

# **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 Ontario Court of Justice website at: [www.ontariocourts.on.ca](http://www.ontariocourts.on.ca). These requirements must be followed in all 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 *Family Law Rules* provide for a continuing record to be established and maintained by both parties in every case. The Family Rules Committee has approved the following changes to the continuing record to broaden its format and to permit it to be tailored to the case type:

**Separate records** – The record may be separated into an Applicant’s Record and Respondent’s Record. Any party in a standard track case can elect, on filing their first document in the case, to have separate records. In all cases, a party may request that the continuing record be separated, and the court may order that the continuing record be separated or that a separated record be combined.

**Distinct records** – There are distinct records for certain types of cases: child protection; status review; support enforcement; and a motion to change a final order. A party may request or the court may order at any time that a record in these cases be separated.

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, including separate and distinct records, 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, the continuing record consists of four sections, which comprise Part I of the record: table of contents, endorsements, pleadings (documents starting or answering a case), and financial statements.

Documents other than pleadings and financial statements must be filed in a second, separately bound part of the record (Part II). If a continuing record has been separated into an applicant's record and a respondent's record, the endorsements section must appear in the applicant's record only.

A child protection continuing record does not have a financial statements section.

A status review continuing record includes a table of contents, and a documents section only. There is no option to create a Part II.

A support enforcement continuing record includes a table of contents, an endorsements section and a documents section only. There is no option to create a Part II.

The formal requirements for a continuing record also apply to a new record made where there is a motion to change a final order.

If the Children's Lawyer prepares a separate record, the record will consist of a table of contents and documents section only.

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

### **2. Preparation of the Record**

#### **(a) Record 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") 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 Part of the record and volume number, if applicable. Please see section (e), below, for additional information about further volumes.

#### **(b) 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, each document filed must be identified by a numbered tab. Tabs within sections must be in sequential

order. A new section must start with a new tab sequence starting with tab 1. For example, if there are three documents in the pleadings section and three documents in the financial statements section, the tabs in the pleadings section must be labelled 1 to 3, and the tabs in the financial statements section must be labelled 1 to 3. If there is a Part II to the continuing record, it must start with a new tab sequence. For example, the first tab in Part II must be labelled 1.

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

### **(c) Contents of sections**

It is not necessary to create any of the sections referred to in Appendix A unless there is a document to be filed in it.

Each section, other than the table of contents, must be identified by a tab showing the name of the section.

#### *(i) Table of Contents*

A sample table of contents is attached at Appendix C. The table of contents must list documents in the order in which they are filed, indicate the tab 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.

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

#### *(ii) Endorsements*

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. The court's file copy of each order made in the case must be put into the endorsement section after the endorsement pages.

#### *(iii) Pleadings*

The pleadings section must contain all documents which start or answer the case.

#### *(iv) Financial Statements*

The financial statements section must include all financial statements and documents that are required by the *Family Law Rules* to be attached to it (three years of notices of assessment and Form 13A: Directions to Canada Customs and Revenue Agency, if applicable).

#### *(v) Other Documents*

If there are other documents filed in the case, they must be filed in Part II. This part will contain documents such as reports ordered by the court, motions

documents (including motions to enforce orders other than a support order), documents to enforce a payment order other than a support order, and trial management conference briefs.

If there is an applicant's record and a respondent's record, a report ordered by the court must be filed in Part II of the applicant's record. A report requested by a party must be filed in the record of the party who requested it.

**(d) Affidavits of Service**

Other than in a support enforcement record, affidavits of service must be filed in a separate section of the court file labelled "affidavits of service". However, in a support enforcement continuing record, affidavits of service are filed in the documents section.

**(e) Further volumes**

If the clerk determines that a part of a continuing record needs to be continued in another volume, then the party filing the next document must create a new volume. A new volume of Part I consists of a table of contents, pleadings section and a financial statements section.

**(f) 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;
- the clerk must destroy the table of contents that existed just before the record is separated or combined;
- if the record is separated, each party must prepare and update a table of contents reflecting the contents of their record; and
- if separated records are combined, the party directed to combine the record shall prepare and update a table of contents that reflects the contents of the combined record.

**3. Additional requirements for distinct records**

**(a) Child protection continuing record**

The cover must identify the children who are the subject of the case. Below the title of the record state: "Child Protection Record with respect to the child(ren) ....."

Part II of the record must include documents other than pleadings, including plans of care (other than Form 33B.1: Answer and Plan of Care (Parties other than Children's Aid Society)), motions, reports, assessments, agreed statements of fact, and financial statements.

**(b) Status review continuing record**

The cover must identify the children who are the subject of the status review and the relevant child protection order. Below the title of the record state: "Status Review Record with respect to the child(ren) ..... and the order of Mr./Madam Justice ..... dated ....."

