

Formal Requirements of the Continuing Record under the *Family Law Rules*

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I. INTRODUCTION

The “Formal Requirements of the Continuing Record under the *Family Law Rules*” is published by the Family Rules Committee and available at the following website: www.ontariocourtforms.on.ca. These requirements must be followed in all cases, except child protection cases, governed by the *Family Law Rules*. The Family Rules Committee has the authority to make court rules for the practice and procedure in family cases, subject to the approval of the Lieutenant Governor in Council.

The formal requirements of the continuing record for child protection cases are set out in the “Formal Requirements of the Child Protection Continuing Record under the *Family Law Rules*,” published by the Family Rules Committee and available at www.ontariocourtforms.on.ca.

The substantive requirements of the continuing record are set out in Rule 9. There are provisions in Rules 13 and 17 that set out the types of documents that may be excluded from the record. The formal requirements for the preparation and maintenance of the continuing record are set out in this document, and in the following appendices:

Appendix A – Summary of Contents

Appendix B – Sample Cover

Appendix C – Sample Table of Contents

II. FORMAL REQUIREMENTS

1. Contents of the record

Unless otherwise indicated, a continuing record includes: an endorsements volume and documents volume.

The endorsements volume will contain a cumulative table of contents, an endorsements section, which would also contain reasons for judgment and minutes of settlement, and an orders section.

The documents volume will contain documents filed in the case, including applications, answers, replies, affidavits of service, financial statements, motions, affidavits and trial management conference briefs.

The applicant will file the endorsement volume at the same time as filing volume 1 of the continuing record. However, it is not necessary to start a separate endorsements volume in the following types of cases:

- Joint applications for divorce;
- Uncontested divorces in which the only claim is for divorce, when the respondent does not file an answer;

- When the applicant files a change information form (Form 15) and the respondent does not file an affidavit;
- A consent motion for a final order.

The continuing records for these cases must include a separate section for endorsements and one blank sheet on which the judge dealing with the case will note the disposition and the date.

The same endorsements volume must be used for all applications, motions to change, and enforcement proceedings that are filed in the same court file. Where a motion to change a final order is made or a support enforcement continuing record is started, a separate endorsements volume should not be created, unless there is no endorsements volume already in the court file.

A support enforcement continuing record consists of one volume containing a table of contents and documents filed in the case. As indicated above, a separate endorsements volume should not be created, unless there is no endorsements volume already in the court file.

A summary of the contents of the continuing record is set out in a chart at Appendix A.

2. Preparation of the Record

(a) Volumes

Each new application or motion to change a final order starts a new volume to the continuing record.

Where a new volume is started when a motion to change a final order is made, the new volume shall be numbered sequentially after the last volume filed. Only documents related to the motion to change shall be filed in the motion to change volume.

If the clerk determines that a volume is full, the party filing the next document must create a new volume, which will be numbered sequentially.

(b) Record Cover

The endorsements volume will have a yellow cover, which will include the court file number and names of the parties to the case.

The documents volume will have a red cover. A sample record cover is attached at Appendix B. All elements of the sample cover must appear on a party's record cover. The title of the record (e.g. "Continuing Record", "Support Enforcement Continuing Record") must appear in bold, font size 20, or an equivalent size,

below the names of the parties to the case. The cover must identify the volume number of the record.

For the volume(s) of the record containing documents relating to a motion to change a final order, the cover must identify the order that is the subject of the motion. Below the title of the record state: "Motion to Change Final Order of Mr./Madam Justice....., dated, with respect to"

(c) Filing Documents

Documents must be filed in chronological order, with the most recently filed document at the back. All documents filed in the record must be punched in standard three-hole format.

Other than in a support enforcement continuing record, a numbered tab must identify each document filed. Tabs must be in sequential order. A new volume must start with a new tab sequence starting with tab 1.

Pages between numbered tabs must be numbered consecutively. Page numbers are not required to appear in the table of contents.

