

**HOW TO REQUEST A BINDING JUDICIAL DISPUTE
RESOLUTION (BINDING JDR) HEARING**
(Request and Consent Form)

Court File Number:

RE: _____ v. _____
Applicant Respondent

REQUEST:

I, _____, the Applicant/Respondent (*indicate appropriate party*),

- am requesting a Binding Judicial Dispute Resolution hearing
- or -
- agree to a request for a Binding Judicial Dispute Resolution hearing

Part A: Resolved Issues

Check the issues that have already been resolved on a final basis (by court order, agreement or consent):

- Parenting (including decision making, residential schedules or contact)
- Child Support
- Spousal Support
- Division of Property
- Other: _____

Part B: Outstanding Issues

Check the issues that must still be resolved and provide a brief description

- Parenting _____
- Child Support _____
- Spousal Support _____
- Division of Property _____
- Other _____

Part C: Undertakings

In order to request a Binding Judicial Dispute Resolution hearing you must agree to the following:

- I will serve on the other party and file with the court an affidavit of no more than 10 pages at least 20 days before the hearing (for the Applicant or moving party) and at least 10 days before the hearing (for the Respondent or responding party). Where needed to respond to new information raised by the Respondent or responding party, the Applicant or moving party can file a reply affidavit of no more than 4 pages at least 6 days before the hearing.
- I understand that if I have not already done so, I will be asked at the beginning of the hearing to confirm under oath or affirmation that everything that is included in my affidavit and said at the hearing is true, as it may be relied upon by the judge when they make a final decision. I understand that it is an offence to make a false statement under oath or affirmation.
- This process is not appropriate where the parties want the judge to review more than a few cases. If I intend to refer to any caselaw during the hearing, I will provide the decisions with my affidavit, hyperlinked to CanLII.
- In addition to my affidavit, I will provide the other party with a comprehensive proposal to resolve each outstanding issue, in the form of a draft order, in a format that can be edited by the judge. Parties are encouraged to use the appropriate sections from the standard Minutes of Settlement to assist with the preparation of this document, which will be available on the Peterborough County Law Association website at library@peterboroughlaw.org and Northumberland Law Association website at northumberlandlawassociation.com/binding-jdr. Parties should not include in their draft orders relief that

has not been sought in the pleadings. The parties' proposals will be considered by the judge during the hearing and treated as Offers to Settle if either party requests costs from the other side at the end of the hearing (see Rules 18 and 24).

- I will keep my financial information up to date by ensuring that my Financial Statement and Net Family Property Statements comply with subrules 13(12)(14) and (15) of the *Family Law Rules*. This means I must immediately correct any errors. Where there are financial issues to be dealt with at the Binding JDR, at least 30 days before the hearing, I will also either (i) update my Financial and Net Family Property Statements or (ii) confirm in writing that there are no changes to previously filed Financial and Net Family Property Statements.
- I will complete all of my disclosure prior to my hearing and bring all my supporting documents, including the information that has been used to prepare my financial statement, to court. I understand that the court or the other party may wish to examine these documents and it may be held against me in the court's decision if I do not have them available at the hearing.
- I will promptly advise the Court if a settlement has been reached about any or all of the issues prior to the hearing date by contacting the Trial Coordinator.

Part D: Consent

In order to have a Binding Judicial Dispute Resolution hearing you must also agree to the following:

- I have read the Practice Advisory and Notice to the Profession and understand the Binding Judicial Dispute Resolution process.
- I understand that I am waiving my right to have my case decided on a final basis at a trial. Instead, I am requesting that the judge take a less formal approach to determining the outstanding issues. I understand that the judge will be directly involved in asking questions during the hearing to obtain the necessary information relating to the issues in dispute.
- I understand that at my hearing, the judge is not bound by traditional rules of evidence and may receive and use any credible information that either party has submitted to the court that is relevant to the issues that are in dispute.
- I agree to waive any rights that I would otherwise have to (i) ensure the strict application of the traditional rules of evidence, and (ii) follow the traditional rules of

evidence regarding the examination in chief or cross examination of the parties or any witnesses.

- I agree and request that the same judge will preside over the resolution phase of the Binding JDR hearing and, if required, make the final decision regarding any issues that remain in dispute. The judge will therefore be aware of any proposals that I have made during the process.
- I specifically waive the provisions of Rule 24(17) and any right to object to the hearing because the presiding judge has assisted the parties with settlement discussions prior to making a decision. I understand that I will not be permitted to withdraw my consent after the Binding JDR hearing begins.
- I understand that the presiding judge will have the same authority as a judge would have at trial to make final orders about any questions of law or fact relating to the admission of evidence or the determination of the issues.
- I understand that the court may rely on reports prepared by independent professionals, including the Office of the Children's Lawyer, provided the report has been disclosed at least 30 days prior to the hearing, unless required by the judge, and the judge will determine the appropriate weight to be given to any such reports.
- I understand that, if the children are represented by a lawyer, that lawyer may provide information to the court directly at the hearing, without the children being present. This may include information about the children's statements regarding their views and preferences. The judge at the hearing will have discretion to decide what, if any, weight should be given to this information.

