

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Holly C. Beard
Mr. Justice James G. Edmond
Madam Justice Anne M. E. Turner

BETWEEN:

<i>RYAN JOHN STARKELL</i>	)	<i>C. B. Paul</i>
	)	<i>for the Appellant</i>
<i>(Petitioner) Respondent</i>)	
	)	<i>R. J. Starkell</i>
<i>- and -</i>	)	<i>on their own behalf</i>
)	
<i>DEBORAH SAMANTHA SIMMONS</i>	)	<i>C. L. McGibbon,</i>
	)	<i>C. D. Mehkary and</i>
<i>(Respondent) Appellant</i>	)	<i>C. P. R. Murray</i>
	)	<i>for the Intervener</i>
<i>- and -</i>)	
	)	<i>Appeal heard and</i>
<i>THE ATTORNEY GENERAL OF</i>	)	<i>Decision pronounced:</i>
<i>MANITOBA</i>	)	<i>March 27, 2026</i>
)	
<i>Intervener</i>	)	<i>Written reasons:</i>
	)	<i>June 3, 2026</i>

EDMOND JA (for the Court):

[1] The respondent (the mother) appealed a case conference judge's decision refusing her request for leave to file a motion for contempt against the petitioner (the father) in relation to a final order (the decision). The mother had made that request by filing a form 70DD, which is provided for in rule 70.24(31.1) of the MB, *King's Bench Rules*, Man Reg 553/88 [the *KB Rules*].

[2] While the mother set out a number of grounds of appeal in her notice of appeal, the issues to be addressed are whether:

- (i) the reasons for the decision are sufficient to permit appellate review;
- (ii) the decision is invalid because rule 70.24(4)(r) excludes a motion for contempt related to a final order from the procedure in rule 70.24; and
- (iii) the process established in rule 70.24(31.1) is invalid because it is *ultra vires* sections 92(14) and 96 of the *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, s 91, reprinted in RSC 1985, Appendix II, No 5, and because it violates section 7 of the *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [the *Charter*].

[3] The Attorney General of Manitoba (the intervener) intervened in the appeal after receiving notice pursuant to *The Constitutional Questions Act*, CCSM c C180.

[4] Issue (ii) was raised by the panel in advance of the hearing, and the parties and the intervener were all given advance notice and the opportunity to address it at the hearing.

[5] The mother's appeal was allowed at the hearing on issue (i) because the decision does not address the allegations of contempt. We also allowed the appeal on issue (ii) but stayed the effect of the declaration of invalidity of

the relevant portions of the practice directions in question for six months. Finally, we determined that it would not be appropriate to hear the appeal as set out in issue (iii). We stated that reasons would follow. These are those reasons.

Background

[6] The parties are the parents of three young children. Despite the high conflict nature of their separation, the parties settled on a detailed and structured parenting arrangement outlined in a consent final order (the final order).

[7] The final order sets out a robust parenting plan that transitioned to a shared parenting regime over a ten-week period, beginning with short periods of supervised parenting for weeks one and two and concluding with unsupervised equal parenting time. The final order has an out-of-court alternative dispute resolution (ADR) process for parenting disputes that includes the engagement of Kim Purcell (Ms. Purcell) as a parenting coordinator. Ms. Purcell is empowered to intervene in the transition process, assist in determining changes and mediating major decisions related to the children.

[8] The final order allows for Ms. Purcell to act as mediator if there is a disagreement on “major decisions related to the children”. If the issue cannot be mediated, the parties agreed to resolve the dispute pursuant to *The Arbitration Act*, CCSM c A120. The other relevant provision in the final order is that neither of the parties “shall make disparaging comments about the other on social media or in front of the children.”

[9] The mother alleges that the father violated the final order by (a) indefinitely delaying and interrupting her parenting time and unilaterally cancelling visits, and (b) making disparaging comments about her in the presence of the children.

[10] The mother sought leave to proceed with a contempt motion against the father and, following practice directions dealing with the Family Division case flow model (FD case flow model), filed a form 70DD. In accordance with a written request made by the case conference judge, the father filed a written response to the mother's form 70DD, taking the position that he was not in contempt and was complying with the final order. As such, he submitted that "no assistance from the Court [was] required". The mother was not given the opportunity to reply.

