



Calculating the Deadline for Filing a Trial Brief

Rule 12-2(3) and (3.1) of the *Supreme Court Civil Rules* states:

(3) Unless the court otherwise orders, the plaintiff must, **at least 28 days** before the date set for the trial management conference,

(a) file a trial brief in Form 41, and

(b) serve a copy of the filed trial brief on all other parties of record.

(3.1) Unless the court otherwise orders, each party of record, other than the plaintiff, must, **at least 21 days** before the date set for the trial management conference,

(a) file a trial brief in Form 41, and

(b) serve a copy of the filed trial brief on all other parties of record.

Rule 14-3(3) of the *Supreme Court Family Rules* states:

Unless the court otherwise orders, each party attending a trial management conference must, **at least 7 days** before the date set for the trial management conference,

(a) file a trial brief in Form F45, and

(b) serve a copy of the filed trial brief on all parties.

Sub-sections 25.2(2) and (3) of the *Interpretation Act* state:

(2) Subject to subsection (3), the beginning or end of a period of one day or consecutive days or of one week or consecutive weeks, expressed in relation to a reference day, is to be determined as follows:

(a) if the reference day is before the period, by counting forward from and including the day after the reference day;

(b) if the reference day is after the period, by counting backward from and including the day before the reference day.

(3) If a period described in subsection (2) is expressed as "clear" days or weeks or "at least" or "not less than" a number of days or weeks,

(a) the beginning or end of the period, as determined under subsection (2) (a), is one day later, and

(b) the beginning or end of the period, as determined under subsection (2) (b), is one day earlier.

Sub-section 25(3) of the *Interpretation Act* states:

A period for doing an act that is determined under section 25.2, 25.3 or 25.4 to begin or end on a holiday begins or ends, as the case may be,

- (a) if the reference day is before the period, on the next day that is not a holiday, and
- (b) if the reference day is after the period, on the previous day that is not a holiday.

“Holiday” includes Sunday. See section 29 of the *Interpretation Act* for a list of holidays.

Calculating the deadline to file a trial brief in civil law proceedings

To calculate when a trial brief must be filed, a plaintiff must:

- Count back **28 days** starting the day before the TMC (*Interpretation Act*: s. 25.2(2)(b)); and
- Count back one additional day (*Interpretation Act*, s. 25.2(3)(b)).

****In other words, the day of the TMC and the day of filing the brief are NOT to be counted. Count only the clear days in-between.***

In situations where the 28th day falls on a Saturday, a Sunday or a day the registry is closed, a plaintiff must file a trial brief on or before the last business day that allows for a 28 day period in accordance with the *Supreme Court Civil Rules*. **See next page for examples.**

All other parties must count back **21 days** following the same rules for calculating the trial brief filing deadline.

Calculating the deadline to file a trial brief in family law proceedings

To calculate when a trial brief must be filed, parties must:

- Count back **7 days** starting the day before the TMC (*Interpretation Act*: s. 25.2(2)(b)); and
- Count back one additional day (*Interpretation Act*, s. 25.2(3)(b)).

****Again, the day of the TMC and the day of filing the brief are NOT to be counted. Count only the clear days in-between.***

In situations where the seventh day falls on a Saturday, Sunday or a day the registry is closed, parties must file a trial brief on or before the previous business day to allow for a seven day period in accordance with the *Supreme Court Family Rules*. **See next page for examples.**

Trial Brief – Consequence of failure to file

Rule 12-2(3.3) of the *Supreme Court Civil Rules* provides:

Unless the court otherwise orders, a trial must be removed from the trial list if no trial brief has been filed under subrule (3) or (3.1).

The Supreme Court Scheduling managers have no authority to extend the time for filing or to restore a matter to the trial list.

February 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14 Deadline for trial brief for TMC on March 16 and 17 (28 days)	15
16	17 Family Day	18	19	20	21 Deadline for trial brief for TMC on March 16 (21 days)	22
23	24 Deadline for trial brief for TMC on March 17 (21 days)	25	26	27	28	29

March 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6 Deadline to file trial brief for TMC on March 16 (7 days)	7
8	9 Deadline to file trial brief for TMC on March 17 (7 days)	10	11	12	13	14
15	16 TMC	17 TMC	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Proceedings under the *Supreme Court Civil Rules*:

- **Example A** – A TMC is scheduled on March 17. The last day the plaintiff can file a trial brief within the 28 day time limit is February 14. The last day other parties can file a trial brief within the 21 day time limit is February 24.
- **Example B** – A TMC is scheduled on March 16. The last day a plaintiff can file a trial brief within the 28 day time limit is February 14. The last day other parties can file a trial brief within the 21 day time limit is February 21.

Proceedings under the *Supreme Court Family Rules*:

- **Example A** – A TMC is scheduled on March 17. The last day to file a trial brief within the 7 day time limit is March 9.
- **Example B** - A TMC is scheduled on March 16. The last day to file a trial brief within the 7 day time limit is March 6.