

ONTARIO REGULATION 439/07

made under the

COURTS OF JUSTICE ACT

Made: June 27, 2007

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Amending O. Reg. 114/99

(Family Law Rules)

Note: Ontario Regulation 114/99 has previously been amended. Those amendments are listed in the Table of Regulations – Legislative History Overview which can be found at www.e-Laws.gov.on.ca.

1. Subsection 1 (1) of Ontario Regulation 114/99 is revoked and the following substituted:

CITATION

(1) These rules may be cited as the *Family Law Rules*.

2. The definition of “lawyer” in subrule 2 (1) of the Regulation is revoked and the following substituted:

“lawyer” means a person authorized under the *Law Society Act* to practise law in Ontario; (“avocat”)

3. (1) Subrule 39 (2) of the Regulation is revoked and the following substituted:

EXCLUDED CASES

(2) This rule does not apply to,

- (a) enforcements;
- (b) cases under rule 37 or 37.1; or
- (c) cases under the *Child and Family Services Act*.

(2) Subrules 39 (11) and (12) of the Regulation are revoked and the following substituted:

NOTICE OF APPROACHING DISMISSAL AFTER 365 DAYS

(11) The clerk shall serve a notice of approaching dismissal (Form 39) for a case on the parties by mail, fax or electronic mail if the case has not been settled, withdrawn or scheduled or adjourned for trial before the 365th day after the date the case was started, and that time has not been lengthened by an order under subrule (3).

EXCEPTION

(11.1) Despite subrule (11), if a case conference or settlement conference is arranged before the 365th day after the date the case was started for a date on or later than the 365th day, the clerk shall not serve a notice of approaching dismissal except as set out in subrule (11.2).

NOTICE SENT IF CONFERENCE DOES NOT TAKE PLACE

(11.2) If a case conference or settlement conference is arranged for a date on or later than the 365th day after the date the case was started, but the hearing does not take place on that date and is not adjourned by a judge, the clerk shall serve the notice of approaching dismissal on the parties by mail, fax or electronic mail.

DISMISSAL OF CASE

(12) A case for which a notice of approaching dismissal has been served shall be dismissed without further notice, unless one of the parties, within 60 days after the notice is served,

- (a) obtains an order under subrule (3) to lengthen that time;
- (b) files an agreement signed by all parties and their lawyers, if any, for a final order disposing of all issues in the case, and a notice of motion for an order carrying out the agreement;
- (c) serves on all parties and files a notice of withdrawal (Form 12) that discontinues all outstanding claims in the case;
- (d) schedules or adjourns the case for trial; or

(e) arranges a case conference or settlement conference for the first available date.

SAME

(12.1) If a case conference or settlement conference is arranged for a date as described in clause (12) (e), but the hearing does not take place on that date and is not adjourned by a judge, the case shall be dismissed without further notice.

DISMISSAL AFTER NOTICE

(12.2) The clerk shall dismiss a case under subrule (12) or (12.1) by preparing and signing an order dismissing the case, with no costs payable by any party.

(3) Subrule 39 (15) of the Regulation is revoked and the following substituted:

TRANSITION

(15) Despite this rule, if the clerk served a notice of approaching dismissal before September 1, 2007, the version of this rule that applied to the case on August 31, 2007, as its application may have been modified by the court, continues to apply to the case unless the court orders otherwise.

4. (1) Subrule 40 (2) of the Regulation is revoked and the following substituted:

EXCLUDED CASES

- (2) This rule does not apply to,
 - (a) enforcements;
 - (b) cases under rule 37 or 37.1; or
 - (c) cases under the *Child and Family Services Act*.

(2) Subrules 40 (5) and (6) of the Regulation are revoked and the following substituted:

NOTICE OF APPROACHING DISMISSAL AFTER 365 DAYS

(5) The clerk shall serve a notice of approaching dismissal (Form 39) for a case on the parties by mail, fax or electronic mail if the case has not been settled, withdrawn or scheduled or adjourned for trial before the 365th day after the date the case was started, and that time has not been lengthened by an order under subrule (3).

EXCEPTION

(5.1) Despite subrule (5), if a case conference or settlement conference is arranged before the 365th day after the date the case was started for a date on or later than the 365th day, the clerk shall not serve a notice of approaching dismissal except as set out in subrule (5.2).

NOTICE SENT IF CONFERENCE DOES NOT TAKE PLACE

(5.2) If a case conference or settlement conference is arranged for a date on or later than the 365th day after the date the case was started, but the hearing does not take place on that date and is not adjourned by a judge, the clerk shall serve the notice of approaching dismissal on the parties by mail, fax or electronic mail.