[11] In his response, the father expressed concerns about the supervisor referenced in the final order and wanted an alternative supervisor appointed. Ms. Purcell wrote to the parties on January 19, 2025, advising them, among other things, that it would be too disruptive to the children to have a new supervisor given that such little time was left for supervision. The father indicated that, while he disagreed with Ms. Purcell's decision, he would follow her recommendations.

[12] Based on that material, the case conference judge summarily denied the mother's request for leave to proceed with a contempt motion. He endorsed the mother's form 70DD with his reasons as follows: "The final order provides for a form of ADR, which *prima facie* appears to be complied with."

Relevant *KB Rules* and Practice Directions

[13] In 2018, comprehensive amendments were made to the *KB Rules* applicable to family proceedings. On December 19, 2018, the Chief Justice of the then Court of Queen’s Bench (which will subsequently be referred to as the King’s Bench) (the Chief Justice) issued a thirty-six-page practice direction describing in detail the new FD case flow model for scheduling and case management of non-child-protection family proceedings, which came into effect on February 1, 2019.¹

[14] The *KB Rules* that are relevant to this appeal are rules 60.10(1), 70.24(4)(r), 70.24(5), 70.24(6), 70.24(30), 70.24(31) and 70.24(31.1), which are reproduced in an appendix attached to these reasons.

[15] Several practice directions are relevant to this appeal. A practice direction issued by the Chief Justice on July 30, 2019, which came into effect on August 1, 2019² (the July 2019 PD), specifically addresses rule 70.24(31.1) of the *KB Rules* and the procedure to be followed for a party seeking to bring a motion or to schedule a subsequent case conference before a case conference judge. It states (at 5):

Step 3: Obtaining a Response to the Request

...

- c. If the permission to bring a motion or schedule a subsequent case conference is not granted, then the judge will provide written reasons on the Request Form and will sign the form, returning it to the Case Conference

¹ see Court of Queen’s Bench of Manitoba, “Practice Direction: Re: Comprehensive Amendments to Court of Queen’s Bench Rules (Family)” (19 December 2018), online (pdf): <manitobacourts.mb.ca/site/assets/files/1152/december_19_revised_and_corrected_practice_direction.pdf>

² see Court of Queen’s Bench of Manitoba, “Practice Direction: Re: Recent Amendments to Queen’s Bench Rule 70” (30 July 2019), online (pdf): <manitobacourts.mb.ca/site/assets/files/1152/practice_direction_appeals_and_request-final_4.pdf>

Coordinator/DR. The Case Conference Coordinator/DR will provide a copy of the completed Request Form to the moving party for service upon the responding party.

[16] It is clear that form 70DD is the request for motion form that is applicable to motions governed by the FD case flow model.

[17] Two other practice directions issued by the Associate Chief Justice of the Family Division (ACJ FD) of the Court of King's Bench were filed by the parties and are relevant to this appeal. The first is a practice direction dated December 14, 2020, which came into effect immediately³ (the December 2020 PD). The December 2020 PD addresses FD case flow model practice issues. Under the heading "Commencement of Family Division Proceedings", the December 2020 PD sets out the applicable procedure for commencing Family Division proceedings and attaches a table of proceedings that designates the following:

- (1) those proceedings that are included in the New Case Flow Model;
- (2) those proceedings which are excluded;
- (3) the proper procedure to be followed for each proceeding; and
- (4) the applicable [King's] Bench Rule(s) and form for each proceeding.

[18] The table of proceedings includes a section entitled "**Proceedings that do not Enter the FD Case Flow Model**". Included in this section on page 6 is a contempt motion for a final order or variation order that references

³ see Court of Queen's Bench of Manitoba, "Practice Direction: Re: Family Division Case Flow Model Practice Issues" (14 December 2020), online (pdf): <manitobacourts.mb.ca/site/assets/files/1152/practice_direction_fd_case_flow_model_practice_issues_december_14_2020.pdf>

rule 70.24(4)(r) and form 70Q notice of motion. Under the header row “**Returnable**”, it states “via Form 70DD”.

