



## **SUPREME COURT OF BRITISH COLUMBIA**

### **LITIGANTS' GUIDE TO JUDICIAL CASE CONFERENCES**

#### **What is a Judicial Case Conference?**

A Judicial Case Conference ("JCC") is a private, informal meeting attended by a judge or associate judge of the Court and the parties to a family law proceeding and their lawyers (if they have lawyers). A JCC provides an early opportunity for the parties, with the assistance of a judge or associate judge, to discuss ways in which some or all of the issues may be resolved other than by further litigation and trial. If further litigation including a trial is necessary, the JCC provides an opportunity to set a plan for the litigation that will ensure the trial is heard and a decision is made in a just, timely and cost-efficient manner.

#### **Who presides at a JCC?**

A Supreme Court judge or associate judge will preside at the JCC.

#### **Where does a JCC take place?**

JCCs may take place in a courtroom or conference room. Because the JCC is informal, the parties and their counsel are not expected to stand to address the judge or associate judge. The JCC will last approximately 90 minutes and will be scheduled at a specific time. Unless the court otherwise orders, each of the parties and their lawyers must attend a JCC. If the court orders that a party need not attend a JCC, the party must still be readily available and accessible for consultation during the JCC, either in person or by telephone.

#### **Is a JCC confidential?**

The proceedings at a JCC are confidential. Although the JCC will be recorded by the court, no part of the recording may be made available to or used by any person, including the parties and their lawyers, without court order. Also, as with all court proceedings, none of the parties or lawyers who attend the JCC is permitted to make their own recording. Because the JCC is confidential, the parties or their lawyers are not permitted to discuss the details of what occurred at the JCC with anyone else or in any other court proceeding.

## What happens at a JCC?

There are a number of topics that the judge or associate judge may consider at a JCC. These are discussed below. As the JCC proceeds, the judge or associate judge or sometimes the court clerk, will complete a Case Management Plan form. A copy of this form may be found on the court's website at the following link:

[http://www.courts.gov.bc.ca/supreme\\_court/practice\\_and\\_procedure/practice\\_directions/family/FPD - 12 - Judicial Case Conferences - Case Management Form.pdf](http://www.courts.gov.bc.ca/supreme_court/practice_and_procedure/practice_directions/family/FPD-12-Judicial_Case_Conferences-Case_Management_Form.pdf)

If you have not attended a JCC before, you may want to look at the Case Management Plan form along with this Litigants' Guide before the JCC, to gain a better understanding of how the JCC may proceed.

### 1. Identification of the Issues in Dispute

At a JCC, the judge or associate judge will want to know what issues are in dispute:

	Yes	No
(a) Guardianship (FLA)	<input type="radio"/>	<input type="radio"/>
(b) Parenting Arrangements (FLA)	<input type="radio"/>	<input type="radio"/>
(c) Parenting Orders (DA)	<input type="radio"/>	<input type="radio"/>
(d) Contact with a Child (DA or FLA)	<input type="radio"/>	<input type="radio"/>
(e) Spousal Support (DA or FLA)	<input type="radio"/>	<input type="radio"/>
(f) Child Support (DA or FLA)	<input type="radio"/>	<input type="radio"/>
(g) Family Property and Family Debt (FLA)	<input type="radio"/>	<input type="radio"/>
(h) Other- specify	<input type="radio"/>	<input type="radio"/>

If there are issues that the parties agree on, the judge or associate judge may make a consent order dealing with those. The judge or associate judge may also make certain other orders, including procedural orders, at set out in *Supreme Court Family Rule 7-1(15)*. However, at a JCC, a judge or associate judge will not make any orders on disputed issues.