Part E: Legal Advice

NOTE: YOU ARE STRONGLY ADVISED TO GET LEGAL ADVICE PRIOR TO COMPLETING THIS FORM. *If you do not have your own lawyer, the family Law Information Centre (FLIC) in Peterborough, Lindsay or Cobourg (Peterborough - Brenda.Kotras@flic.kfcas.ca; Lindsay - Kathy.Dunne@flic.kfcas.ca; Cobourg - Monica.Walsh@flic.kfcas.ca) can provide you with a list of lawyers. Information about the process may be available by calling the numbers for Legal Aid below. If you qualify financially, you may be able to discuss your options with duty counsel at a case conference or with the Legal Aid Advice Lawyer available through the FLIC.*

Fill in the details of your legal advice and/or representation below:

- I am currently represented by *(Name of Lawyer)* _____.
 - The above-named lawyer will represent me at the hearing.
 - I will be represented by *(Name of Another Lawyer)* _____ at the hearing.
 - I will be representing myself at the hearing.

- I am not currently represented by a lawyer.
 - I have received advice in relation to this request and consent form and the Binding JDR process from *(Name of Lawyer)* _____; or,
 - While I have been advised to seek legal advice in relation to this request and consent, I have chosen not to do so.

AND

- I will be represented by *(Name of Lawyer)* _____ at the hearing; or,
- I will be representing myself at the hearing.

Signature: _____

Witness: _____

Dated at _____, this _____ day of _____, 2021

Name of Lawyer (if any): _____

Signature of Lawyer (if any): _____

Dated at _____, this _____ day of _____, 2021

ONTARIO

Court File Number

(Name of court)

at

(Court address)

**Affidavit for Binding JDR
Hearing**

Applicant

<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>
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Respondent

<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>
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Instructions:

- Complete the applicable sections of this affidavit for the issues to be dealt with at the JDR hearing. The affidavit should not exceed 10 pages plus allowed attachments (noted in bold). You can delete any sections, including these instructions, that do not apply to your case.
- Attach a **draft order** with the terms that you are seeking relating to (i) decision-making and time-sharing for the children, (ii) child support (including contributions towards special or extraordinary expenses for the children such as childcare or summer camp), (iii) spousal support, and (iv) equalization payments for property (for married spouses).
- If child or spousal support is an issue, complete the Income section and the Child/or Spousal Support sections of this document.
- If you are only asking for child support in accordance with the table amount of the Child Support Guidelines, you do not need to provide details of your income as support is based on the income of the support payor.
- If spousal support is in issue, include a **Spousal Support Advisory Guideline (SSAG) calculation** to help establish the amount and length of support payments.
- If you have documents supporting your position on any issue that have been provided to the other party, you must bring them with you to the hearing.
- If a divorce is sought and (i) you have paid the necessary fees, and (ii) the Court has received a clearance certificate, you can include a completed **Form 36 Affidavit for Divorce** with your materials and request a divorce order from the judge.

1. My full legal name is:
2. I live in *(include municipality and province)*:
3. My evidence for the Binding Judicial Dispute Resolution hearing is set out below.
I swear/affirm that these statements are true.
4. The other party and I *(Check applicable boxes and include applicable dates)*:
 - Started living together on
 - Were married on
 - Were separated on
 - Were divorced on
 - Never lived together but were in a relationship from to
5. The following issues have already been settled in this case *(List any issues that have been resolved by written agreement, minutes of settlement or court order. Attach any relevant **court orders**)*:
6. I am asking the court for a final order for *(Only include claims that have been made in your application, answer, motion to change or response to motion to change)*:
 - Decision-making for the child(ren)
 - Parenting time with the child(ren)
 - Contact with the child(ren)
 - Support for the child(ren)
 - Support for myself
 - An order relating to equalization of our net family property or property that we own
 - A divorce
 - Other:
7. I agree to the orders that have been sought in the following paragraphs of the other party's draft order:

Parenting Orders:

8. There is/are [number] of child(ren) from our relationship namely:

Legal Name	Birthdate	Grade/School	Now living with

9. I ask that the Court address the child/children's special needs as follows (*Explain any child's special needs and how they should be addressed in the parenting arrangements*):