(d) Contents of Continuing Record

(i) Table of Contents

A sample table of contents is attached at Appendix C. There will be one cumulative table of contents located in the endorsements volume. It will be used to list all documents filed, including documents filed in the motion to change a final order volume. The table of contents must list documents in the order in which they are filed, indicate the volume in which the document is located, the tab number that locates the document, the kind of document, which party filed it, and the date it was filed. For an affidavit or transcript of evidence, the name of the person who gave the affidavit or the evidence must also be shown.

Affidavits of service must be listed in the table of contents including a notation as to the document(s) served and the party who was served.

For documents filed in the volume containing a motion to change a final order, the table of contents must clearly identify that the documents relate to the motion to change.

The table of contents must be updated every time a document is filed.

(ii) Endorsements

The endorsements section of the endorsements volume must be identified by a tab or divider. The endorsements section must contain three (3) blank sheets (or more if necessary), on which the judge dealing with any step in the case will note the disposition of that step and the date. Any written reasons for judgment and minutes of settlement that form the basis of an order must be put in the endorsements section.

(iii) Orders

The orders section of the endorsements volume must be identified by a tab or divider. The court's file copy of each order made in the case must be put into the orders section.

(iv) Documents

Documents filed in the case, including applications, answers, replies, financial statements, motions, affidavits and trial management conference briefs must be filed in the documents volume.

If the court has ordered separate records for the applicant and respondent, a report ordered by the court must be filed in the applicant's record. A report requested by a party must be filed in the record of the party who requested it.

A financial statement must be filed under its own numbered tab. Copies of income tax returns are not required to be attached to the financial statement in the continuing record, unless the court orders otherwise.

A motion for an order to refrain under s. 35(1) of the *Family Responsibility and Support Arrears Enforcement Act, 1996* must be filed in the volume containing the motion to change a final order.

(v) Affidavits of Service

Affidavits of service must be filed within the tab of the document to which the affidavit of service relates, behind the document. If the affidavit of service relates to more than one document, it must be filed within the tab of the first document to which it relates (usually the main document in the package of documents, or the document claiming the relief).

(e) Separate or combined records

Where the court orders that the continuing record be separated, or that separate court records be combined,

- court staff must supervise the separation or the combination of separate records;
- if the record is separated, the party requesting the separate records shall prepare an updated cumulative table of contents reflecting the contents of both records unless otherwise ordered by the court; and
- if separated records are combined, the party directed to combine the record, or the party that requested the combination, shall prepare an updated cumulative table of contents that reflects the contents of the combined record.

3. Additional requirements for support enforcement continuing record

The support enforcement continuing record will have its own cumulative table of contents, listing each document filed in the case.

Endorsements, orders, reasons for judgment and minutes of settlement made in the enforcement proceeding must be filed in the endorsements volume of the existing continuing record, where one already exists in the file.

The documents section must contain each document filed in the case, numbered consecutively and arranged in order, with the most recently filed document at the back. All affidavits of service must be filed in this section.

APPENDIX A – SUMMARY OF CONTENTS

CONTINUING RECORD		
SINGLE RECORD	SEPARATE RECORDS IF ORDERED	
	Applicant's Record	Respondent's Record
Endorsements Volume	Endorsements Volume	Endorsements Volume
Yellow cover	Yellow cover	N/A
- Table of Contents - Endorsements, incl. Reasons for Judgment and Minutes of Settlement - Orders	- Table of Contents - Endorsements, incl. Reasons for Judgment and Minutes of Settlement - Orders	
Documents	Documents	
Red cover	Red cover	Blue cover
- All documents, including affidavits of service, in chronological order	- All applicant documents, including affidavits of service, in chronological order	- All respondent documents, including affidavits of service, in chronological order
SUPPORT ENFORCEMENT CONTINUING RECORD		
SINGLE RECORD	SEPARATE RECORDS IF ORDERED	
	Director's Enforcement Record	Payor's Enforcement Record
Endorsements Volume (if no endorsement volume in file)	Endorsements Volume (if no endorsement volume in file)	Endorsements Volume
Yellow cover	Yellow cover	N/A
- Table of Contents - Endorsements, incl. Reasons for Judgment and Minutes of Settlement - Orders	- Table of Contents - Endorsements, incl. Reasons for Judgment and Minutes of Settlement - Orders	
Documents	Documents	
Green cover	Green cover	Green cover
- Documents (including affidavits of service)	- Documents (including affidavits of service)	- Documents (including affidavits of service)