### 2. Discussion of Resolution Options

At a JCC, the judge or associate judge may consider what options there are to resolve disputed issues between the parties without recourse to a trial. These might include:

#### a. Settlement discussions at the JCC

The judge or associate judge may assist the parties to pursue a settlement discussion at the JCC itself. A judge or associate judge may also give a non-binding opinion on

the probable outcome of a hearing or trial at a JCC. However, circumstances vary and, in some instances, it may not be appropriate for settlement discussions to occur at this stage. In some circumstances, the judge or associate judge may direct the parties to attend a further JCC at a specified date and time.

*b. Discussion of family dispute resolution options*

The judge or associate judge may also discuss alternative means of resolving the disputed issue(s) in the proceeding, including:

*i. Mediation*

Mediation is a process in which a trained independent third party meets with the parties and assists them in resolving the issues in the action.

*ii. Judicial Settlement Conference*

A judge or associate judge at a JCC may also direct the parties to attend a judicial settlement conference. A judicial settlement conference is held before a judge or associate judge who will assist the parties, in private and without hearing witnesses, in attempting resolution of the case.

*iii. Preparation of a Report Under s. 211 of the *Family Law Act**

The judge or associate judge may consider whether a Section 211 Views of the Child Report or a Section 211 Full Report should be prepared and if so, what the scope of the report should be, who should prepare it, what information the parties should give to the author of the report, when it should be completed, and what the payment arrangements should be.

*iv. Summary Trial*

This is a trial conducted on the basis of affidavits rather than oral evidence. Generally, this form of trial is unsuitable when there are critical disputes as to facts. The result of a summary trial is usually a final order disposing of the matters in dispute.

**3. *Official language choice for Divorce Act proceedings***

This section applies only to family law cases in which an order is sought under the *Divorce Act*.

Under section 23.2 of the *Divorce Act*, you may choose to file pleadings or other documents, give evidence or make submissions in any *Divorce Act* proceeding in either or both of the two official languages of Canada (the English and French languages).

At the JCC, if your proceeding is a *Divorce Act* proceeding\*, the judge or associate judge may ask if the parties have chosen, or will choose, to proceed in the English language, the French language or both the French and English languages. If you have chosen to proceed in the French language or both the French and English languages then the judge or associate judge may consider whether it is necessary to make orders respecting the use of either official language in the proceeding under *Supreme Court Family Rule 7-1(15)(j.1)*. These orders could include orders about the translation of evidence, affidavits, pleadings, submissions and documents, the payment of the costs of preparing a translation, and the time limits for the filing and service of documents. You may wish to review this rule as well as *Supreme Court Family Rule 20-7 (Divorce Act Proceedings)* and [Family Practice Direction 20: French Language and Bilingual Divorce Act Proceedings](#).

#### **4. Trial Management and Planning**

At a JCC, the judge or associate judge may take some steps in relation to planning and management of the trial. Even though the majority of cases do not go to trial, making planning decisions at an early stage in the process helps to keep the process structured and focussed.

##### **a. Reserving a Trial Date**

The judge or associate judge may direct that a date be reserved for the trial of the family law case.

##### **b. Setting a Date for the Trial Management Conference**

The judge or associate judge may also set a date for the trial management conference, if required, at least 28 days before trial. A trial management conference must take place if required by court order, or, unless the court otherwise orders, if:

- a) more than 15 days have been reserved for the trial;
- b) any party is not represented by a lawyer, or may not be represented by a lawyer at the trial;
- c) a party requests a trial management conference by filing a requisition not less than 42 days before the scheduled trial date; or
- d) in the case of a *Divorce Act* proceeding\*, a party intends to file documents, give evidence or make submissions in the French language or both official languages.

