

NEW “Same-day” (formerly known as “on-site”) Mediation Modified Service Protocol WHEN THE REFERRAL COMES FROM A FIRST APPEARANCE CLERK OR DRO (HAMILTON)

For each Family Court File wherein parties wish to attempt to resolve narrow issues on the same day that their matter is before the court, they can again be referred to “on-site” mediation using the following protocol while the presumptive mode of hearing for these types of appearances is virtual:

REFERRAL

Matter is adjourned. Clerk or DRO provides the parties with instructions on how to contact the virtual IRC, **bcc’ing the virtual IRC at the internal/direct court@axisfamilymediation.com e-mail address (which is not to be shared with the public)** so the virtual IRC has the parties’ contact information. The virtual IRC triages and virtual on-site mediator meets with all parties via Zoom. Example of e-mail to send to parties:

Thank you for your interest in same-day mediation.

You may now reach out directly to virtual Information and Referral Coordinator, by e-mailing info@axisfamilymediation.com. They are expecting to hear from you.

PROCESS

The parties are asked to provide the mediation service all supporting documents which may be necessary to complete mediation. If there are documents the parties are unable to provide, the virtual IRC will request the specific court documents needed to complete mediation from the court office by e-mail to hamiltonfamilycourt@ontario.ca with the subject line **“ON-SITE MEDIATION DOCUMENT REQUEST- URGENT.”** Example of e-mail which will be sent to court office:

Hello,

The following parties have been referred to virtual same-day mediation:

COURT FILE NUMBER

PARTY 1 NAME

PARTY 2 NAME

To proceed, please provide us with the following documents:

- Orders and Endorsements Subfile from the parties’ electronic one-drive court file
- **(IRC to insert names of any other documents requested)**

Thank you

The virtual IRC will review and ensure that everything is in order and then send the file and the parties to the virtual on-site mediator. Should the virtual mediator require further documents during the course of the mediation, the same process shall be used.

UPON COMPLETION OF THE MEDIATION:



If the mediation IS completed by the end of the day



If parties require legal advice and are being seen that day, they will be provided the duty counsel number (289-244-6265) by the virtual IRC. When the case is ready to be heard, the virtual IRC will e-mail the trial coordinator the mediation report, SDO and NOW if applicable and recipe card (example below) at Hamilton.family.superior.court@ontario.ca with the subject line “**MEDIATED FILE CLIENTS TO BE SEEN ASAP BY JUDGE- (STYLE OF CAUSE FILE #).**” If the trial coordinator determines that the parties can be seen by the back-up Judge that day, they will send the virtual IRC, the mediator and the parties the Zoom coordinates for the virtual back-up Judge’s list with an approximate time their case will be called in. The mediator will advise the clients that they may need to wait in the Zoom “waiting room” until there is time for the matter to be heard.

If the trial coordinator determines that the matter cannot be heard by the back-up Judge that same day, the trial coordinator will advise the virtual IRC. The virtual IRC will discuss with the parties, and in turn advise the trial coordinator if the parties wish to simply keep their previously scheduled return date and address the matter then, or wish to return earlier using the **EXPEDITED MEDIATION TBST PROTOCOL**. If the parties choose the latter, the expedited mediation TBST will be followed. Once a date is scheduled through that protocol, the trial coordinator will vacate the previously scheduled return date. The parties will be provided instructions on how to access summary legal advice through LAO advice counsel (905-645-6276) by the virtual IRC.

If the mediation is NOT completed by the end of the list and/or day but the parties wish to continue mediation



The virtual IRC will advise the parties how to access off-site mediation in the interim or if they wish to attempt same-day on-site again, how to sign up on their return date. If off-site mediation is successful, the virtual IRC will either

- (A) Ensure the mediation report, SDO and NOW if applicable, and recipe card (example below) are sent to the court office by e-mail to hamiltonfamilycourt@ontario.ca with the subject line “**MEDIATED FILE RETURNING TO COURT: DOCUMENT SUBMISSION – (STYLE OF CAUSE FILE #)**” prior to the appearance date (with an indication that the parties wish to address their mediated issues on consent on their scheduled return date and have a CSR upload all attached documents to their court file in the folder “Orders, MOS and Mediation Documents”) OR
- (B) Advise the parties how to return before the court (on an earlier date) using the **EXPEDITED MEDIATION TBST PROTOCOL** for the sole purpose of having their mediation report ordered on consent. If parties require legal advice prior to returning, they will be provided instructions on how to access summary legal advice through LAO advice counsel (905-645-6276) by the virtual IRC.

Regardless of physical appearance type



If no counsel appears with the party(s), in lieu of the previously required ILA form, the presiding Justice will make direct inquiries of the parties regarding their ILA elections. Should the presiding Justice be satisfied that the order can be made, they shall do so pursuant to the relevant sections of the mediation report. Close attention should be paid to the “Whereas” clauses in the mediation report as it will contain any impediments to the order being made that the mediator was able to identify in advance, without referencing the court file.



If neither party has retained counsel, the CSR responsible for issuing the order may use the body of the mediation report to cut-and-paste into the body of the order (adhering to any special instructions or limitations indicated by the presiding Justice) to save time when taking the order out without needing to e-mail the mediator as the report will already have been uploaded into the virtual court file.



If the mediated settlement resolves all issues, the recipe card (example below) will indicate any future court appearances that should be vacated.



For those who have more complex matter, or who cannot dedicate the time necessary to complete their negotiations on the same day, they should be directly referred to off-site mediation (for either in-person or distance mediation services) via the court Information and Referral Coordinator or through the website at www.axisfamilymediation.com and be provided a return date dependant on how complex the issues are (e.g. complex cases requiring multiple meetings may require up to 3 months).

The following clients are requesting to have their attached mediation report endorsed as a Consent Court Order:	
Court Location:	Court File:
Hamilton	FC-XXXXX
Applicant	Respondent
XXXXX, Xxx address Hamilton, On XXX XXXX 905-XXX-XXXX xxxxx@xxxxx.xxx	XXXXXX, Xxx address Hamilton, On XXX XXX 905-XXX-XXXX xxxxx@xxxxx.xxx
Applicant's Counsel	Respondent's Counsel
XXXXXX, Xxx 905-XXX-XXXX xxxxx@xxxxx.xxx	XXXXXX, Xxx 905-XXX-XXXX xxxxx@xxxxx.xxx
The mediator would like to report that with regards to the following documents, which are required for the order on consent to be made: (Indicate as missing, parties claim filed but not verified, verified as filed, or parties will bring to court)	
<input type="checkbox"/> Applicant's Form 35.1	
<input type="checkbox"/> Respondent's Form 35.1	
<input type="checkbox"/> Applicant's financial disclosure	
<input type="checkbox"/> Respondent's financial disclosure	
<input type="checkbox"/> Other _____	
<input type="checkbox"/> Other _____	
<input type="checkbox"/> Other _____	
Mediator	Type of order sought:
Xxxxxx Xxxxxx xxxxxx@axisfamilymediation.com	<input type="checkbox"/> Temporary <input type="checkbox"/> Final
Special Notes:	
↓ For EM-TBST only ↓	
Preferred 4 dates for EM-TBST:	Triage IRC
1. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	On-duty Virtual IRC court@axisfamilymediation.com
2. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	Future dates to be vacated:
3. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	1. xx XXXXX, 2022
4. xx XXXXX, 2022 <input type="checkbox"/> 10-12 <input type="checkbox"/> 2-4	2. xx XXXXX, 2022
Type of Appearance requested:	<input type="checkbox"/> virtual <input type="checkbox"/> in-person