The documents section of the record must contain each document filed in the case, including pleadings, plans of care (other than Form 33B.1: Answer and Plan of Care (Parties other than Children's Aid Society)), motions, reports, assessments, agreed statements of fact, and financial statements.

If the status review application is started at the court office where the child protection order was made, the endorsements in the status review application must be noted in the endorsements section of the child protection record. If not, the status review record must include an endorsements section.

**(c) Support enforcement continuing record**

The documents section must be separated from the endorsements section by a labelled tab. 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.

**(d) New record where motion to change made**

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 ....."

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 Part II of a motion to change final order record.

**(e) Children's Lawyer record**

Documents filed in the documents section of a Children's Lawyer record will include Children's Lawyer reports and any Children's Lawyer motion documents.

<b>SUPPORT ENFORCEMENT CONTINUING RECORD</b>			
<b>SINGLE RECORD</b>	<b>SEPARATE RECORDS</b>		
<b>Support Enforcement Record</b>	<b>Director's Enforcement Record</b>	<b>Payor's Enforcement Record</b>	
- green cover	- green cover	- green cover	
- Table of contents - Endorsements (only in 1 <sup>st</sup> volume) - Documents (incl. affidavits of service)	- Table of contents - Endorsements (only in 1 <sup>st</sup> volume) - Documents (incl. affidavits of service)	- Table of contents  - Documents (incl. affidavits of service)	
<b>NEW RECORD: MOTION TO CHANGE</b>			
<b>SINGLE RECORD</b>	<b>SEPARATE RECORDS</b>		
<b>Continuing Record</b>	<b>Applicant's Record</b>	<b>Respondent's Record</b>	<b>Children's Lawyer Record</b>
- red cover	- red cover	- blue cover	- red cover
Part I - Table of contents - Endorsements (only in 1 <sup>st</sup> volume) - Pleadings - Financial statements	Part I - Table of contents - Endorsements (only in 1 <sup>st</sup> volume) - Pleadings - Financial statements	Part I - Table of contents  - Pleadings - Financial statements	Part I - Table of contents  - Documents
Part II - All other documents	Part II - Applicant's other documents	Part II - Respondent's other documents	



## 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

Part and Volume / Partie et 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).*


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

Read these notes if this is an **Applicant's Record** or a **Respondent's Record**. / Veuillez prendre connaissance des remarques suivantes s'il s'agit d'un **Dossier du(de la) requérant(e)** ou d'un **Dossier de l'intimé(e)**.

**Note to the Respondent:** If you are served with an **Applicant's Record**, you must serve and file a separate Respondent's Record.

**À l'intimé(e) :** Si vous recevez signification d'un **Dossier du(de la) requérant(e)**, vous devez signifier et déposer un **Dossier de l'intimé(e)** distinct.

**Note to the Applicant:** If you are served with a **Respondent's Record** after you have prepared the Continuing Record, the Continuing Record will be renamed **Applicant's Record**.

**Au(à la) requérant(e) :** Si vous recevez signification d'un **Dossier de l'intimé(e)** après avoir préparé le dossier continu, le dossier continu sera par la suite intitulé **Dossier du(de la) requérant(e)**.

## APPENDIX C – SAMPLE TABLE OF CONTENTS

ONTARIO

Court File Number
-------------------

\_\_\_\_\_  
(Name of court)

**Cumulative Table of Contents  
(Continuing Record)**

at

\_\_\_\_\_  
Court office address

**Applicant(s)**

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

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

**Respondent(s)**

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

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

<b>Document</b> <i>(For an affidavit or transcript of evidence, include the name of the person who gave the affidavit or the evidence.)</i>	<b>Filed by</b> <i>(A = applicant or R = respondent)</i>	<b>Date of Document</b> <i>(d, m, y)</i>	<b>Date of Filing</b> <i>(d, m, y)</i>	<b>Part/Section/Tab</b>
<i>Application</i>	A	11/10/00	20/10/00	Part I, P – 1
<i>Summary of Court Cases</i>	A	11/10/00	20/10/00	Part I, P – 2
<i>Financial Statement</i>	A	11/10/00	20/10/00	Part I, F – 1
<i>Answer</i>	R	6/12/00	6/12/00	Part I, P – 3
<i>Financial Statement</i>	R	6/12/00	6/12/00	Part I, F – 2
<i>Notice of Contempt Motion</i>	R	5/6/02	5/6/02	Part II – 1
<i>Affidavit (name of person)</i>	R	5/6/02	5/6/02	Part II – 2
<i>Affidavit in Response (name of person)</i>	A	4/7/02	4/7/02	Part II – 3

*Continued on next sheet*

(Français au verso)