

NOTICE TO THE FAMILY LAW BAR AND FAMILY LITIGANTS – CENTRAL SOUTH REGION

EFFECTIVE FEBRUARY 1, 2024

A new provincial pilot project began on November 1, 2022, in the Kitchener Unified Family Court (SCJ). This pilot allows parties in a family law case, on consent, to choose to participate in Binding Judicial Dispute Resolution (Binding JDR) hearing to arrive at a final resolution of their case in an expedited and streamlined manner. Based on the success of the pilot project in Kitchener and other locations throughout Ontario, Binding JDR will now be available in appropriate cases throughout the Central South Region.

This document should be read with the Provincial Practice Advisory, regarding Binding Judicial Dispute Resolution August 1, 2023, which is available here: [Practice Advisory Concerning the Superior Court of Justice's Binding Judicial Dispute Resolution \(JDR\) Pilot Project](#)

What is Binding JDR?

Family law litigants follow a number of steps in the regular court process. If they are not able to resolve their issues after a case conference has been held, they attend a settlement conference under Rule 17(5) of the *Family Law Rules*. At a settlement conference, the parties (and their lawyers, if they are represented) meet with a judge to identify the issues that are in dispute, get input about possible resolutions and try to reach a settlement to end their court case. If the parties do not agree how their case should be resolved at the settlement conference, the parties must proceed to a further conference and ultimately a trial to obtain a final order.

A trial follows a formal procedure. A trial record and exhibit briefs are filed in advance. Each party is responsible for presenting their case and must call witnesses to establish the facts that support the orders that they are seeking. Witnesses testify under oath or affirmation and are then cross-examined by the other party. There are complicated rules of evidence that govern what evidence the judge can hear during a trial. After hearing from the witnesses and receiving statements from the parties, the judge makes a decision about any outstanding issues.

A Binding JDR Hearing combines some elements of both a settlement conference and a trial, permitting a final determination where a settlement is not reached. With Binding JDR, each party submits a sworn affidavit that contains the important facts in support of their case, as well as their proposals to resolve the issues. The hearing is more informal than a trial and the judge works with the parties to explore mutually acceptable options for resolution. Parties are sworn in or affirmed at the opening of the process, and if a final determination is required, all statements made by the parties in the Binding JDR, including in the settlement portion of the hearing, may be relied on by the judge in making their decision.

Unlike a trial, where each party is responsible for presenting their case, the judge in a Binding JDR hearing takes on a more proactive role. Both the parties and the judge can ask questions and give input about the issues being discussed but there is no formal right of cross-examination. Moreover, formal rules of evidence are somewhat relaxed.

Unlike a settlement conference, the parties in Binding JDR specifically agree that the judge should make a final decision at the end of the hearing about any issues that they have not been able to agree upon. As a result, a final, enforceable court order will be issued at or shortly after the hearing, incorporating both the terms that the parties have agreed to resolve and any issues that are decided by the judge. This eliminates the need for further steps in the case including a trial.

For more information about the Binding JDR Pilot, how to request and schedule a hearing, how to file evidence for the hearing, what to expect at a Binding JDR hearing, and [for links to all the Binding JDR forms](#), please refer to the [**Practice Advisory Concerning the Superior Court of Justice’s Binding Judicial Dispute Resolution \(JDR\) Pilot Project**](#)

Email Addresses to file Binding JDR Confirmations:

Hamilton Family Court Trial Coordination Office:	Hamilton.Family.Superior.Court@ontario.ca
Kitchener Trial Coordination Office:	Kitchener.Superior.Court@ontario.ca
St. Catharines Trial Coordination Office:	St.Catharines.Superior.Court@ontario.ca
Welland Trial Coordination Office:	Welland.Superior.Court@ontario.ca
Brantford Trial Coordination Office:	BrantfS@ontario.ca
Cayuga Trial Coordination Office:	Cayuga.Superior.Court@ontario.ca
Simcoe Trial Coordination Office:	Simcoe.Superior.Court@ontario.ca

Help from Legal Aid Ontario: 1-800-668-8258.

Lawyers across Ontario who provide unbundled legal services: www.familylawlss.ca

Regional Senior Justice Paul R. Sweeny

February 1, 2024