



February 2020

41 – 2020

## NOTICE TO THE PROFESSION

### OUT OF COURT FAMILY RESOLUTION CERTIFICATES

Legal Aid Manitoba is committed to providing Manitobans with family law advice and representation services that are focused on:

- the best interests of children and families; and
- out of court resolution services that will help families resolve disputes before entering a courtroom

In September 2018, [Notice to the Profession 35-2018](#) was distributed to panel lawyers and stakeholders. The Notice advises the profession of significant changes made to our processes to ensure that applicants, clients and lawyers are aware of their responsibilities resulting from amendments to the MBQB Rules.

One of the changes made to our processes was having applicants certify that (where appropriate to do so) they would agree to try to resolve their family dispute using an out of court family dispute resolution process such as 4-way meetings or collaborative law before instructing counsel to proceed to contested litigation. A sample of the changes made to our initial retainer letter (received by clients in family matters) can be accessed [here](#).

In February 2019, [Notice to the Profession 37-2019](#) was distributed to panel lawyers and stakeholders. The Notice reminds the profession that family matters are case managed by Legal Aid Manitoba. *The Legal Aid Regulation* indicates that the following stages of litigation in family matters are only compensated (in addition to the block tariff) if they have been pre-approved by Legal Aid Manitoba:

- examinations for discovery;
- cross-examinations of affidavits; and
- trial

Consonant with concerns expressed broadly about unnecessary litigation in family matters, in May, 2019 Legal Aid Manitoba consulted with stakeholders and panel lawyers to explore ways we could further enhance and improve the delivery of out of court family resolution services to Manitobans. The result of our consultation was the following approach that focuses on the best interests of children and families:

- effective June 1, 2019, a sub-category matter type was added to [PBOOnline and LAMAS](#) for “Out of Court Family Resolution Certificates”;
- as with all matter types, counsel have the ability to indicate if they are willing to accept these types of certificates. As these files become available they are offered to counsel who indicate on their [PBOOnline and LAMAS](#) profile that they are willing to accept these certificates;



- opposing parties that each qualify for legal aid are granted coverage on the condition that the matter be dealt with using an out of court family resolution process such as collaborative law, 4-way settlement meetings, etc.;
- the certificate is case managed by Legal Aid Manitoba and issues on the condition that contested litigation will not be allowed without further authorization from Legal Aid Manitoba;
- clients who fail to cooperate with counsel run the risk of having their coverage cancelled.

Between June 1, 2019 and February 20, 2020, over 1,450 certificates have issued as Out of Court Family Resolution Certificates.

Our statistical information indicates that the overwhelming majority of these matters are being resolved without the need for contested litigation; however, to streamline the process for counsel making a request for authorization to proceed to contested litigation on these matters, LAM has made changes to PBOonline effective February 18, 2020 that guides counsel through a series of questions that will inform LAM's decision-making. Below are step by step instructions for counsel to follow:

*From the PB Online Statement of Accounts page, search for the file you want to make the request on and then click [more](#).*

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[New Application](#) [LAM Forms](#) **Tasks** [Search](#) **Statement of Accounts** [Profile](#) [Log Out](#) [Terms of Use](#) [Help](#)

**New Certificate Statement of Account**

*You can look up any certificate issued to you since April 1, 2009. The default shows certificates with at least one legal matter remaining open. It is sorted by issued.*

Your File #, LAM File # or client name  Certificates  Sort

Certificates Issued Between (Start Date)  and (End Date)

LAM's File # 5441234 [Smith, Mary Jane](#) [Change My File Numbers](#) [more](#)

**Legal Matter 875549** Separation (Indicated) (Tariff 2) **No Trial without Authorization: On all Domestic Tariff Legal Matters, counsel must provide a written opinion to the Area Director, and receive Area Director approval, prior to setting a matter for trial.**



Click on *Request New Authorizations*

for trial.

A possible conflict has been identified. No fees and disbursements may be payable if a conflict arises and new counsel must be appointed. Commence and conclude family proceedings and all corollary relief, costs (FD19-01-  
Legal Accounts see Notes  
[Request New Authorizations](#) ←  
[New Statement of Account](#)

[Letter To Client](#) [+]

[Certificate](#) [+]

[Extension Of Time Email](#) [+]

[Online Application](#)

All file documents in a ZIP file

Check off *Contested Litigation*

#### New Authorization Request

##### Pending

Trial

Contested Litigation

Examination for Discovery or on an Affidavit, Number of People

Travel Waiting Time

Disbursement Type

Quick Description

Amount Requested

Travel From

Travel To

# of trips

**Attach**

PDF or scanned image of quote or documentation. DO NOT use for submitting Statement of Accounts.

Message / Additional Requests

**Request Authorization**



*Read and check off the different options as applicable*

Contested Litigation

- To the extent that it was appropriate to do so, did your client try to resolve their family law matter through a family dispute resolution process which may include, (but is not limited to) 4-way settlement meetings, mediation and/or collaborative law before instructing my lawyer to proceed to contested litigation?
- To the extent that it is appropriate to do so, and/or required by law, did your client attend and complete the "For the Sake of the Children" parent information program operated by the government of Manitoba?
- Did your client deal with you in good faith? Did your client provide you with all necessary and reasonable information requested including (but not limited to) the following financial information:
  - income tax returns for each of the three most recent tax years;
  - notices of assessment and reassessment from the Canada Revenue Agency for each of the three most recent tax years;
  - the most recent statement of earnings or pay slip showing year to date earnings, or a letter from their employer stating their salary or wages;
  - financial statements if self employed or control a corporation;
  - information on income received from employment insurance, workers' compensation, disability payments, and social or public assistance.
- Did your client take all steps in their power:
  - To reduce any conflict between themselves and the opposing party;
  - Avoid actions that would expose any child of the relationship to conflict that arises;
  - Promote co-operative solutions, wherever appropriate;
  - Promote co-operative solutions, wherever appropriate;
  - Maintain and continue all insurance coverage without change in coverage or beneficiary; and
  - Ensure all steps and actions protected the best interests of the child(ren).
- Your client did not:
  - Dispose of any assets of the relationship except by an agreement in writing;
  - Harass belittle or denigrate the other party;
  - Instruct you to take a position that is unreasonable or contrary to the best interest of the child(ren) of the relationship.
- Did the opposing party meet all five of the above conditions?

Based on the selections made, counsel may be required to provide further detail before authorization is granted.

This approach to resolving family disputes keeps the focus on the best interests of children and families, and aligns with the new approach taken by the Manitoba Court of Queen's Bench to [family justice](#) in our province.

If you have questions of a technical nature, please contact [pbhelpdesk@legalaids.mb.ca](mailto:pbhelpdesk@legalaids.mb.ca)



## **CLIENT SATISFACTION SURVEYS**

Stakeholder engagement ensures that our services are delivered in an accountable and transparent manner. Effective February 18, 2020, clients accessing our services are asked to provide feedback regarding their experience with the service received from LAM through an online survey.

Our client satisfaction survey was informed by studying processes and survey questions used by legal aid plans in Canada, the U.S. and Western Europe.

The survey can be accessed [here](#).

We welcome your feedback on the survey and its question set. Please do not fill in the survey as it is currently live and collecting responses from clients.