



flew Family Law
Education for Women
Women's Right to Know

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droit de la famille
Le droit de la femme à savoir

Your Day in Family Court: How to Prepare and What to Expect

November 12, 2013

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Funded by:

www.onefamilylaw.ca



METRAC

METRAC, the **Metropolitan Action Committee on Violence Against Women and Children**

- works to end violence against women, youth and children
- a not-for-profit, community-based organization

www.metrac.org

METRAC's **Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

FLEW, **Family Law Education for Women** in Ontario

- provides information on women's rights and options under Ontario family law
- in 14 languages, accessible formats, online and in print

www.onefamilylaw.ca
www.undroitdefamille.ca

Presenters

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Your Day in Family Court: How to Prepare and What to Expect

Topics to Be Covered

1. Preparing Your Family Law Case
2. The Right Court For Your Family Law Case
3. Steps in a Family Law Case
4. Going to Family Court
5. Additional Resources

Information is accurate as of November 12, 2013



Preparing Your Family Law Case

Preparing Your Family Law Case

Family Law Information

- Help at Court
 - Family Law Information Centres (in Family Courts)
 - Family Law Service Centres (near some Family Courts)
 - Family Court Support Workers
 - 416-314-2447 (in Toronto)
 - 1-888-579-2888 (toll free)
- Family Law Information Online:
 - Family Law Education for Women (FLEW) www.onefamilylaw.ca
 - Ontario Women's Justice Network www.owjn.org
 - Ministry of Attorney General www.attorneygeneral.jus.gov.on.ca
 - Your Legal Rights Website www.yourlegalrights.on.ca

Preparing Your Family Law Case

Working With A Lawyer

- be prepared
- be honest and tell a complete story
- be specific
- ask questions to make sure you understand
- take notes
- continue to ask about billing and when you will have to pay

Preparing Your Family Law Case

Tips For The First Meeting With Your Lawyer

- Think about:
 - preparing in advance, to reduce legal costs
 - what do you want the lawyer to do?
 - can you do anything without a lawyer?
 - do you feel comfortable with the lawyer and in the office?
 - bringing someone you trust with you
 - telling everything to your lawyer
- Ask the lawyer:
 - has she had cases like yours before?
 - what are her business hours?
 - how quickly can you expect a resolution?
 - what is an estimate of the cost for your legal services?
 - how will you be billed?
 - is there anything that could increase the cost?

Preparing Your Family Law Case

If You Can't Afford A Lawyer

- **Legal Aid Ontario** 1-800-668-8258
- **Duty Counsel** are lawyers who give immediate legal assistance to people who appear in Court and cannot afford to pay a lawyer
 - go early for more time to prepare
 - Duty Counsel cannot argue your case in Court
- Family Duty Counsel can provide assistance with:
 - child protection hearings
 - custody, access, support hearings
 - requesting Court date changes

Preparing Your Family Law Case

Asking For Accommodation In Court

- Disability Accommodation
 - all Ontario courthouses have **Accessibility Coordinators** for people with disabilities
 - answer questions
 - arrange reasonable accommodations
- Language Interpreters
 - Immediately inform your lawyer, the Court office or the judge
 - In many cases, **court interpretation services** can be paid for by the government, but you have to ask
- Safety Planning
 - **Family Court Support Worker**
 - Call to find a program near you
 - 416-314-2447 (in Toronto)
 - 1-888-579-2888 (toll free)



The Right Court for Your Family Law Case

The Right Court for Your Family Law Case

Ontario Family Court Structure

- 3 different Courts in Ontario deal with family law issues:
 1. Ontario Court of Justice (OCJ)
 2. Superior Court of Justice (SCJ)
 3. Family Court Branch of Superior Court of Justice (Unified Family Court)
- It is important to make the right choice

