

## Staff divorce filing notes – for use with divorce checklist for parties

Use this list to help clients ensure their divorce documents are in the right format and free of errors. Always refer the client to legal advice, even if only to have their documents reviewed:

<http://www.nsfamilylaw.ca/services/getting-legal-advice-finding-lawyer>.

1. How documents should appear
  - a. Divorce documents must be typed
  - b. Supporting documents may be typed or handwritten
    - i. For example: Statements of Income, Expenses or Property; Parenting Statements; Statements of Special or Extraordinary Expenses; Statements of Contact Information and Circumstances; Personal Representation Forms
  - c. Letter-sized, white paper; no lines; single-sided
2. Ensure the parties proofread their documents! These are formal, legal documents being reviewed by a Justice. Watch for:
  - a. typos
  - b. proper spacing
  - c. consistent font style and font size
    - i. 12-point font in Times New Roman, Arial, or Calibri works best
  - d. proper paragraph numbering
    - i. particularly in the Corollary Relief Order, where paragraphs that don't apply to the situation may have been removed. Everything following will require renumbering.
  - e. making sure the issues addressed in the Corollary Relief Order match what was checked off on the Application or Petition for Divorce
    - i. for an issue to be addressed in any way in the CRO, it must be pleaded on the Application or Petition for Divorce
    - ii. for example, for the CRO to indicate that spousal support will not be paid by either party, spousal support must have been checked off on the Application or Petition
3. Keeping information consistent
  - a. any mentions of the marriage date, separation date, children's birthdates, income amounts
  - b. use of names, and consistency of last names in particular
    - i. for example, if one of the parties has gone back to using their birth certificate last name, they may use that name in all documents, or they may still choose to use their married name
      - it is up to the party - consistency throughout the documents is key
    - ii. the party may also indicate the 2 last names in the style of cause
      - for example: 'Mary Smith (formerly Jones)'
4. Referring to separation agreements/previous court orders
  - a. if there is an existing separation agreement or previous court orders, these should be referenced wherever indicated in the divorce documents  
referencing should be done by document title, and date on which agreement or order was signed/issued
    - i. for example: 'Consent Variation Order, June 23, 2009'

- b. Best practice is to repeat major sections of the agreement or order if those sections are being incorporated into the divorce
    - i. For example, where the documents ask about parenting arrangements, it is best to reference the applicable sections of the agreement or order (if still applicable and being incorporated in the divorce) AND give a summary of the arrangements from the agreement or order if they are still applicable
  - c. Copies of any agreements or orders referred to must be attached to the document in which they are referenced
  - d. Updating outdated information/arrangements
    - i. Even if the order/agreement is old, it can still be referred to/incorporated (the whole thing, or just certain sections), but any changes or updates must be detailed in the divorce documents
5. Explaining 'children of the marriage'
- a. 'child of the marriage' is a definition used in the Divorce Act
    - i. Means any child under the age of majority (19 in NS) OR over the age of majority but still dependent, because they are still in school, or are unable to support themselves (e.g. because of a disability)
  - b. if there are children of the marriage, parenting and child support must be addressed in the divorce
  - c. Statements of Income with attachments must be filed by one or both parties, depending on the situation
    - i. EVEN IF the parties agree that no support will be paid
    - ii. these decisions are up to the judge, based on the Child Support Guidelines
  - d. the parties may have had children, who are now independent
    - i. no need to address these children in documents
    - ii. if the parties feel it is needed, they could say something like 'The parties have [children...] who are now over 19 and independent'
6. Petitions for Divorce and Applications by Written Agreement must be personally served on the respondent
- a. the petitioner/applicant is responsible for arranging the service
  - b. service must be done within 6 months of the Petition or Application being issued by the court
    - i. extending this time requires an application to the court
  - c. per Civil Procedure Rule 31, any party to a file CANNOT perform service on that file
    - i. For clarity: the petitioner/applicant CANNOT serve the respondent
7. Filing for divorce does not equal being divorced
- a. the court cannot – under any circumstances - guarantee how long it will take to process a divorce
  - b. parties cannot get remarried without their Certificate of Divorce
  - c. a pending remarriage will not speed up the divorce process