[19] A second practice direction issued by the ACJ FD on May 30, 2023, which came into effect July 1, 2023⁴ (the May 2023 PD), also addresses rule 70 amendments and the coming into force of new legislation. On page 3, under the heading “**Table of Proceedings**”, it states: “Attached to this memorandum is a detailed list of pleadings and their proposed procedural treatment in the court process which has been updated to include the proceedings governed by the new Rule Amendments.”

[20] The table of proceedings on page 10 again lists a contempt motion for a final order or variation order under the section entitled “**Proceedings that do not Enter the FD Case Flow Model**” and again indicates that it is returnable “via Form 70DD”.

Analysis

[21] The mother submits that the case conference judge erred in the decision on numerous grounds. In our view, it is unnecessary to decide each of the grounds raised by the mother. We are all of the view that this appeal can be decided on the bases that (i) the case conference judge’s reasons are insufficient because they do not address the allegations of contempt, and (ii) the decision is invalid because rule 70.24(4)(r) excludes a motion for contempt related to a final order from the procedure in rule 70.24.

⁴ see Court of King’s Bench of Manitoba, “Practice Direction: Re: Rule 70 Amendments: *The Family Law and The Family Support Enforcement Act*” (30 May 2023), online (pdf): <manitobacourts.mb.ca/site/assets/files/2045/practice_direction_-_rule_70_amendments_-_the_family_law_act_and_the_family_support_enforcement_act_-_may_30_2023.pdf>

(i) *Sufficiency of Reasons*

[22] As pointed out by this Court in *R v Ji*, 2025 MBCA 86 at para 23, quoting *R v REM*, 2008 SCC 51 at para 67, “the standard of review for sufficiency of reasons is functional. The issue is ‘whether the reasons, considered in the context of the record and the live issues at trial, failed to disclose a logical connection between the evidence and the verdict sufficient to permit meaningful appeal’”.

[23] We assessed whether the decision disclosed a logical connection between the evidence and the outcome sufficient to permit meaningful appellate review.

[24] In allowing the appeal, we relied on the following:

- (1) Under rule 70.24(31.1) of the *KB Rules*, the case conference judge was required to give written reasons for refusing to grant leave to bring a contempt motion. The reasons must be set out on form 70DD and be provided to the parties (see the July 2019 PD at 5).
- (2) The decision is one sentence, stating only that “[t]he final order provides for a form of ADR, which *prima facie* appears to be complied with.”
- (3) The mother’s proposed motion alleged contempt of court by the father breaching the final order in two ways, as outlined in paragraph 9 herein.

- (4) The father outlined his version of what occurred in the letter from his counsel to the case conference judge. His reply does not deny that the mother missed some access with the children. In fact, he implicitly makes that admission. The case conference judge had no information to counter the allegation that the mother was deprived of court-ordered time with the children. Further, the father made no reference to, and no denial of, the allegation of making disparaging comments about the mother in the presence of the children.
- (5) The decision of Ms. Purcell did not address either the allegation of the missed visits or the disparaging remarks. Ms. Purcell's decision dealt with future access only—who would supervise the access and when future supervised access would take place.
- (6) Leaving aside the issue as to whether a motion for contempt must be addressed by a superior court judge, not a parenting coordinator, a review of the final order confirms that Ms. Purcell was not given that authority.

[25] The case conference judge stated that the ADR process had been complied with but, in our view, that process only addressed future supervision and future access. The ADR process did not address the allegations of contempt. As a result, stating that the ADR had *prima facie* been complied with does not explain why the contempt motion should not proceed.

[26] The case conference judge made no finding regarding the contempt allegation and failed to reference the applicable legal principles or jurisprudence on which he relied, nor did he disclose a logical connection

between the evidence and the decision that was sufficient to permit meaningful appellate review. He gave no logical reason for refusing to allow the mother to proceed with the contempt motion regarding the allegations of the past breaches of the final order and of the alleged disparaging comments. The scant record does not provide that explanation. While the decision must be read in the context of the record and the arguments, the record here consists of only the form 70DD and the father's letter—there were no oral submissions. If the case conference judge relied on other documents or information, those were not before us on the appeal. There is simply no other context for us to consider in reviewing the decision.

[27] For these reasons, we concluded that the decision was insufficient to permit appellate review.

