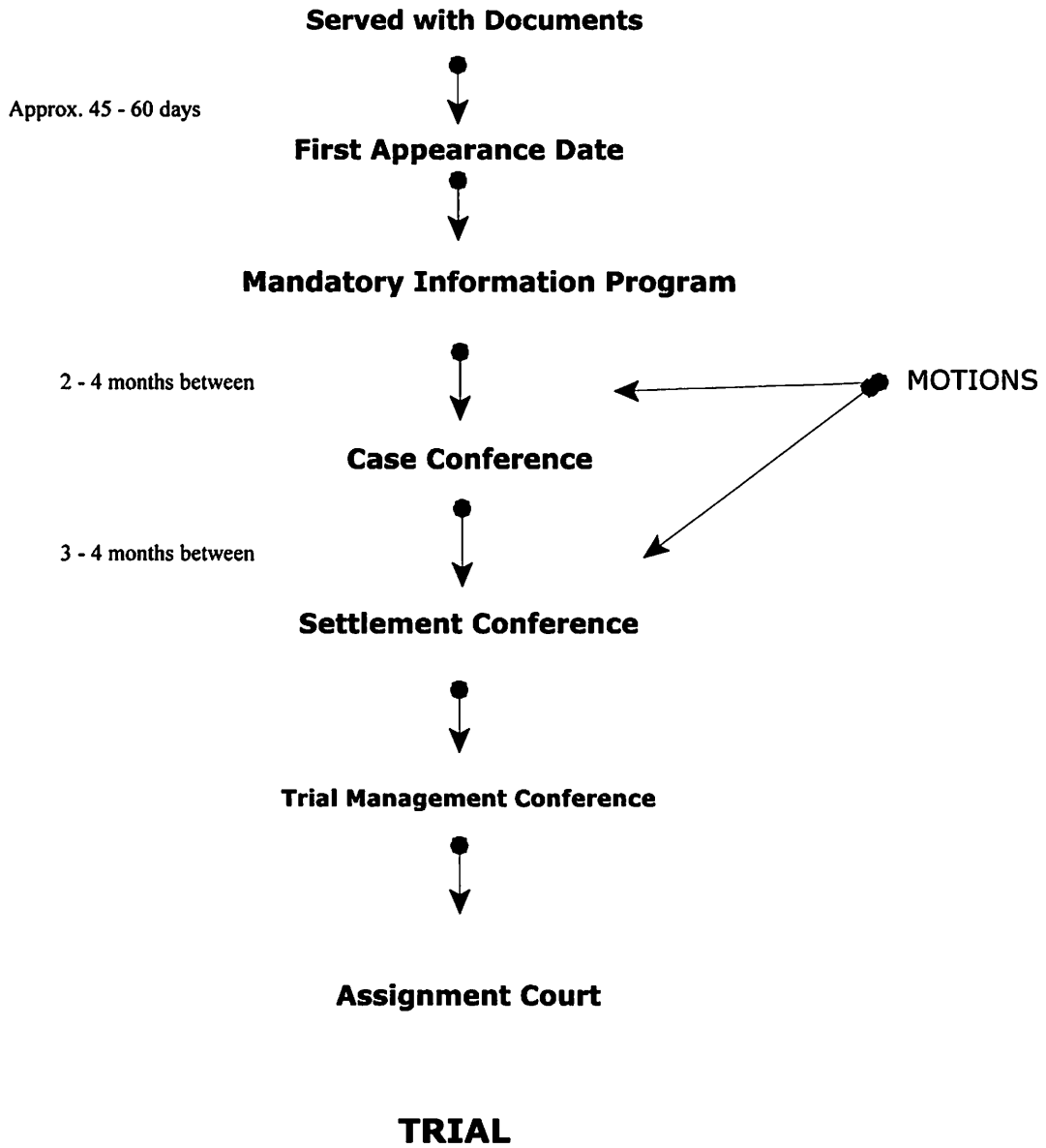


**COURT PROCEDURE**



## **COURT PROCEDURE - QUICK OVERVIEW**

The Family Court has a set of rules which every case must follow. They have set a schedule of court dates which ensure that all of the necessary steps are followed, in every case.

After service of the initial court documents and responding documents have been filed, the first step is a first appearance date. The main goal of this date is to schedule a Case Conference. No orders are made at this time.

The Court will then schedule a Mandatory Information Program that you will need to attend. You will receive either an Applicant's Notice of a Respondent's Notice from the court and you will need to attend on the date specified in order to proceed with your court action. The Applicant and Respondent will be scheduled to attend meetings at different times.

The Case Conference is a court date at which a Judge reads Briefs prepared by both parties and orders are made regarding disclosure each party must provide prior to the Settlement Conference. The Case Conference is usually scheduled approximately 2 - 3 months after the first appointment date, depending on the court time available.

Any temporary Orders which are required prior to the finalization of your court matter may be requested by making a motion to the court.

