

Protocol for Obtaining Expedited Mediation To-Be-Spoken-To (EM-TBST) Court Appearances for OFF-Site Court-Connected Mediation Reports Requesting (only) Orders on Consent {HAMILTON}

In order for parties who have settled matters through mediation outside of court to avoid delays in obtaining court orders based on those settlements, they now have an option to book an EM-TBST appearance in an expedited fashion, without having to complete a form 14B motion. This is available for both final and temporary resolutions. If the order made at the EM-TBST resolves all issues on a final basis, future previously booked court dates should be vacated as they will no longer be required.

STEP 1

- Upon the successful completion of an off-site mediation via AXIS Family Mediation Inc. (the court-connected mediation service provider), the mediator will send an e-mail to the trial coordinator (Hamilton.family.superior.court@ontario.ca) to book the EM-TBST date. This e-mail must also be cc'd to the e-mail address used by the court service representative ("CSR") which is monitored regularly (hamiltonfamilycourt@ontario.ca) as they will upload the documents into the court file.
- The e-mail template will have a subject line of **"REQUESTING EXPEDITED MEDIATION TBST DATE- (STYLE OF CAUSE FILE#)"** and the template message will say **"OFF-site Court-connected Mediation clients are requesting an EXPEDITED MEDIATION TBST appearance to have their negotiated settlement endorsed as a Consent Court Order. Request for a court service representative ("CSR") to upload all attached documents to their court file and request that the trial coordinator advise of date/time of their appearance."**
- The e-mail will have the following attachments: the off-site mediation report (in both PDF and Word formats) written in on-site endorsement-friendly format, the completed SDO (Support Deduction Order) and NOW (Notice of Withdrawal) if applicable (in PDF formats), and the completed recipe card in PDF format.
- If any contact information for either party is found by the mediator or IRC to be different from what is on record with the court, it will be highlighted in **yellow on the recipe card**.
- The dedicated CSR will upload all of the attached documents into the parties' virtual court file in the folder entitled **"Orders, MOS and Mediation Reports/Documents."**

- An example of the recipe card that will be attached to the e-mail is as follows:

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
XXXXXX, Xxx address Hamilton, On XXX XXX 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

STEP 2

- The recipe card will contain 4 dates over the course of a week that have been pre-determined by the mediator to be agreeable to all parties. The trial coordinator will schedule an EM-TBST appearance on the first available Judge’s case management list on one of these dates if possible. This can be as soon as next day, and ideally no longer than a week away from the date it was requested. The date scheduled will be a virtual appearance by default (unless requested otherwise in the special notes section of the recipe card).
- The date provided by the Trial Coordinator will be firm, considered confirmed by all parties and cannot be changed to another EM-TBST. Should the date become disagreeable to the parties, they must advise the trial coordinator to vacate the EM-TBST date and proceed via regular 14B motion to have their mediation report ordered. Similarly, if the parties do not appear for their appointed EM-TBST date, they will need to proceed by 14B.
- The trial coordinator will e-mail the parties, their counsel if on record, the mediator and triage IRC of the appearance date and time and provide Zoom coordinates. It is made clear in the booking e-mail that nothing other than the consent order shall be dealt with at the EM-TBST appearance.
- In lieu of including/attaching the “Waiver of ILA form” which was previously required when mediation reports were provided to the court, the mediation report will now have a clause added about the parties being advised of their right to obtain legal advice, and that the presiding Judge will likely question them verbally about their elections if a lawyer does not attend court with them. To this end:
 - Parties will be advised that they should obtain legal advice prior to their appearance. The parties will be provided instructions on how to access summary legal advice through LAO advice counsel (905-645-6276).
 - If a party wishes a duty counsel to appear in court with them on their EM-TBST date, they will be advised to call the duty counsel office (289-244-6265), who will determine what, if any services they are eligible for.

STEP 3

- The parties, the counsel (if applicable) and the mediator (if requested by the parties and/or the court) will attend the EM-TBST date.
- In addition to making inquiries about their elections to/not to receive legal advice regarding their agreement, the presiding Justice may also make inquiries about any forms/documents that the mediator identified on the recipe card as being unverified.

- 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 they will contain any impediments to the order being made that the mediator was able to identify in advance, without referencing the court file.

STEP 4

- 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 electronic court file.
- If the mediated settlement resolves all issues on a final basis, any future court appearances shall be vacated. A reminder of this will appear on the recipe card.