(ii) Procedure for a Contempt Motion Related to a Final Order

[28] In advance of the hearing, we requested that the parties and the intervener address the effect of rules 70.24(4)(r) and 70.24(6) as they relate to the applicability of rule 70.24 and form 70DD, which invokes rule 70.24(31.1), to a contempt motion related to a final order. Rule 70.24(4)(r) exempts a contempt motion related to a final order from the rule 70.24 procedure. Rule 70.24(6) provides:

Modifying case management process in specified judicial centres

70.24(6) The Chief Justice may, by practice direction, vary the requirements of this rule in a specified judicial centre in the manner specified in the direction.

Ajustement de la procédure de gestion des causes dans un centre judiciaire

70.24(6) Le juge en chef peut, dans une directive de pratique, ajuster les exigences de la présente règle pour un centre judiciaire déterminé, de la façon que précise la directive.

[29] The Chief Justice has not issued a practice direction that removes the exemption under rule 70.24(4)(r) for a motion for contempt related to a final order, which specifically excludes those motions from the rule 70.24 procedure.

[30] In response to our request, the parties and the intervener referred us to two practice directions, both issued by the ACJ FD—the December 2020 PD and the May 2023 PD. Neither practice direction refers to rule 70.24(6) or specifically makes a contempt motion related to a final order subject to rule 70.24. In fact, the attached tables of proceedings in both PDs include a contempt motion under the section entitled “**Proceedings that do not Enter the FD Case Flow Model**”.

[31] We are of the view that the authority to modify rule 70.24 by practice direction can only be exercised under rule 70.24(6) by the Chief Justice. That authority is reiterated in rule 70.24(31.1), which directs a party to “comply with the process set out in a practice direction issued by the Chief Justice.”

[32] The term “Chief Justice” is referenced in the *KB Rules* eleven times, including once in the definitions (see r 1.03). Eight of those eleven references delegate a power to “the Chief Justice or his or her designate”, signalling that, in the context of those *KB Rules*, the Chief Justice can assign that specific power or duty to other members of the judiciary. For example, rule 50.07(4) states: “A scheduled trial date may only be adjourned by *the Chief Justice or his or her designate* on the request of a party or the pre-trial judge”, and rule 50.1(1) states: “*The Chief Justice or his or her designate* may, on his or her own or on the request of a judge or a party to a proceeding, order the

parties to a proceeding to attend one or more case management conferences” [emphasis added].

[33] By contrast, only two rules refer to the Chief Justice alone, signalling that the powers or duties in those rules may only be carried out by the Chief Justice. These are the references found in rule 70.24(6) (modifying case management process in specified judicial centres) and in rule 70.24(31.1) (request for motion or subsequent case conference), both of which are relevant to this appeal.

[34] In our view, the statutory interpretation doctrine of implied exclusion, otherwise known as the rule of *expressio unius est exclusio alterius*, applies and the proper interpretation is that the exclusion of the reference to the Chief Justice’s designate in these two rules was intentional. In Ruth Sullivan, *Statutory Interpretation*, 3rd ed (Toronto: Irwin Law, 2016) at 154, Professor Sullivan explains the doctrine as follows:

An intention to exclude may legitimately be implied whenever a thing is not mentioned in a context where if it were meant to be included one would have expected it to be expressly mentioned. *Given an expectation of express mention, the silence of the legislature becomes meaningful. An expectation of express reference legitimately arises whenever a pattern or practice of express reference is discernible.* Since such patterns and practices are common in legislation, reliance on implied exclusion reasoning is also common.

[emphasis added]

[35] The *KB Rules* have a discernable pattern of express references to the Chief Justice’s designates throughout their provisions. Therefore, there is a legitimate expectation that such express reference would be included in

rule 70.24(6) if the rules committee of the Court (as drafters of the *KB Rules*) had intended to allow the Chief Justice to delegate the task of issuing a practice direction that would modify the FD case flow model. No such reference was made so it is reasonable to conclude that the drafters of the *KB Rules* only intended that the Chief Justice would be able to issue such a practice direction.

[36] Accordingly, even if the references to form 70DD in the December 2020 PD and the May 2023 PD are to be interpreted as bringing contempt motions related to final orders into the FD case flow model, those practice directions would not be sufficient to comply with rule 70.24(6) and override the exemption in rule 70.24(4)(r) because they were not issued by the Chief Justice.

