



SUPERIOR COURT OF JUSTICE

SOUTHWEST REGION

NOTICE TO THE PUBLIC AND THE PROFESSION

Uploading Confirmations to Case Center: **Civil and Family**

- [1] I write to counsel and litigants in the Southwest Region in order to:
- i. Remind them of the requirement to deliver confirmation forms in Civil and Family proceedings,
 - ii. Remind them of the requirement to upload their confirmations to Case Center, and
 - iii. Share best practices regarding the content of their confirmation forms.

The Requirement to Deliver Confirmation Forms in Civil and Family Proceedings

- [2] Counsel and litigants in the Southwest Region are reminded of the requirement to deliver confirmations in advance of their events.
- [3] In the context of motions in Civil proceedings, under subrule 37.10.1(1) of the *Rules of Civil Procedure*, a party who makes a motion on notice is required to confirm the motion by sending a confirmation form (Form 37B) not later than five (5) days before the hearing date.
- [4] Subrule 37.10.1(4) of the *Rules of Civil Procedure* provides that:

If no confirmation is given under subrule (1), the motion shall not be heard and is deemed to have been abandoned, unless the court orders otherwise.

- [5] I have directed judges in the Southwest that they should consider a strict enforcement of subrule 37.10.1(4) if no confirmation is given in accordance with the *Rules* and, subject to their discretion, they should not hear any motion where a confirmation has not been given.
- [6] Parties are also reminded of their obligation to update their confirmations as required by subrule 37.10.1(3) of the *Rules of Civil Procedure*.
- [7] In the context of motions in Family proceedings, under subrule 14(11)(e) of the *Family Law Rules*, a party who makes a motion on notice is required to confirm the motion by sending a confirmation form (Form 14C) three (3) days before the hearing date.
- [8] Subrule 14(11.1) of the *Family Law Rules* provides that:

Unless the court orders otherwise, a motion shall not be heard if confirmation of the motion is not given to the clerk in accordance with clause (11)(e).
- [9] I have directed judges in the Southwest that they should consider a strict enforcement of subrule 14(11.1) if no confirmation is given in accordance with the *Rules* and, subject to their discretion, they should not hear any motion where a confirmation has not been given.
- [10] Parties are also reminded of their obligation to update their confirmations as required by subrule 14(11.2) of the *Family Law Rules*.
- [11] In the context of conferences in Family proceedings, under subrule 17(14) of the *Family Law Rules*, each party to a conference is required to confirm the conference by sending a confirmation form (Form 17F) three (3) days before the conference date.
- [12] Subrule 17(14.1) of the *Family Law Rules* provides that:

Unless the court orders otherwise, a conference shall not be held if confirmation of the conference is not given to the clerk in accordance with clause (14) (c).
- [13] Again, I have directed judges in the Southwest that they should consider a strict enforcement of subrule 17(14.1) if no confirmation is given in accordance with the *Rules* and, subject to their discretion, they should not hear any conference where a confirmation has not been given.
- [14] Parties are also reminded of their obligation to update their confirmations as required by subrule 17(14.1.1) of the *Family Law Rules*.

- [15] Accurate confirmations are of great benefit to the court and serve a critical component of effective trial coordination and judicial management, in that, timely and complete confirmations advise the court of, among other things, what matters are expected to proceed on consent, what issues are expected to require argument, how much time is reasonably expected to be required to hear the argued matters, etc. And it is through counsel's reasonable time estimates as indicated in their confirmations that the court is better positioned to make informed decisions as to the appropriate allocation of judicial resources, where it knows, for example, that, based on counsel's time estimates as set out in their confirmations, the collective confirmed time estimates for a particular Motion Court will require, say, five hours of judicial resources (as opposed to ten hours, etc.).

The Requirement to Upload Confirmations to Case Center

- [16] Counsel and litigants in the Southwest Region are reminded of the requirement to upload their confirmations to Case Center in advance of their events.
- [17] As reviewed in my *Notice to the Profession – Uploading to Case Center: Civil and Family* released June 11, 2025, both the *Consolidated Family Provincial Practice Direction* and the *Consolidated Civil Provincial Practice Direction* require that all properly filed documents must be uploaded to Case Center.
- [18] As I indicated in para. 2 of that same *Notice to the Profession* released June 11, 2025:

Judges will no longer be reviewing documents for an event unless those documents are uploaded to Case Center in accordance with the *Practice Direction* referenced above. If you do not upload your documents to Case Center, your matter may be adjourned. [Emphasis in original.]

- [19] Included in the "all documents" that must be uploaded to Case Center are the parties' confirmation forms.
- [20] To be clear, counsel and litigants must continue to email/deliver their confirmations to the local Trial Coordination Office, but the confirmations must also be uploaded to Case Center in order to be available for the presiding judge's review.
- [21] If a confirmation is not given to Trial Coordination and uploaded to Case Center, the judge may well decide that the motion or conference should not be heard, and it may be adjourned.