The Right Court for Your Family Law Case

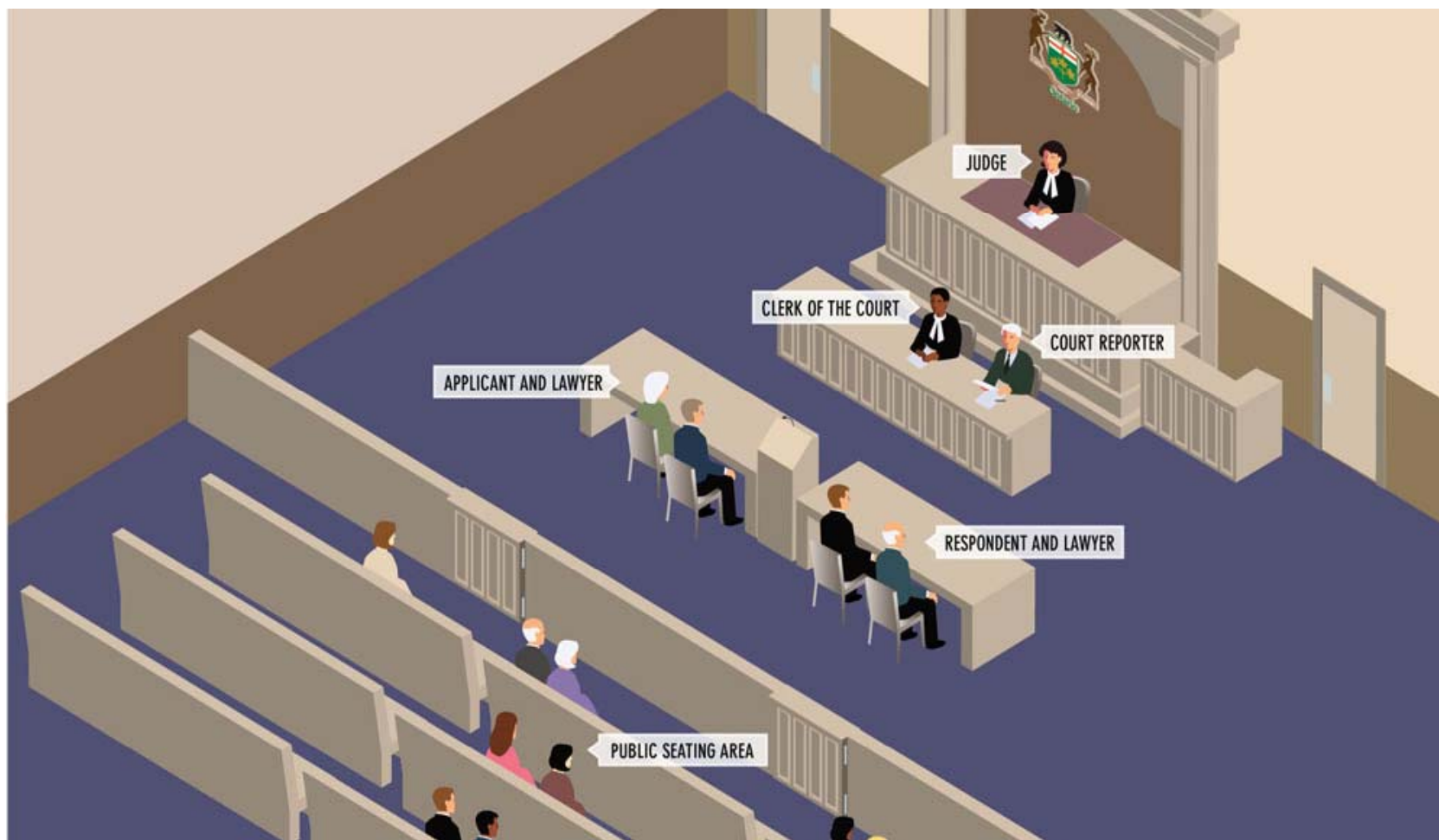
Ontario Court of Justice (OCJ)

- Hears family law disputes involving:
 - child and spousal support
 - custody and access
 - adoption
 - child protection