[37] We also considered the general power of the Chief Justice to delegate powers that is set out in section 24 of *The Court of King's Bench Act*, CCSM c C280 [the *KB Act*], and how that power relates to rule 70.24(6). Section 24 states:

Duties of the Chief Justice

24(1) The Chief Justice shall be responsible for the judicial functions of the court, including direction over sittings of the court and the assignment of judicial duties, and may assign to the judges of the court other duties relating to the administration of justice or for the purposes of an Act of the Legislature.

Fonctions du juge en chef

24(1) Le juge en chef est responsable des fonctions judiciaires de la Cour, y compris des directives portant sur les sessions de la Cour ainsi que de l'assignation des fonctions judiciaires et peuvent assigner aux juges du tribunal d'autres fonctions relatives à l'administration de la justice ou à l'application d'une loi de la Législature.

Duties of Associate Chief Justices

24(2) The Associate Chief Justice of the Court of King's Bench and the Associate Chief Justice of the Court of King's Bench (Family Division) shall carry out administrative duties assigned to them by the Chief Justice.

Fonctions des juges en chef adjoints

24(2) Le juge en chef adjoint de la Cour du Banc du Roi ainsi que le juge en chef adjoint de la Cour du Banc du Roi (Division de la famille) exercent les fonctions administratives que leur assigne le juge en chef.

[38] Generally, these provisions grant the Chief Justice the discretionary power to assign duties related to the administration of justice to the other judges of the Court, including the ACJ FD. They do not indicate specific types of administrative duties that the Chief Justice may or may not assign to other judges of the Court, including the ACJ FD, nor do they indicate that the Chief Justice has an unfettered ability to assign such duties.

[39] Sections 91-93 of the *KB Act* outline the parameters of the Court of King's Bench's rule-making powers. The pertinent portions of sections 92-93 state:

Rule-making powers

92 Subject to subsection 93(1), the rules committee may, upon consultation with the Minister of Justice, make rules, whether or not the rules alter substantive law, with respect to the practice and procedure of the court and, without limiting the generality of the foregoing, in relation to

(m) the jurisdiction and duties of officers of the court[.]

Pouvoirs

92 Sous réserve du paragraphe 93(1), le Comité des règles peut, sur consultation du ministre de la Justice, prendre des règles modifiant ou non le droit substantiel, lesquelles règles se rapportent à la pratique et à la procédure de la Cour. Ce comité peut notamment prendre des règles concernant ce qui suit :

m) la compétence et les fonctions des auxiliaires de la justice[.]

No rules to conflict with an Act

93(1) Nothing in section 92 authorizes the making of rules which conflict with an Act of the Legislature, *but rules may supplement the provisions of an Act.*

Règles compatibles

93(1) L'article 92 n'a pas pour effet de permettre l'adoption de règles incompatibles avec une loi de la Législature. *Les règles peuvent cependant compléter les dispositions d'une loi.*

[emphasis added]

[40] In accordance with section 92(m) of the *KB Act*, rule 70.24(6) of the *KB Rules* was passed by the rules committee respecting the practice and procedure of the Court; namely, the jurisdiction of the Chief Justice to vary the requirements of rule 70.24 by way of practice direction.

[41] In our view, rule 70.24(6) of the *KB Rules* does not offend section 93(1) of the *KB Act*, which precludes the rules committee from making a rule that *conflicts* with an act of the Legislature. Further, we are satisfied that rule 70.24(6) does not conflict with section 24 of the *KB Act*, which merely gives the Chief Justice the general ability to delegate administrative duties to other judges. Rather, in our view, rule 70.24(6) *supplements* section 24 by limiting the scope of the Chief Justice's general jurisdiction to delegate administrative tasks in the particular context of rule 70.24(6). This is explicitly permitted by section 93(1) of the *KB Act*, which states: "but rules may supplement the provisions of an Act."

[42] Further, while statutes are generally accepted as being paramount to regulations (see e.g. *Zalizniak v Zalizniak et al*, 2007 MBCA 118 at para 59),

Professor Sullivan, in Ruth Sullivan, *The Construction of Statutes*, 7th ed (Toronto: LexisNexis, 2022), s 11.05[5], explains:

It is presumed that subordinate legislative provisions are meant to work together, not only with their own enabling legislation but with other Acts and other subordinate legislation. However, if conflict is unavoidable, in the absence of evidence of a contrary legislative intent, the statutory provision prevails.