---

\* "*Divorce Act* proceeding" means a family law case in which an order is sought under the *Divorce Act* (*Supreme Court Family Rule 1-1(1)*)

c. Pre-Trial Procedures

i. Disclosure

The judge or associate judge may consider if there are outstanding disclosure issues, including whether any of the following orders are required:

- The claimant to deliver a list of documents by a specific date: *Supreme Court Family Rule 7-1(15)(i)*;
- The respondent to deliver a list of documents by a specific date: *Supreme Court Family Rule 7-1(15)(i)*;
- Date by which amended Form F8 financial statements be exchanged; and/or
- Discovery procedures be limited: *Supreme Court Family Rule 7-1(15)(i)*.

ii. Other Pre-Trial Orders

The judge or associate judge may ask about other steps in the proceeding, and may consider whether any additional orders are required, including the following, and if so, by what date:

- Pleadings be amended or closed or particulars provided: *Supreme Court Family Rule 7-1(15)(g) and (h)*;
- Examinations for discovery be conducted: *Supreme Court Family Rule 7-1(15)(j)*;
- Notice to Admit completion dates: *Supreme Court Family Rule 9-6*;
- Financial disclosure be exchanged: *Supreme Court Family Rule 5-1*;
- Exchange of experts reports: *Supreme Court Family Rule 7-1(15)(s)*;
- Deadlines for exchanging offers to settle: *Supreme Court Family Rule 11-1*; and/or
- Attendance by the parties at a settlement conference: *Supreme Court Family Rule 7-1(15)(s)*.

## **5. Parenting After Separation**

Where appropriate, the judge or associate judge may make a direction at a JCC requiring the parties to attend a Parenting After Separation Course (operated by Justice Services Branch, Ministry of Justice). The parents participate in this course separately and there is no cost to attend.

## **6. Setting a Date of Interim Application(s)**

At a JCC, the judge or associate judge may also set a date for interim application(s) and may make directions to ensure that the application(s) is/are ready to proceed on the date set for hearing.

### **What if I need an interpreter at a JCC?**

If you have chosen to proceed in the French language or in both the French and English languages in a *Divorce Act* proceeding (as defined above), then you must file and serve a notice in Form F86.1 under *Supreme Court Family Rule* 20-7(6) and [Family Practice Direction 20: French Language and Bilingual Divorce Act Proceedings](#) to confirm that you intend to file documents, give evidence or make submissions in the French language or both official languages at the JCC. On the Form F86.1 you must also indicate whether you will need interpretation services if the other party proceeds in the other official language, and if so, whether you require consecutive or simultaneous interpretation services. The Ministry of Attorney General's Court Services Branch will then arrange for your interpreter at the JCC.

In all other cases, you are responsible for arranging for an interpreter to be present at the JCC. The Ministry of Attorney General's Court Services Branch may provide interpretation services for court proceedings in certain other situations, see their website for more information: <https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/who-can-help/court-interpreters>.

If you would like to bring an interpreter to the JCC who is not a professional, such as a family member or a friend, then you will need permission from the judge or associate judge who is hearing your JCC. The interpreter should be fluent in the language that they are interpreting and should not be connected to your family law case.

### **Do I have to have a lawyer present at a JCC?**

There is no requirement to have a lawyer present at a JCC. However, if you do have a lawyer acting in your case then you need to make sure they are aware of the JCC and it is recommended that the lawyer attend the JCC with you. If the JCC results in settlement, then the judge or associate judge may ask you to get legal advice before signing any final orders. If you do not have a lawyer with you then you may be directed to return to a JCC at a later date after getting legal advice.

### **What do I need to do to prepare for the JCC?**

1. Review the *Supreme Court Family Rules* to make sure you are familiar with the rules that relate to your family law proceeding, in particular Supreme Court Family Rule 7-1 sets out the rules that relate to the JCC.
2. Make sure all of the relevant pleadings are filed and served on the other parties.
3. Make sure your Form F8 financial statement is completed, filed and served on the other parties at least 7 days before the date of the JCC (*Supreme Court Family Rules* 7-1(10) and (11)).
4. If you need an interpreter then make sure you have arranged for one before coming to court for the JCC. Note that in the case of a *Divorce Act* proceeding (as defined above) you may be able to request an interpreter, as set out above, if a party has chosen to proceed in the French language or both the French and English languages.