



URGENT FAMILY LAW DURING COVID

HOW TO APPLY TO THE PROVINCIAL COURT TO BE HEARD ON AN URGENT
FAMILY LAW MATTER DURING COVID-19

AGENDA

- A. In a nut shell, the basics
- B. Step-by-step, overview
- C. What is urgent?
- D. Fictional scenario
- E. Step-by-step, in detail
- F. Affidavits in the time of Covid
- G. Covid-related Urgent Issues, what to include

A. IN A NUT SHELL

1. NP 19 Notice to the Profession and the Public
2. Hub Court vs Originating Court Registry (“OCR”)
3. ADM 880 – Application for Urgent Hearing
4. Further Information Letter
5. Urgent Hearing Decision & Directions

B. STEP-BY-STEP, OVERVIEW

1. Fill Out ADM 880 Form
2. Write Further Information Letter (the “Letter”)
3. Send ADM 880 & Letter to the Originating Court Registry (“OCR”)
4. Receive Urgent Hearing Decision
5. File Pleadings
6. If Directed to Do So, Make Further Application
7. If Don’t Receive Scheduling Email, Follow up with JCM
8. If Don’t Receive Call-in Details, Follow up with Registry
9. Day of Hearing: Call into Hearing at Scheduled Time

C. WHAT IS URGENT?

- Relief sought with reference to the safety of child or parent
- Obtaining or setting aside a Protection Order (“POR”)
- Urgent issues relating to the well-being of a child
 - E.g. essential medical decisions, issues relating to relocation, non-removal, wrongful removal or retention of a child
- Situations where irreparable harm will occur if matter is not heard and decided now

C. WHAT IS URGENT?

Will not meet the urgent threshold...

- Important does not automatically mean urgent
- Issues relating to parenting time that do not show serious impact on child's safety and wellbeing
- Relief sought must have a practical effect

C. WHAT IS URGENT?

- *Thomas v. Wohleber*, 2020 ONSC 1965, para 38

1. The concern must be immediate; that is one that cannot await resolution at a later date;
2. The concern must be serious in the sense that it significantly affects the health or safety or economic well-being of parties and/or their children;
3. The concern must be a definite and material rather than a speculative one. It must relate to something tangible (a spouse or child's health, welfare, or dire financial circumstances) rather than theoretical;
4. It must be one that has been clearly particularized in evidence and examples that describes the manner in which the concern reaches the level of urgency.

D. FICTIONAL SCENARIO

- Bao Sang aka Bella Sang (“Bella”) and Cipriano Parera (a Canadian Citizen) met in Vancouver when Bella was visiting on a student visa. They got married in Canada on January 1, 2010. Bella was only 21. She hadn’t finished university and didn’t speak English.
- They had two daughters: Ling Sang Parera, born February 1, 2010, and Ania Sang Parera, born April 1, 2014. Early in the marriage, Cipriano became verbally abusive. He screamed at Bella often, saying she is lazy and a careless mother. He often threw pens and shoes at her. He also threatened to kill her after Ania was born, because he thought Bella wasn’t cleaning well enough. Bella has never forgotten how scared that made her feel.
- Another time, when the girls were fighting over a toy he yelled very loudly at them. Bella tried to intervene and he got so mad that he yelled at her and then chased her around the house until she locked herself in the bedroom. Bella called the police. This event scared Bella so much that she is too afraid to intervene now when Cipriano yells at their daughters.

D. FICTIONAL SCENARIO

- In 2018, Cipriano and Bella got a divorce. They continue to reside together because Bella was still learning English and wasn't able to find a job. They agreed Bella would live there for free and be the primary caregiver of their Children but signed an agreement that says that Cipriano has the majority of parental responsibilities (the “2018 Agreement”).
- As Bella’s English improved, about a year ago, she got a job at a dental office. A few months ago, when she mentioned that she might want to move out, Cipriano got very angry and threatened to take their daughters away if she moved.
- Since then, Cipriano has become progressively more angry and agitated. He yells at the girls often. Last month he started to use inappropriate physical discipline, such as pulling their ears and squeezing their arms. When Bella has tried to intervene, Cipriano has threatened to kick her out of the house and never let her see the girls again. On another occasion, he told Ania he’d kick them all out of the house and they’d have to live on the street. Yet on another occasion, he told Bella that he’d take the girls away and she’d never find them.