[43] In our view, rule 70.24(6) of the *KB Rules* is not in conflict with section 24 of the *KB Act*. The provisions of the *KB Rules* and of the *KB Act* work together. Read together, we conclude that, while, generally, the Chief Justice has the power to delegate administrative tasks to the ACJ FD, he does not have the ability to delegate the administrative task of issuing a practice direction that would modify the FD case flow model outlined in rule 70.24. Rather, the rule limits that specific administrative task to the Chief Justice.

[44] In the result, because the December 2020 PD and the May 2023 PD were not issued by the Chief Justice, they cannot vary the requirements of rule 70.24. In this case, the exemption under rule 70.24(4)(r) applies and specifically excludes the mother's contempt motion from the FD case flow model and, therefore, from the application of rule 70.24(31.1) and the requirement to file a form 70DD.

[45] To be clear, our decision does not invalidate the entirety of the December 2020 PD and the May 2023 PD. Rather, it only invalidates that portion of those practice directions in the tables of proceedings that references form 70DD as applying to a contempt motion relating a final order.

(iii) Constitutional and Charter Challenges

[46] We are of the view that it would not be appropriate for us to hear the constitutional question and *Charter* challenges to the *KB Rules* in the first instance. We are not satisfied that there is a sufficient evidentiary record to resolve these issues. We are also not satisfied that a miscarriage of justice will result from the refusal to permit these new issues to be raised on appeal. A constitutional challenge requires a trial court to review a full factual record and requires findings of fact. In this case, the absence of a factual record would prejudice the intervener, the father and other potential interested interveners (see *Guindon v Canada*, 2015 SCC 41 at paras 21-23; *R v EGM*, 2004 MBCA 43 at para 12; *R v Brown*, [1993] 2 SCR 918, 1993 CanLII 114 (SCC)).

Remedy

Contempt Procedure

[47] Having found that the decision dismissing the mother's request for leave was made pursuant to an inapplicable procedure and, therefore, for illegal reasons, the appropriate remedy would be to find that the order cannot stand and to return the matter to the trial court to proceed under the correct procedure.

[48] In this case, however, our decision regarding the contempt procedure will have an effect beyond this case as it will apply to all future allegations of contempt related to a final order. We are of the view that this aspect of our decision should be temporarily stayed to allow time for the Chief Justice and the rules committee to assess its wider implications and how to address them, if at all (see *The Court of Appeal Act*, CCSM c C240,

s 26(5)). For this reason, we are temporarily staying this aspect of our decision for six months.

Insufficient Reasons

[49] The usual remedy following a determination that a judge's reasons are insufficient due to a failure to make necessary findings is to return the matter to the trial court for a new hearing before a different judge (see Donald JM Brown, *Civil Appeals* (February 2026) at s 6:16, online: (WL Can) Thomson Reuters Canada).

[50] After delivering brief reasons allowing the appeal, the mother argued that the matter should be sent back for a new hearing before a different judge of the Court of King's Bench. She submitted that there would be an appearance of bias because the case conference judge has already rejected her request. The father submitted that there is no bias or appearance of bias.

[51] In addressing that request, we must consider two factors. On the one hand, when a matter is returned to a lower court for a new hearing, it is often with the proviso that the new hearing take place before a different judge to avoid a reasonable apprehension of bias. On the other hand, it is also often the case that a contempt motion is heard by the judge who granted the order being enforced because that judge already has knowledge of the circumstances surrounding the granting of the order and the parties' expectations.

[52] In this case, the case conference judge did not make any decision on the question of whether there had been a breach of the final order or contemptuous behaviour on the part of the father; he failed to address those issues. After weighing the advantages of having the judge familiar with the

order also deal with the contempt allegation against the concern of a reasonable apprehension of bias in the circumstances of this case, we have concluded that it is not necessary to order that the contempt motion must be heard by a different judge, and we decline to do so.

[53] For these reasons, we are ordering that the matter be returned to the trial court for a new hearing, if the mother chooses to proceed with a contempt motion.

Conclusion

[54] In the result, the appeal was allowed with tariff costs for the appeal to the mother.