The Right Court for Your Family Law Case

Ontario Court of Justice



The Right Court for Your Family Law Case

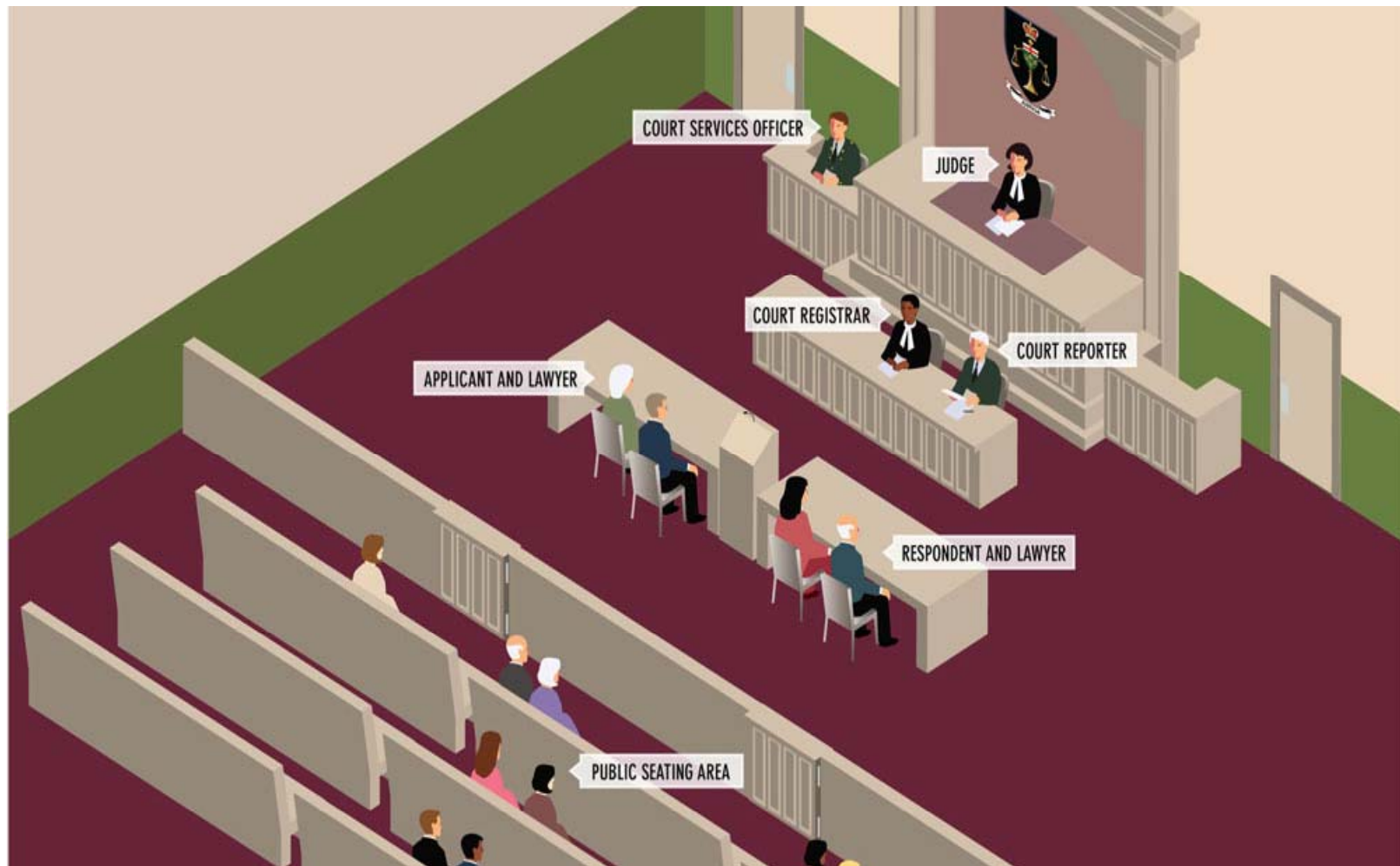
Superior Court of Justice (SCJ)

- Hears family law disputes involving:
 - Divorce
 - Division of Property
 - Child and Spousal Support
 - Custody and Access



The Right Court for Your Family Law Case

Superior Court of Justice



The Right Court for Your Family Law Case

Unified Family Court

- 17 locations in Ontario
- hears **all** family law matters including:
 - divorce
 - division of property
 - child and spousal support
 - custody and access
 - adoption
 - child protection



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Steps in a Family Law Case

Steps in a Family Law Case

Starting a Family Law Case

- The person who starts the case is called the **Applicant**
- The Applicant prepares a document called an **Application**, which starts the Court process and explains what the Court is being asked to decide and order
- The **Respondent** is the other person in the case, who responds to the Application
- The Respondent may complete an **Answer** to the Application
- The Applicant may **Reply** to the Respondent's Answer

Steps in a Family Law Case

- *Family Law Rules*

www.e-laws.gov.on.ca/html/regs/english/elaws_regs_990114_e.htm

- Ontario Court Forms Assistant

www.ontariocourtforms.on.ca

- When drafting the Application practice writing the full story out first, and tell it in the order that events happened



Steps in a Family Law Case

Mandatory Information Program (MIP)

- both partners required to go, but not together
- reviews family issues such as:
 - effects of separation
 - alternatives to court
 - family law principles
 - Family Court procedure
 - local resources
- must show in Court proof of attendance

