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RECENT DEVELOPMENTS IN MANITOBA

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Associate Chief Justice

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On July 1, 1984 Manitoba established a Unified Family Court at the Superior Court level. It has exclusive jurisdiction in all family actions. The Family Division of the Court of Queen's Bench is composed of an Associate Chief Justice and 5 judges who must devote their full time to the work of the division. In addition, judges from the rest of the Superior Court sit on a rotation basis.

Mediation is initially compulsory where custody or access is in issue.

A court rule provides:

826(1) A conciliation officer may at the request of the parties and shall upon a reference by a judge or a master meet with the parties, and, if they agree, attempt to mediate their dispute.

Manitoba is fortunate to have a court-connected conciliation service comprised of 9 people who perform the dual responsibilities of mediation and of doing assessments and preparing reports for the court. There is no charge for these services. Everything done in mediation is confidential. The mediator is prohibited by statute from giving evidence in court and from disclosing anything said during mediation "unless the parties otherwise agree". We have yet to apply that exception.

Pre-trial conferences are now compulsory. Where custody or access is in issue, the first appearance is before

a Master who will refer custody or access matters to mediation. Pre-trial conferences are set before a judge who has not been involved in interlocutory proceedings and will not be the trial judge. These are set 6 months after the Answer is filed. Counsel and the parties must attend. All trial dates are given at the pre-trial hearing but not until all possibilities of settlement have been explored and the judge is satisfied the case is ready for trial.

The pre-trial rule provides:

828(1) After an answer has been filed, the parties and their solicitors, when requested by the court, or upon the request of one party, shall appear before a judge or master, to:

- (a) consider an order of referral to mediation or for an assessment and report;
- (b) obtain directions with respect to the conduct of the proceedings;
- (c) explore the possibility of settlement;
- (d) clarify the issues for trial;
- (e) set the trial dates.

Manitoba then may be described as having a Unified Family Court system with a court-connected conciliation service within which there is quasi-compulsory mediation and compulsory pre-trial conferences.

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