DISMISSAL OF CASE

(6) A case for which a notice of approaching dismissal has been served shall be dismissed without further notice, unless one of the parties, within 60 days after the notice is served,

- (a) obtains an order under subrule (3) to lengthen that time;
- (b) files an agreement signed by all parties and their lawyers, if any, for a final order disposing of all issues in the case, and a notice of motion for an order carrying out the agreement;
- (c) serves on all parties and files a notice of withdrawal (Form 12) that discontinues all outstanding claims in the case;
- (d) schedules or adjourns the case for trial; or
- (e) arranges a case conference or settlement conference for the first available date.

SAME

(6.1) If a case conference or settlement conference is arranged for a date as described in clause (6) (e), but the hearing does not take place on that date and is not adjourned by a judge, the case shall be dismissed without further notice.

DISMISSAL AFTER NOTICE

(6.2) The clerk shall dismiss a case under subrule (6) or (6.1) by preparing and signing an order dismissing the case, with no costs payable by any party.

(3) Subrule 40 (10) of the Regulation is revoked and the following substituted:

TRANSITION

(10) Despite this rule, if the clerk served a notice of approaching dismissal before September 1, 2007, the version of this rule that applied to the case on August 31, 2007, as its application may have been modified by the court, continues to apply to the case unless the court orders otherwise.

5. (1) Subrules 41 (5) and (6) of the Regulation are revoked and the following substituted:

NOTICE OF APPROACHING DISMISSAL AFTER 365 DAYS

(5) The clerk shall serve a notice of approaching dismissal (Form 39) for a case on the parties by mail, fax or electronic mail if the case has not been settled, withdrawn or scheduled or adjourned for trial before the 365th day after the date the case was started, and that time has not been lengthened by an order under subrule (3).

EXCEPTION

(5.1) Despite subrule (5), if a case conference or settlement conference is arranged before the 365th day after the date the case was started for a date on or later than the 365th day, the clerk shall not serve a notice of approaching dismissal except as set out in subrule (5.2).

NOTICE SENT IF CONFERENCE DOES NOT TAKE PLACE

(5.2) If a case conference or settlement conference is arranged for a date on or later than the 365th day after the date the case was started, but the hearing does not take place on that date and is not adjourned by a judge, the clerk shall serve the notice of approaching dismissal on the parties by mail, fax or electronic mail.

DISMISSAL OF CASE

(6) A case for which a notice of approaching dismissal has been served shall be dismissed without further notice, unless one of the parties, within 60 days after the notice is served,

- (a) obtains an order under subrule (3) to lengthen that time;
- (b) files an agreement signed by all parties and their lawyers, if any, for a final order disposing of all issues in the case, and a notice of motion for an order carrying out the agreement;
- (c) serves on all parties and files a notice of withdrawal (Form 12) that discontinues all outstanding claims in the case;
- (d) schedules or adjourns the case for trial; or
- (e) arranges a case conference or settlement conference for the first available date.

SAME

(6.1) If a case conference or settlement conference is arranged for a date as described in clause (6) (e), but the hearing does not take place on that date and is not adjourned by a judge, the case shall be dismissed without further notice.

DISMISSAL AFTER NOTICE

(6.2) The clerk shall dismiss a case under subrule (6) or (6.1) by preparing and signing an order dismissing the case, with no costs payable by any party.

(2) Rule 41 of the Regulation is amended by adding the following subrule:

TRANSITION

(10) Despite this rule, if the clerk served a notice of approaching dismissal before September 1, 2007, the version of this rule that applied to the case on August 31, 2007, as its application may have been modified by the court, continues to apply to the case unless the court orders otherwise.

6. (1) The Table of Forms to the Regulation is amended by striking out,

14	Notice of motion	September 1, 2005
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17E	Trial management conference brief	September 1, 2005
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28B	Statutory declaration to sheriff	September 1, 2005
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34B	Non-parent's consent to adoption by spouse	September 1, 2005
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34F	Parent's or custodian's consent to adoption	October 1, 2006
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34I	Parent's consent to adoption by spouse	October 1, 2006
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34J	Affidavit of execution and independent legal advice (Children's Lawyer)	September 1, 2005
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and substituting:

14	Notice of motion	June 15, 2007
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17E	Trial management conference brief	June 15, 2007
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28B	Statutory declaration to sheriff	June 15, 2007
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34B	Non-parent's consent to adoption by spouse	June 15, 2007
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34F	Parent's or custodian's consent to adoption	June 15, 2007
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34I	Parent's consent to adoption by spouse	June 15, 2007
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34J	Affidavit of execution and independent legal advice (Children's Lawyer)	June 15, 2007
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(2) The Table of Forms to the Regulation is amended by striking out,

8	Application (general)	October 1, 2006
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8A	Application (divorce)	October 1, 2006
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39	Notice of approaching dismissal	September 1, 2005
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and substituting:

8	Application (general)	June 15, 2007
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8A	Application (divorce)	June 15, 2007
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39	Notice of approaching dismissal	June 15, 2007
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7. (1) Subsection to subsection (2), this Regulation comes into force on the day it is filed.

(2) Sections 3, 4 and 5 and subsection 6 (2) come into force on September 1, 2007.

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