Steps in a Family Law Case

Court Conferences

- **First Appearance**

- the first court date at Ontario Court of Justice and some Unified Family Courts
- to meet with Court Clerk and review required documents

- **Case Conference**

- the first court date at the Superior Court of Justice and some Unified Family Courts
- to meet with Judge or Dispute Resolution Officer (DRO)
- the DRO helps determine issues, explore settlement options, and determine if case is ready to go before a Judge

Steps in a Family Law Case

Voluntary Mediation

- often suggested at an early Case Conference by Judge or Dispute Resolution Officer
 - for parenting plans, support and property disputes
- not required, and may be inappropriate if there is abuse, bullying or history of violence
- mediation services at courthouse:
 - **Legal Aid Ontario**
 - one partner must meet financial eligibility
 - **Family Law Information Centre**
 - free for cases in Court that day
 - government subsidized off-site services

Steps in a Family Law Case

Conferences or Meetings

- there may be many meetings about your case before the Judge makes a final decision
- **Case Conferences**
 - discuss issues in dispute
 - review each party's position on issues
 - consider ways to resolve disputes
 - ensure information exchange
 - plan next steps in case
- **Settlement Conferences**
 - later in the process
 - formal settlement briefs prepared
 - to try to settle issues without going to trial

Steps in a Family Law Case

Trial Management Conference

- to get everyone ready for the trial
- the Judge will ask each party:
 - What evidence will you present at trial?
 - What documents will you use?
 - Who are your witnesses?
 - How much time will you need to present your case?
- make sure the Judge knows if you need an **interpreter**, **accommodation** for a disability, or if you are **afraid** your partner will hurt you

Steps in a Family Law Case

The Trial

- the Judge will likely order the case to trial for issues that are not resolved
- Judge without a jury
- usually open to the public
- many trials are long and expensive
- best to be represented by a lawyer
 - knows specific laws and rules of Court
 - advises about your rights and options
 - helps prepare documents, witnesses, reports
 - puts clear and best case forward for you

Steps in a Family Law Case

Temporary or Emergency Issues

- you can ask the Judge for a temporary or interim decision while you wait for a trial or for a final decision
 - for example, interim custody of the children
 - where they will live, who will care for them, make important decisions for them
- you can ask the Judge to decide urgent matters
 - for example, a Restraining Order
 - if you or your children are in immediate danger, or health or safety is at risk

Steps in a Family Law Case

Court Attendance Confirmation Form

- must be completed and given to Court **by 2:00 p.m.** no later than **2 days before every Court appearance**
- at least one party must submit the form
- Court date will not be scheduled if form not submitted
- if you have a lawyer, she will submit the form



Going to Family Court

Going to Family Court

Arriving at Court

- be prepared
- expect to be at Court all day
- be on time, arrive early
- arrange a meeting place and time with your lawyer
- you can find your name and courtroom posted on a list of the day's cases

Going to Family Court

Re-Scheduling a Court Date

- you may ask to change the date of a scheduled day at Court
- ask the Judge for an **adjournment** to postpone the court day until another scheduled date
 - ask as soon as possible
 - you must have a good reason to get an adjournment
 - the Judge may refuse your request
 - if you do not attend Court on a scheduled date, the Judge may proceed without you

Going to Family Court

How To Act In Court

- stand when the judge enters or leaves the room
- your lawyer will usually speak for you
- if you are giving evidence, talk to the lawyer or the Judge, not to the other party
- address the judge as “your Honour” or “Justice”
- listen and answer the questions that are asked, and do not interrupt
- always be respectful and polite

Going to Family Court

What To Expect At Trial

- clerk calls Court to order, calls case, lawyers introduce themselves and the person she/he represents
- **Opening Statements** about:
 - Applicant's case
 - Respondent's case
- **Questioning Witnesses**
 - examination-in-chief (party questions its own witness)
 - cross-examination (opposing party questions witness)
 - re-direct (party can clarify about a question already asked)
- **Closing Arguments**
 - Applicant
 - Respondent
- **Judge's Decision**
 - May take several months

Going to Family Court

Words You Might Hear In Court

- **Oath or Affirmation**

- When a witness gives evidence she or he will be asked to swear to tell the truth, either by taking an oath on a religious text, or by affirming or promising to be truthful.

- **Balance of probabilities**

- To win your case, you will have to convince the Judge that what you are saying is more likely true than not. The facts that the Judge believes will be applied to the law. This standard of proof is not as high as the standard in a criminal case.