10. (*Complete if applicable*) I want the court to read the attached **reports** from the Office of the Children's Lawyer, school or other professional regarding the children:

11. My plan for the care and upbringing of the child(ren) is as follows:

- Decisions for the child(ren) (including education, medical care and religious upbringing) should be made as follows (*Check the applicable box*)

Jointly by me and [names of person(s)]

By me regarding all decisions

By me regarding only [insert] decisions

- Time sharing arrangements for the children as follows:
- Other:

12. (*Describe why your proposed time-sharing arrangements, communication and decision-making orders are in the best interests of the children. Summarize the important facts that the judge should know in support of your requested orders*):

Support Orders - Income:

13. If child and/or spousal support is an issue, give the total annual gross incomes for both parties:

Applicant \$ for the year 20

Respondent \$ for the year 20

14. The amount of annual income that I receive comes from:

- Employment \$
- Commissions, tips, overtime or bonuses \$
- Government benefits \$
- Self-employment (*Include a breakdown of how this figure was calculated*)
\$
- Other (*Specify*) \$

These figures are confirmed on my recent Income Tax Return
T4 statement recent paystub or (*Other document*):

15. To the best of my knowledge, the other party earns income from:

- Employment \$
- Commissions, tips, overtime or bonuses \$
- Government benefits \$
- Self-employment (*Include a breakdown of how this figure was calculated*)
\$
- Other (*Explain*) \$

These figures are confirmed by the other party's recent Income Tax Return
T4 statement recent paystub or (*Other document*):

Child Support:

Party requesting child support, s. 7 expenses or arrears to complete:

16. The existing arrangements for child support are *(If these arrangements are under an agreement or court order, provide details and date of order):*

17. Arrears: There is outstanding child support in the amount of \$ _____, as of _____, which is:

shown on the attached **Statement of Arrears** from the Family Responsibility Office; or,

calculated as follows:

18. I am claiming support in the amount of [amount] \$ _____ per month for [number] of child/ren starting on [date] based on the payor's annual income and our parenting schedule *(If you have relied on a figure that is different from the table amount under the Guidelines, indicate the basis for the adjustment):*

19. Section 7 expenses: I am seeking a contribution to the following special or extraordinary expenses for the children pursuant to Section 7 of the *Child Support Guidelines*. *(Include the amount of each expense, how often it is paid and your calculation of how the expense should be shared between the parties. If you are including a claim for past Section 7 expenses, provide receipts to the other side in advance and have them available as evidence for the hearing.)*.

20. I am requesting additional orders relating to child support as set out in my draft order. The important facts supporting these requests are

Party being requested to pay support to complete:

21. In response to the request for child support, Section 7 expenses and arrears *(Check the applicable box):*

I agree with the amount of support being requested in paragraphs 16 to 20 above; or,

I do not agree with the amounts being requested. My calculation of the appropriate amount of base child support, Section 7 expenses and/or arrears is: *(Provide your calculations and identify the differences between you and the other party):*

Spousal Support:

Both Parties to complete if Spousal Support is an issue:

22. The existing arrangements for spousal support are *(If under an agreement or order, provide details and the date when payments began):*

23. Arrears: There is outstanding spousal support in the amount of \$ _____, as of _____, which is:

shown on the attached **Statement of Arrears** from the Family Responsibility Office; or,

calculated as follows:

24. I am requesting an order that spousal support payments be set at _____ per month, beginning on [date] _____ and continuing until [date/event] _____.

25. The important facts supporting my position regarding spousal support are: *(Include your evidence to address entitlement, amount and length of spousal support payments including (i) the recipient's need for spousal support, (ii) the payor's ability to pay spousal support, (iii) the roles assumed by each party during the relationship and the impact of those roles on their ability to support themselves and (iv) information about efforts to seek employment or retrain, where appropriate).*

Property Issues:

26. Attached is my most up-to-date **net family property statement or comparative net family property statement** that notes the specific items that are not agreed to by the parties.

27. The important facts supporting my position regarding the **disputed** items are as follows *(Attach **documents** that support your position such as property valuations):*

Additional Issues:

28. Other important facts about the issues that the Court will be dealing with are:

Sworn/Affirmed before me at _____ <i>Municipality</i>	
in _____ <i>province, state, or country</i>	
on _____ <i>Date</i>	_____ <i>Signature</i> <i>(This form is to be signed in front of a lawyer, justice of the peace, notary public or commissioner for taking affidavits.)</i>
	<i>Commissioner for taking affidavits</i> <i>(Type or print name below if signature is illegible.)</i>

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