The Contents of Confirmation Forms

- [22] As a best practice, counsel and litigants should bear in mind that, invariably, the confirmation form is one of the first things – if not the very first thing – that the presiding judge will read in preparation for the motion or conference.

- [23] Before preparing the confirmation form, both the *Family Law Rules* and the *Rules of Civil Procedure* require counsel and/or the litigants to “confer or attempt to confer” with the other party.
- [24] The judge will want to know at the outset whether the motion (or conference) is proceeding in some fashion – Is it proceeding on consent? Is it going to be argued? Are all issues going to be argued? – or whether the motion is not going to proceed – Is it being adjourned or withdrawn? Is the adjournment contested? In most cases, it will be inordinately difficult to accurately complete the confirmation form and advise the judge whether the motion is proceeding, and if so on what basis, if one has not conferred with the other party in advance.
- [25] Bottom line, the court expects that the parties will have discussed the motion before it is called in motion court. (The same applies for conferences.)
- [26] As such, the practice that has developed in some centres whereby the parties indicate in their confirmations that they have conferred with the other party “by way of this confirmation Form” is to be discouraged as it does not meet the intent of the rules. If parties are genuinely unable to confer (even if the reason is because of lack of time given the nature of the motion), that should be indicated in the confirmation form along with the reasons therefor.
- [27] If not all issues in the motion are proceeding to argument that day, it is crucial that the parties expressly identify in their confirmations what issues are (are not) going to be argued. This allows the presiding judge to allocate their preparation time accordingly and focus in on the specific issues that are of immediate concern to the parties.
- [28] In preparing for a busy motion court list, the presiding judge will want to know what specific documents need to be read in advance in order to determine the contested issues on the motion in an appropriate and efficient manner. Accordingly, in preparing their confirmations, counsel and litigants will want to turn their minds to the question of “what will the judge need to know” and carefully identify the specific documents that the judge will need to read.
- [29] For example, in the context of a Family motion, para. 9 of the confirmation (Form 14C) requires the party to complete the statement: “The presiding judge will be referred to the following pages/tabs:”. Counsel and litigants may wish to consider the following:
- i. The form contemplates that **all** documents that counsel and/or litigants reasonably expect the court will need to read should be listed in the confirmation form.
 - ii. As such, the confirmation form should list not simply the moving party’s materials but, rather, **all** documents, including those of the opposing party. The court understands that in some cases the moving party may not know every document the opposing party will rely upon. But that said, in most

cases, the moving party will know that the responding affidavits of the other party should be listed. And of course, the opposing party is at liberty to deliver their own confirmation notice, which positively should be done where the opposing party sees that the confirmation delivered by the moving party does not list all of the documents upon which the opposing party will seek to rely.

- iii. “All documents” will usually include the pleadings in the proceeding. It may well be that counsel/litigants may not intend to specifically refer the judge to the pleadings in the course of the hearing of the motion (in which case, the pleadings need not be identified in the confirmation form as something that should be read), but counsel/litigants should ensure that the pleadings have been uploaded to Case Center in the pleadings bundle.
- iv. In identifying documents by title, it is important to identify the party filing the document and the date of the document (e.g., the *applicant’s* notice of motion dated *August 1, 2025*, or the *respondent’s* affidavit sworn *August 5, 2025*).
- v. The list of documents should be arranged chronologically by date of service. This is particularly helpful so that the presiding judge does not start their review of the motion material with an affidavit that begins, “I make this affidavit in response to ...”.
- vi. The parties must identify the location of the document in Case Center, whether by Case Center document/tab number or Case Center page number. (This is simply the virtual hearing equivalent of the previous requirement that counsel/litigants provide the relevant tab in the continuing record.)
- vii. If counsel/litigants reasonably expect that a particular exhibit will require careful review by the presiding judge, consideration should be given to setting out that exhibit as a separate document in Case Center or, at a minimum, expressly identifying a pinpoint page reference in Case Center where the presiding judge may find the particular document.
- viii. It bears repeating that all documents upon which counsel/litigants intend to rely at the hearing of the motion (conference) must be uploaded to Case Center.

[30] In the context of a civil motion, the confirmation form should be completed in a similar manner, listing all documents chronologically with Case Center page/tab references after “The presiding judge will be referred to the following materials:”.

[31] In all family and civil proceedings, it is always useful to indicate in your confirmations the specific nature of the order you will be asking the court to make and/or attach a draft order to your confirmations. Where you will be proposing a draft order to the court, a separate, stand-alone copy of that draft order should be uploaded to Case

Center so that, where the court is satisfied that the relief sought is appropriate, the judge can download the draft order from Case Center and get it ready for processing, issue and entry.

A handwritten signature in black ink, appearing to read "P. Howard", written in a cursive style.

Regional Senior Justice Paul Howard
Southwest Region

Released: August 13, 2025