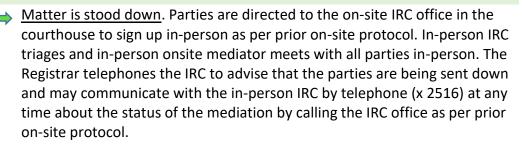
# NEW "Same-day" (formerly known as "on-site") Mediation Modified Service Protocol WHEN THE REFERRAL COMES FROM A JUDGE (HAMILTON)

For each Family Court File where parties wish to attempt to resolve narrow issues on the <u>same day</u> that their matter is before the court, they can again be referred to "on-site" mediation using the following protocol:

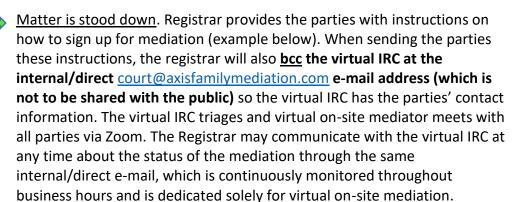
#### REFERRAL

#### Are the parties in-person or appearing virtually?

If all parties are in person,



If all parties are virtual,



Thank you for your interest in same-day mediation.

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

If hybrid (one or more in-person and one or more virtual)



If parties wish to mediate, parties will:

- (a) Request that the <u>matter be adjourned to an in-person date</u>, where both will attend in-person on that date and use the same-day in-person service OR
- (b) Request that the <u>matter be adjourned to a virtual date</u>, where both will attend virtually Both appear virtually on that date and use the same-day virtual service OR
- (c) Request the <u>matter be adjourned</u>, so they may attempt off-site mediation in the interim (either in-person or through distance mediation) and provide the contact information for AXIS to do so (www.axisfamilymediation.com)



### **—**

#### **PROCESS**

If all parties are in person,

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 in-person IRC will request the specific court documents needed to complete mediation from the court office by e-mail to <a href="https://mailtonfamilycourt@ontario.ca">hamiltonfamilycourt@ontario.ca</a> with the subject line "ON-SITE MEDIATION DOCUMENT REQUEST- URGENT." The in-person IRC will review and ensure that everything is in order and then send the file and the parties to the in-person on-site mediator. Should the in-person mediator require further documents during the course of the mediation, the same process shall be used.

If all parties are virtual,

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 <a href="mailtonfamilycourt@ontario.ca">hamiltonfamilycourt@ontario.ca</a> with the subject line "ON-SITE MEDIATION DOCUMENT REQUEST- URGENT." 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.

Example of e-mail IRC will send to court office requesting documents (whether virtual or in-person):

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



#### **UPON COMPLETION OF THE MEDIATION:**

If all parties are in person, and the mediation IS completed by the end of the list and/or day



If parties require legal advice and are being seen that day, they will be provided the duty counsel number (289-244-6265). When the case is ready to be heard, the in-person IRC will e-mail the registrar the mediation report, SDO and NOW if applicable. The registrar will provide the in-person IRC an approximate time that parties will be called back into court.



If all parties are virtual, and the mediation IS completed by the end of the day If parties require legal advice, they will be provided instructions on how to access duty counsel (289-244-6265) by the virtual IRC. When the case is ready to be heard, the virtual IRC will e-mail the registrar the mediation report, SDO and NOW if applicable and a recipe card (example below). The registrar will provide the virtual IRC (who will in turn provide the information to the mediator and the parties) the approximate time that they should call back into the same Zoom court (using the same coordinates) they used for their initial appearance that day. The virtual IRC will advise the clients that they may need to wait in the Zoom "waiting room" until the matter can be heard.

If all parties are in person, and the mediation is NOT completed by the end of the list and/or day but the parties wish to continue mediation

- The in-person IRC will advise the registrar. The parties and the in-person on-site mediator will be called back into court and the parties shall EITHER elect to adjourn to another day and attempt same-day on-site mediation again OR advise that they wish to continue their negotiations in off-site mediation, and how much time they believe they will need to do so, whereupon an adjournment date will be provided for either the same type of appearance or a regular TBST. If off-site mediation is successful, the inperson 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 <a href="mailtonfamilycourt@ontario.ca">hamiltonfamilycourt@ontario.ca</a> 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.

If all parties are virtual, and 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 registrar of the parties' preferences to EITHER elect to adjourn to another day and attempt same-day on-site mediation again OR advise that they wish to continue their negotiations in off-site mediation, and how much time they believe they will need to do so, whereupon an adjournment date will be provided for either the same type of appearance or a regular TBST. 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 may make direct inquiries of the parties regarding their ILA elections. Should the presiding Justice be satisfied that the order can be made, they may 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 <a href="www.axisfamilymediation.com">www.axisfamilymediation.com</a> 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, Xxxx	XXXXXX, Xxxx
address	address
Hamilton, On XXX XXXX	Hamilton, On XXX XXX
905-XXX-XXXX	905-XXX-XXXX
xxxxx@xxxxx.xxx	xxxxx@xxxxx.xxx
Applicant's Counsel	Respondent's Counsel
	XXXXXX, Xxxx
	905-XXX-XXXX
xxxxx@xxxxx.xxx	xxxxx@xxxxx.xxx
The mediator would like to report that with regards to the following documents, which	
	r on consent to be made:
	ified, verified as filed, or parties will bring to court)
☐ Applicant's Form 35.1	
☐ Respondent's Form 35.1	
☐ Applicant's financial disclosure	
☐ Respondent's financial disclosure	
□ Other	
□ Other	
□ Other	
Mediator	Type of order sought:
Xxxxxx Xxxxxx	☐ Temporary ☐ Final
Xxxxxx@axisfamilymediation.com	
Special Notes:	
<b>Ψ</b> For EM-	TBST only ♥
Preferred 4 dates for EM-TBST:	Triage IRC
1. xx XXXXX, 2022 □ 10-12 □ 2-4	On-duty Virtual IRC
	court@axisfamilymediation.com
2. xx XXXXX, 2022 □ 10-12 □ 2-4	Future dates to be vacated:
3. xx XXXXX, 2022 □ 10-12 □ 2-4	1. xx XXXXX, 2022
4. xx XXXXX, 2022 □ 10-12 □ 2-4	2. xx XXXXX, 2022
Type of Appearance requested:	□ virtual □ in-person