D. FICTIONAL SCENARIO

- On March 9, 2020, Bella successfully applied for a without notice protection order (“POR”) at Robson Square Provincial Court for herself and her daughters.
- The POR is set to expire on May 17, 2020.
- Before Covid happened, Bella intended to go to court to seek an extension of the POR with notice to Cipriano, and to amend their 2018 Agreement, but now she doesn’t know what to do.
- Since the POR was made, Cipriano breached it twice: once by sending a series of texts to Bella, and the second time by showing up at her work. Bella called the police about the second breach but not the first. After the police spoke to Cipriano, he didn’t breach the POR again.

E. STEPS-BY-STEP, IN DETAIL

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2. Write Further Information Letter (the “Letter”)
3. Send ADM 880 & Letter to the Originating Court Registry (“OCR”)
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E. STEP-BY-STEP IN DETAIL

Step 1. Fill Out ADM 880

E. STEP-BY-STEP IN DETAIL

Step 2. Write Further Information Letter

- Use headings to set information apart
- Helpful headings to include:
 - HISTORY:
 - Include what is relevant to why hearing must be heard on an urgent basis.
 - E.g. Details about how the original POR was ordered
 - With notice/without notice? If w/o notice, why?
 - When it expires.
 - Why it needs to be extended.
 - Was OP served?

E. STEP-BY-STEP IN DETAIL

Step 2. Write further information letter (con't)

- Helpful headings to include (con't):
 - **CURRENT SITUATION:**
 - Brief description of what's changed or new developments
 - Stick to updates that are relevant to why this hearing is urgent
 - For example:
 - Any new family violence.
 - Any violations of the POR.
 - Police involvement.
 - **URGENCY:**
 - E.g. We submit that extending the Order is an urgent application as it cannot be heard later without significant harm to [Client's Name] and her Children, because it expires on [DATE], unless extended by further order of the court.
 - Include a bullet list of possible outcomes if orders sought are not made
 - **ORDERS SOUGHT**

E. STEP-BY-STEP IN DETAIL

Step 2. Write further information letter (con't)

- Other things to note:
 - Is a new affidavit available or will there be a new affidavit later?
 - Also, does the applicant want to submit an affidavit?
 - Any special circumstances?
 - Does client need a translator?
 - Does the client have any time restrictions?
 - Describe whether OP replied to any part of the action thus far, or whether they have participated in previous hearings

E. STEP-BY-STEP IN DETAIL

Step 3. Send ADM 880 & Letter to Scheduling

- Email, fax, or mail ADM 880 & Letter as attachments to the Originating Court Registry.
 - Email, phone, or mail to local registries
 - Fax to fax filing registries
- If emailing, use the subject: ****Urgent****
Counsel Need PCJ for Urgent Matter

E. STEP-BY-STEP IN DETAIL

4. Receive Urgent Hearing Decision
5. File Pleadings
6. If Directed to Do So, Make Further Application
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F. AFFIDAVIT IN THE TIME OF COVID

1. NP 20: Notice To The Profession And Public Affidavits For Use In Court Proceedings
2. Self-Represented Litigants can submit an unsworn affidavit

G. COVID-RELATED URGENT ISSUES

- Details of current out of home activity of each party
 - E.g. Work at home/office/outside; what's their contact with other people?
- If parenting time issue, include a proposed parenting time solution that is specific and realistic with reference to Covid-19
- Describe any specific concerns relating to Covid-19
 - Mom is high-risk and has medical documentation to back this up
- Best Interests of the Child