



Types of Court Hearings by Jodi L. Wyman

Lawyers often have difficulty explaining to their clients all of the different types of court proceedings.

Not only are court proceedings different between various areas of law, but there are even different types of hearings from one city to the next.

In Brandon the first time a matter is in court is usually at a Master's List. On Monday mornings new family and civil court matters appear on a large docket. Each case must either be adjourned to another Monday morning list, dismissed if the matter has been resolved, or a hearing date scheduled with a Queen's Bench Judge. The Master also has authority to grant some motions such as for financial disclosure. Master's Court is very busy, and it is not necessary for clients to attend given that for the most part no orders result.

A Motion is a hearing when one or both parties are seeking interim orders for sole occupation of a home, custody of children, access, child or spousal support, etc. At a motion, the Judge will have

read documents, and will then hear argument from the lawyers. Although clients are strongly urged to attend motions, they are not allowed to present any evidence or speak to the Court. At the end of the motion, the Judge will issue an order.

Judges also preside over Pre-Trial Conferences. These are informal meetings with a Judge, both lawyers and their clients. The Judge's role at this conference is not to make a decision, but rather to see whether any of the outstanding issues can be resolved through discussion. As to issues which cannot be resolved, he or she can give an opinion as to the strengths and weaknesses of each case. If nothing can be resolved, then the Judge will authorize trial dates for a final hearing. All discussions are to remain confidential and off the record to encourage the clients to be open and honest.

In Winnipeg, family cases are monitored through a series of case conferences. Essentially, the family case is taken under the supervision of a Judge, who meets regularly with the

lawyers and the clients and steers the case in a forward direction. There are not as yet the resources available to allow for case conference management outside of Winnipeg.

The most formal hearing type is a trial. The lawyers and the Judges wear robes. Evidence is presented through witnesses who testify under oath. Witnesses are subpoenaed, and there are strict rules of evidence. Except in some circumstances, trials are open to the public or the media. At the end of a trial, a Judgment will issue.

There are also matters that can be completed without any court appearance. For example, if the parents agree on a consent order for custody and child support, or parties agree on the terms of a revised order, the documents can simply be filed for a Judge's review in Chambers, and no court appearance will be necessary.