Edmond JA

Beard JA

Turner JA

APPENDIX

The relevant provisions of the *KB Rules* are as follows:

Motion for contempt order

60.10(1) A contempt order to enforce an order requiring a person to do an act, other than the payment of money, or to abstain from doing an act, may be obtained only on motion to a judge in the proceeding in which the order to be enforced was made.

Application

70.24(4) Subject to subrule (5), the procedural requirements set out in this rule apply to all family proceedings, other than

(r) a contempt motion related to a final order or a variation order.

Including excluded proceedings

70.24(5) Where a family proceeding is excluded from the case management process under subrule (4), a judge may, at any time, order that the proceeding be subject to all or specified portions of the case management process.

Obtenue par voie de motion

60.10(1) L'ordonnance pour outrage, qui vise à l'obtention de l'exécution forcée d'une ordonnance enjoignant à une personne de faire quelque chose, sauf de payer une somme d'argent, ou de s'abstenir de faire quelque chose, ne peut être rendue qu'à la suite d'une motion présentée à un juge dans l'instance au cours de laquelle l'ordonnance a été rendue.

Application

70.24(4) Sous réserve du paragraphe (5), les règles de procédure prévues par la présente règle s'appliquent à toutes les instances en matière familiale, à l'exception des suivantes :

r) les motions pour outrage liées à une ordonnance définitive ou modificative.

Motion visant à inclure des instances

70.24(5) Lorsqu'une instance en matière familiale est exclue de la gestion des causes en application du paragraphe (4), un juge peut, en tout temps, ordonner qu'elle soit soumise à l'ensemble ou à une partie de

la procédure de gestion des causes.

Modifying case management process in specified judicial centres

70.24(6) The Chief Justice may, by practice direction, vary the requirements of this rule in a specified judicial centre in the manner specified in the direction.

Ajustement de la procédure de gestion des causes dans un centre judiciaire

70.24(6) Le juge en chef peut, dans une directive de pratique, ajuster les exigences de la présente règle pour un centre judiciaire déterminé, de la façon que précise la directive.

Role of case conference judge

70.24(30) The case conference judge is responsible for managing the pre-trial conduct of a family proceeding in a manner that will achieve the objectives set out in subrule (1).

Rôle du juge

70.24(30) Le juge chargé de la conférence de cause a pour mission de gérer les étapes préparatoires d'une instance en matière familiale afin d'atteindre les objectifs énumérés au paragraphe (1).

Case conference judge seized

70.24(31) Unless otherwise directed by the Chief Justice or his or her designate on the request of the case conference judge or a party to the family proceeding, the case conference judge must

Saisine du juge des étapes préparatoires

70.24(31) Sauf si le juge en chef ou la personne qu'il désigne en décide autrement sur demande présentée par le juge chargé de la conférence de cause ou une partie à l'instance en matière familiale, le juge chargé de la conférence de cause :

(a) preside at all subsequent case conferences; and

(b) hear all motions arising in the family proceeding.

a) préside toutes les autres conférences de cause qui suivent;

b) entend toutes les motions qui découlent de l'instance en matière familiale.

Request for motion or subsequent case conference

70.24(31.1) If, after the first case conference has been held, a party seeks

(a) to bring a motion that has not already been scheduled by the case conference judge or for which leave has not previously been granted by the case conference judge; or

(b) another case conference to be held

(i) before the date of the next case conference that had been scheduled by the case conference judge, or

(ii) when the case conference judge has not scheduled the next case conference;

the party must file a request for motion or subsequent case conference (Form 70DD) and comply with the process set out in a practice direction issued by the Chief Justice.

Demande de motion ou de conférence de cause subséquente

70.24(31.1) Toute partie qui, après la première conférence de cause, soit désire présenter une motion pour laquelle le juge chargé de la conférence de cause n'a pas encore fixé de date ou n'a pas accordé son autorisation, soit désire qu'une autre conférence de cause ait lieu si ce juge n'a pas encore fixé la date de la prochaine conférence de cause ou qu'elle ait lieu avant la prochaine conférence de cause s'il en a fixé la date, dépose une demande de motion ou de conférence de cause subséquente (formule 70DD) et se conforme à la procédure que prévoit le juge en chef dans une directive de pratique.