



NOTICE #8 – REQUEST FOR A BINDING SETTLEMENT CONFERENCE BY TELEPHONE (OR VIDEO, IF IT BECOMES AVAILABLE)

Monday, April 20, 2020

A. Request for a Judicial Settlement Conference by Telephone (Rule 59.39)

This differs from the traditional settlement conference in that it is a settlement conference over the telephone. If video conferencing becomes available, it may also be requested.

In preparation for the settlement conference, each party is to file a written submission of no more than six (6) pages that does the following:

- 1) Identifies the issues from that party's perspective.
- 2) Outlines the position the party takes on each issue.
- 3) Explains why the party takes the position.
- 4) States whether settlement proposals have been exchanged.
- 5) States whether there are areas of factual agreement that permit the matter proceeding in whole or in part on the basis of an agreed statement of facts.
- 6) States whether there is a disagreement as to the applicable law.
- 7) Identifies the witnesses.
- 8) Provides on a separate single page an outline of what he/she believes the other person's financial obligation is to him/her; on this sheet all calculations and basic arithmetic is to be shown, which calculations will show what the other person's financial obligation is/was, and what part of it was met. An equalization spreadsheet should be provided if property division is at issue.
- 9) Provides on a separate single sheet of paper, a list of the property each owns separately and also a list of the property owned jointly with the other party.
- 10) States whether a party requires accommodation.
- 11) States whether either party is concerned about personal safety.
- 12) States whether there are outstanding criminal or civil/family orders or matters relevant to this proceeding, to the parties or to any children impacted by this proceeding.

All filings would be by email and be accompanied by a cover sheet (see Appendix 1). The Applicant would file two weeks in advance of the settlement conference and the Respondent would file one week in advance.

All parties must undertake not to record any of the conference and will be required to certify, in advance, who will be listening to the conference. The presiding judge will have additional conditions.

Providing for a secure caucusing option is always a challenge to be addressed.

B. Request for a Binding Judicial Settlement Conference

Again, it would be a Settlement Conference by telephone and subject to the same guidelines governing a Settlement Conference with the added feature, i.e. that a judge may issue a ruling to bind the parties. A standard list of conditions must be satisfied before a judge would agree to participate in a binding Settlement Conference. By way of example, please see the accompanying Appendix 2.

All filings would be by email.

Parties are reminded that Consent Variation Orders will be considered when they are accompanied by a cover letter from each party explaining the basis for the variation. Similarly, Consent Orders for 'new files will be considered when accompanied by the standard filing documents and a letter from each party explaining the basis of consent to the order.

Parties are also reminded that they may request (1) a Documents Only Proceeding as outlined in Notice #6 or (2) a Non-Binding Judicial Recommendation as outlined in Notice #7.

Associate Chief Justice Lawrence I. O'Neil
Nova Scotia Supreme Court (Family Division)
April 20, 2020

Appendix 1

Cover Sheet

- This matter was _____ or was not _____ adjourned.

Provide details if a scheduled Court appearance did not proceed:

- Date? _____
- Nature of Adjourned Appearance? Conference _____ Settlement Conference
_____ Trial _____ Other _____
- Were Filings Completed? Yes _____ No _____
Explain _____
- Have circumstances changed significantly since the matter was adjourned?
Yes _____ No _____
- Have the parties agreed on a statement of facts? Yes _____ No _____
- Have the parties agreed on a list of issues? Yes _____ No _____
- I have _____ or have not _____ presented a proposed statement of facts of not more than one (1) page to the other side.
- I have _____ or have not _____ proposed a list of issues to the other side.

Appendix 2

Request for Binding Settlement Conference

NAME OF PROCEEDING: _____

REQUEST: _____

I, _____, have requested and consent to a binding settlement conference to resolve the outstanding issue(s) in the above proceeding.

I have chosen a binding settlement conference to resolve the outstanding issue(s) instead of a trial of the issue(s).

I agree to be bound by the decision of the settlement conference judge should it become necessary for the judge to decide any unresolved issue(s).

I understand that the settlement conference judge is not bound by the strict rules of evidence but, may receive and use any information submitted to the Court.

I understand that the settlement conference judge has full power and authority to rule on any questions of law and/or fact applying to the determination of the issues in the same manner as a judge at trial.

I understand that a decision of the settlement conference judge is enforceable in the same manner as any other Judgment of the Court.

I understand that having a binding settlement conference can eliminate any right of appeal following the binding settlement conference, as a record for appeal is not produced in the usual fashion: See Forrest v. Forrest, 2013 NSCA 15.

I understand that my participation in this binding settlement conference is strictly voluntary but once I agree to same, I cannot withdraw my consent to participate in same.

I have not been coerced or threatened in any way to agree to this binding settlement conference process and I have not been promised anything to get me to agree to this binding settlement conference process.

I understand that I can seek legal advice from a lawyer before consenting to this binding settlement conference process. I have not consulted with counsel.

I have no further questions to ask about the binding settlement conference process.

DATED: _____, **2020**

Signature of Party Signature of Lawyer

Print Signature of Party Print Signature of Lawyer