APPENDIX B – SAMPLE COVER

ONTARIO

Court File Number / Numéro de dossier du greffe

(Name of court / Nom du tribunal)

at / situé(e) au

Court office address / Adresse du greffe

Volume / Volume :

Applicant(s) / Requéran(t)e(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Nom et prénom officiels et adresse aux fins de signification — numéro et rue, municipalité, code postal, numéros de téléphone et de télécopieur et adresse électronique (le cas échéant).

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Nom et adresse de l'avocat(e) — numéro et rue, municipalité, code postal, numéros de téléphone et de télécopieur et adresse électronique (le cas échéant).

Respondent(s) / Intimé(e)s

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Nom et prénom officiels et adresse aux fins de signification — numéro et rue, municipalité, code postal, numéros de téléphone et de télécopieur et adresse électronique (le cas échéant).

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Nom et adresse de l'avocat(e) — numéro et rue, municipalité, code postal, numéros de téléphone et de télécopieur et adresse électronique (le cas échéant).

Children's Lawyer / Avocat des enfants

Name & address of Children's Lawyer's agent for service (street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any) and name of person represented.

Nom et adresse de la personne qui représente l'avocat(e) des enfants aux fins de signification (numéro et rue, municipalité, code postal, numéros de téléphone et de télécopieur et adresse électronique (le cas échéant) et nom de la personne représentée.

Continuing Record

(Title of record in bold, font size 20 or equivalent / *Intitulé du dossier en caractères gras; police de taille 20 ou l'équivalent*)

APPENDIX C – SAMPLE TABLE OF CONTENTS

ONTARIO

Court File Number

(Name of court)

at _____
Court office address

**Cumulative Table of Contents
Continuing Record**

Applicant(s)

<i>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</i>

<i>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</i>

Respondent(s)

<i>Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</i>

<i>Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).</i>

Document <i>(For an affidavit or transcript of evidence, include the name of the person who gave the affidavit or the evidence.)</i>	Filed by <i>(A = applicant or R = respondent)</i>	Date of Document <i>(d, m, y)</i>	Date of Filing <i>(d, m, y)</i>	Volume/Tab
<i>Application</i>	A	11/10/06	20/10/06	Volume 1, Tab 1
<i>Affidavit of Service of Application on Respondent</i>	A	18/10/06	20/10/06	Volume 1, Tab 1
<i>Financial Statement</i>	A	11/10/06	20/10/06	Volume 1, Tab 2
<i>Answer</i>	R	6/12/06	6/12/06	Volume 1, Tab 3
<i>Affidavit of Service of Answer on Applicant</i>	R	6/12/06	6/12/06	Volume 1, Tab 3
<i>Financial Statement</i>	R	6/12/06	6/12/06	Volume 1, Tab 4
<i>Notice of Motion</i>	R	5/6/07	5/6/07	Volume 1, Tab 5
<i>Affidavit of Service of Notice of Motion on Applicant</i>	R	5/7/07	5/6/07	Volume 1, Tab 5
<i>Affidavit (name of person)</i>	R	5/6/07	5/6/07	Volume 1, Tab 6
<i>Affidavit in Response (name of person)</i>	A	4/7/07	4/7/07	Volume 2, Tab 1
<i>Affidavit of Service of Affidavit in response on Respondent</i>	A	4/7/07	4/7/07	Volume 2, Tab 1
<i>Notice of Motion to change final order dated 1/08/07</i>	R	1/02/09	10/02/09	Volume 3, Tab 1
<i>Affidavit of Service of Notice of Motion on Applicant</i>	R	5/02/09	10/02/09	Volume 3, Tab 1
<i>Financial Statement</i>	R	1/02/09	10/02/09	Volume 3, Tab 2

Continued on next sheet
(Français au verso)