

## NEW CIRCUIT COURT RULES – CASE PROGRESSION

### NEW CIRCUIT COURT RULING IN SEPTEMBER 2008

New Circuit Court Rules affecting how family law cases are managed were introduced on the 12<sup>th</sup> of September 2008. These Rules came into effect on the 1<sup>st</sup> of October 2008 and will only apply to proceedings issued after this date. Existing cases will be dealt with under the pre-existing Rules.

The purpose of the new rules is to ensure that family law cases go through the court process more efficiently and do not get stuck in the system.

To achieve these goals, the new Rules bring a number of changes to how cases are managed in the Circuit Court. However, there are 3 main changes which are outlined below. For the full text of the Rules, see Statutory Instrument No 358 of 2008 – Circuit Court Rules (Case Progression in Family Law Proceedings) 2008.

**1. Motions for Judgment in Default of Appearance or Defence** will be returnable before the County Registrar (this does not apply to Motions returnable to the Circuit Court in Dublin). The County Registrar will now hear contested Motions.

**2. The Rules** now also provide that it is necessary for both parties to fully vouch their Affidavit of Means within 28 days of filing their Affidavit of Means, or 21 days before a “case progression hearing”, whichever is the earlier. The Rules also set out a comprehensive list of vouching documentation required in Circuit Family Court cases. Failure to provide, or to properly vouch, an Affidavit of Means can lead to various Orders being made either by the County Registrar in the course of case progression or by the Court. Most practitioners will have previously experienced delays due to one party or the other not providing vital vouching documentation.

**3. The Rules** also introduce “**case progression**”. The Rules provide that “case progression” will apply to all Circuit Family Court proceedings. The aim of the case progression system is threefold:

Firstly, to ensure that proceedings are prepared for trial “in a manner which is *just, expeditious and likely to minimise the costs of the proceedings*”

Secondly that the proceedings are prepared in a manner “*likely to minimise the costs of the proceedings*”

Thirdly that “*the time and other resources of the court are employed optimally*”

The first case progression hearing will take place not later than 70 days after the filing of the Defence, Affidavit of Means and, where required, Affidavit of Welfare, on the part of the Respondent. The Rules also provide for a “case progression questionnaire” which must be completed by both parties prior to the case progression hearing. Solicitors on both sides must be in attendance and the County Registrar may also direct that the parties to the proceedings should also personally attend. The County Registrar may also award costs incurred in connection with the case progression hearings as between party and party.

In general the County Registrar has responsibility for the administration and management of circuit court offices. They also perform a number of quasi-judicial functions which are conferred on them by statute. These Rules confer the specific task of supervising the management and preparation of cases to the County Registrar in each Circuit Court area. The County Registrar will be responsible for monitoring the preparation and progress of family law cases prior to trial. In addition, County Registrars will be empowered to make a wide range of Orders and Directions to ensure proceedings are advanced efficiently. This of course, not only has a positive impact on the progression of cases pre-trial but ensures trial Judges are more available to hear cases as the county Registrar will now deal with most of the pre-trial applications. Furthermore, it ensures that the Court only has to deal with the core issues of the case at the trial. This of course in turn minimises the costs of family law proceedings.

These Rules will now result in clear guidelines being given to ensure every case is dealt with within a defined period. Furthermore, failure to comply with the new Rules can result in various orders being made against that party either by the County Registrar in the context of a case progression hearing or the trial Judge.

**For Advice on Mediation options,  
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