- **Exhibits**

- Evidence in Court is either what a witness says, or a document or object that a witness talks about. Documents and objects are called Exhibits to the Court.

Going to Family Court

Words You Might Hear In Court

- **Recess**

- When Court takes a break, it is called a recess, either for lunch or any other time during the proceedings. If you need to talk to your lawyer during the trial, she or he may ask for a recess.

- **Reserve**

- When the Judge does not give a decision right away at the end of a trial, she or he may reserve judgement, to have more time to consider before making a decision.

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Additional Resources

Additional Resources (Family Law)

- **Legal Aid Ontario** www.legalaid.on.ca/en/getting/default.asp
 - Free telephone interpretation services for languages other than English & French
 - Toll-free: 1-800-668-8258
 - TTY: 1-866-641-8867
- **Ontario Women's Justice Network (OWJN)** www.owjn.org
- **FLEW (Family Law Education for Women)**
www.onefamilylaw.ca/en/resources/
- **FODF (Femmes Ontariennes et Droit de la Familles)**
www.undroitdefamille.ca/
- **Family Court Support Workers**
 - Check local community agency or call
 - Toll-free: 1-888-579-2888
 - 416-314-2447 (in Toronto)

Additional Resources (Family Law)

- **Family Law Information Program (FLIP)**
www.legalaid.on.ca/en/getting/flip.asp
- **Family Law Information Centres (FLICs)**
www.legalaid.on.ca/en/getting/type_family.asp
- **Family Law Services Centres (FLSCs)**
www.legalaid.on.ca/en/contact/contact.asp?type=flsc
- **Your Legal Rights** www.yourlegalrights.on.ca
- **Canadian Family Law Lawyers Network (National)** www.cfln.ca
- **Family Responsibility Office**, Ministry Community & Social Services
 - Toll-free: 1-888-815-2757

Additional Resources (Family Law)

- Child Support Guidelines:
 - **Department of Justice website**
 - www.justice.gc.ca/eng/fl-df/child-enfant/look-rech.asp
- Child Support Calculator
 - www.mysupportcalculator.ca
- Read more about Child Support:
 - Family Law Education for Women:
 - Booklet: www.onefamilylaw.ca/en/childsupport/
 - Webinar: onefamilylaw.ca/en/webinar/#financial
 - Guide to Parenting after Separation or Divorce: www.canada.justice.gc.ca/eng/fl-df/parent/mp-fdp/index.html
 - Your Legal Rights:
 - www.cleo.on.ca/en/publications/childsupport
 - www.yourlegalrights.on.ca

Additional Resources (Domestic Abuse)

For information, if your partner is abusive or violent:

- **Assaulted Women's Helpline**

www.awhl.org

- 24 hours/7 days; multiple languages
- Toll-free: 1-866-863-0511
- TTY: 1-866-863-7868

- **Ontario Coalition of Rape Crisis Centres**

www.sexualassaultsupport.ca

- **Network of Sexual Assault/Domestic Violence Treatment Centres**

www.sadvtreatmentcentres.net

- **Victim Services Directory**

www.justice.gc.ca/eng/pi/pcvi-cpcv/vsd-rsv/index.html

Additional Resources (Domestic Abuse)

For information, if your partner is abusive or violent:

- **Barbra Schlifer Legal Clinic**
 - Toronto: 416-323-9149 x278 (legal intake)
 - TTY: 416-3231361
 - Free counselling, referral, legal and interpreter services to survivors of violence (Family, Criminal and Immigration law)
- **Family Violence Authorization Program (Legal Aid Ontario)**
 - Free 2-hour emergency meeting with a lawyer
 - Offered through some shelters and community legal clinics
 - Toll-free: 1-800-668-8258
 - TTY: 1-866-641-8867

Additional Resources

- **Law Society of Upper Canada Lawyer Referral Service**
 - www.lsuc.on.ca/with.aspx?id=697
 - Toll-free: 1-800-268-8326
 - Toronto: 416-947-3330
 - TTY: 416-644-4886
- **Justice Net**
 - www.justicenet.ca/directory/search/
 - Reduced fee lawyers for low income people not eligible for Legal Aid
- **Toolkit for a good Client-Lawyer Relationship**
 - schliferclinic.com/vars/legal/pblo/toolkit.htm
- **Ministry of the Attorney General**
 - www.attorneygeneral.jus.gov.on.ca/english/
 - Toll free: 1-800-518-7901
 - TTY: 1-877-425-0575