The next step is the Settlement Conference, and it usually takes approximately 3 - 4 months to get a date for this. Settlement Conference is a court date at which a Judge reads Briefs prepared by both parties and hears statements made by the lawyers. The Judge may ask the parties questions and at the end of the Conference, will advise how he or she would rule if this was a trial. This is a helpful tool when deciding how to proceed and in negotiation a settlement.

The matter is then set to an Assignment court list to determine when the trial will be held.

## **FIRST APPEARANCE DATE INFORMATION SHEET**

After you have either been served with an Application or have served an Application on the Respondent, a first appearance date will be set. These are always held on Tuesdays. The purpose of this court appearance is to ensure that both parties have filed the appropriate documents and to set a Case Conference date in order to put this matter on the Court schedule.

You will not need to attend court at this time. In fact, if the other side has a lawyer, and the Answer has been filed, most likely it will be adjourned (so no one need attend) and put forward to the Case Conference (approximately 2 - 3 months after first appearance date). No orders are made at first appearances.

## **CASE CONFERENCE INFORMATION SHEET**

The Court requires that the next step in your action is to hold a Case Conference. It is held in a court room in front of a Judge. We will prepare a Case Conference Brief approximately one week prior to the Case Conference date and will provide it to you for your review and comment. Once it is satisfactory, we will arrange an appointment for you to meet with Beth in order to discuss the Case Conference and to sign the Brief.

The date of the Case Conference, Beth will meet you approximately 10 minutes prior to the scheduled time on the second floor of the Court House. Case Conferences are usually held in court room 10 or 11, so if you are somewhere near there, Beth will know where to find you. The Conference is held before a Judge who will have already read both party's Case Conference Briefs. The purpose of the Case Conference is to determine what documents each party requires that the other side provide. The Judge will make an Order in that regard, and if oral questioning is deemed necessary, he will also give leave for that to occur. Unless specifically asked a question, you will usually not be required to speak at this Conference.

Once this step has been completed, both parties will have time to provide the necessary disclosure, and then a Settlement Conference may be scheduled. The court provides available Settlement Conference dates. It usually takes approximately 3 - 4 months to get a date for the Settlement Conference.

## **MOTION INFORMATION SHEET**

The purpose of a motion is to obtain any temporary Orders regarding issues that need to be decided and cannot wait until the matter has been finalized. (i.e. temporary custody and access and support, etc.)

Motions are generally held after the Case Conference has occurred, however, if an issue is of a nature that it has to be dealt with immediately before a Case Conference can be scheduled (i.e. it is August and custody has to be determined in order to decide where a child will be attending school), then the court may make an allowance and hear it prior to the Case Conference.

If we are putting forth the motion, i.e. child support, or sole possession of the matrimonial home, then we will prepare a Notice of Motion and supporting Affidavit explaining why we are requesting the Court make this Order in our favour. We will provide these documents to you in draft, and once it is satisfactory, we will have you attend the office to sign the documents and then provide them to the other side. The party on the other side then has the option of preparing responding materials.

Motions are held on Wednesdays. Your attendance is not required on that date, but if you wish to attend, you may. We do ask that you are available by telephone during the morning, just in case Beth needs to ask you a question.

At the end of the motion, the Judge will make a decision and a temporary Order will be made based on that.

## **SETTLEMENT CONFERENCE INFORMATION SHEET**

Now that all disclosure has been made, it is time to hold a Settlement Conference. Beth will prepare a Settlement Conference Brief and we will forward it to you for your review and comment. Approximately one week before the date of the Settlement Conference we will have you come in to meet with Beth to discuss the upcoming court date and to sign the Brief.

The date of the Settlement Conference you will meet Beth approximately 10 minutes prior to the conference outside of the court room. The Judge will have read both party's Settlement Conference Briefs, and after each lawyer makes a statement, the Judge may have some questions for you. After that the Judge will advise how they would rule if this were the final trial of this matter.

This information is a valuable tool when deciding how to proceed with your action. Based on that Judge's decision, you can then decide if settlement might be prudent, and can also help when preparing Offers to Settle.

At the end of the Settlement Conference, your matter will be put on an assignment court list to decide when the trial of your matter will be held. There is a spring and fall list and your matter will be on the next available list.

## **ASSIGNMENT COURT INFORMATION SHEET**

Once it has been determined that your action will be going to trial, a Judge will set the matter to an Assignment Court date. There is one in the fall and one in the spring. If your matter is scheduled for the Autumn assignment court list, then your trial will be held in the Spring of the following year. If it is on the Spring assignment court list, then the trial will be held in the Autumn.

You will not need to attend court on the day of the assignment court. At that time, Beth Leaper will attend and will be advised what Judge will be hearing the trial and advised of a two to three week period (called court sitting) in which the trial will be held. There is no way to obtain an exact date. The week prior to the beginning of that court sitting, there will be another assignment court and list advising of the order in which the cases will be heard. We will be put on that list and will receive a call from the Trial Coordinator to give us as much notice as possible (generally the day before the trial will begin). We will then advise you. It is a good idea to prepare your employer, etc. and advise them in advance that you will need to be in court for a couple of days off at some point during those two weeks.