



12 tips for lawyers on preparing family court orders that won't get bounced

When you submit a family court order to be signed by a judge and it's returned for corrections, it's a waste of your time, and that of the court registry staff and judge who dealt with it. It also increases the time your client must wait to get an official copy of their order.

This eNews contains tips from judges on how lawyers can prepare and submit orders that get signed without unnecessary delays. It also answers some common questions about orders.

Family court orders checklist

Avoid having your orders returned for corrections by using this checklist.

1. Is the judge's name spelled correctly? Find correct spelling on the Judges page of the Court's website.
2. Is the date the order was made correct?
3. Are the parties who attended accurately recorded and are their names spelled correctly?
4. Is each party's method of attendance included, whether by videoconference, telephone conference or in person?
5. If a party who was served did not attend, does the order clearly state that? See the family orders picklist on the Court's website for suggested wording.
6. Is the order correctly noted as "interim" or "final"? If it is not specified, registry staff will follow current Court Services Branch policy and assume it is interim.
7. If it's a consent order, is that noted?
8. If the order refers to "the child" or "the children" (for example when dealing with parenting time or support), does it identify their name(s) and birth date(s)? These details should always be included in the order.
9. Only lawyers need to sign an order. Do not ask the judge for a term dispensing with an unrepresented party's signature and do not include that term in an order, unless the judge orders otherwise.
10. If an application was dismissed, does the order say so? Dismissal is a court order and should be included in the order you draft.
11. Are there any typos?
12. Has the order been signed as approved by other counsel?

[Judges](#)

[Family orders picklist](#)

Who drafts the order and when?

- Counsel have a duty to the Court to draft and file orders in a timely fashion and in accordance with the rules. Counsel don't require their client's instructions to approve the form of an order.
- When the parties in a *Family Law Act* case are represented by lawyers, one of the lawyers must prepare the order and provide it to the other lawyer (or file it with the Court if there is no other lawyer) within 14 days of the date the order is made. (*Provincial Court Family Rules 168(1)*)
- This rule applies whether or not the judge directs or reminds you. If more than one lawyer is appearing in a matter, after an order is made it is helpful to tell the judge which lawyer will draft the order. However, who will draft it should not be included as a term of the order.
- As noted above, a party who is not represented by a lawyer is not required to sign an order, unless ordered by the judge. (*Rule 168(4)*)
- The *Provincial Court (Child, Family and Community Service Act)* Rules require counsel for the Director to prepare the order "as soon as practicable" unless otherwise ordered by the judge. (*Rule 7(2)*)
- If parents' counsel don't send an order back promptly after receiving it for approval, Director's counsel can put the matter before a judge to dispense with counsel's signature.

What's required for a consent desk order?

When a court appearance is not required, lawyers can file applications for desk orders electronically and judges can sign them digitally. If the application is complete and error-free, this really speeds up the process of obtaining a signed order.

When drafting a consent order, refer to the [family picklist](#) on the Court's website for wording suggestions.

To obtain a desk order, you need to file:

- a Form 17 Application for a Family Law Matter Consent Order
- the draft consent order
- in some cases, additional supporting material

Generally, the *Rules* don't require affidavit evidence to support a consent desk order. However, *Rules 25 and 26* set out additional documents required when applying for certain orders. Note that when the application is to appoint a guardian for a child under section 51(2) of the *Family Law Act* the applicant must provide evidence about the best interests of the child, even when proceeding by consent. When a child is 12 or older, a judge cannot appoint a non-parent as guardian without the child's written approval, unless they are satisfied that it is in the child's best interests.

In addition, if the judge wants more information in any case, they may request an affidavit or direct that the matter be scheduled to hear testimony.

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