

APPENDIX X:

Q.B. RULES ON COURT ORDERS

Content of orders

- 70.31(9) An order, other than a recalculated child support order, shall be in Form 700 (divorce judgment) or 70N (order) and shall include:
- (a) the name of the judge or officer who pronounced it;
 - (b) the date on which it was pronounced;
 - (c) a preamble setting out the particulars necessary to understand the order, including
 - (i) the date of the hearing,
 - (ii) the name of each party who was present and whether he or she was represented by a lawyer,
 - (iii) the name of each party who was not present and whether he or she was represented by a lawyer,
 - (iv) whether the parties consent to the order, or a part of it;
 - (v) the documents filed in support, and
 - (vi) any undertaking made by a party as a condition of the order;
 - (d) the statutory provisions or rules under which the relief is granted; and
 - (e) the names of persons to be served with the order and the manner of service.

You will notice that the Queen's Bench Form 70N says "using standard clauses, set out relief granted". This refers to the Automated Family Court Order Standard Clauses. *Queen's Bench Rule 70.31(11) (g)* makes the use of standard clauses mandatory.

You can find the document that sets out the wording of clauses online at:
<http://www.manitobacourts.mb.ca/family/autoorder/autoorder.html>

Standard clauses required for orders in certain Acts and in the Rules

- 70.31(11) Subject to subrules (12) and (13), where an order is pronounced under one of the following enactments standard clauses shall be used in the preamble and body of the order:
- (g) Part VII of *The Child and Family Services Act* (private guardianship of the person and access);

Relevant Queen's Bench Rules

PREPARING, SIGNING AND SERVING ORDERS

Endorsement by judge or officer on disposition sheet

- 70.33(2) The terms of every order shall, at the time the order is pronounced, be endorsed on a disposition sheet, and the disposition sheet shall be signed by the judge or officer pronouncing the order unless
- (a) the order is signed by the judge or officer at the time the order is pronounced; or
 - (b) the circumstances make it impractical to do so.

Preparation of draft order

- 70.33(3) Any party affected by an order may prepare a draft of the order and shall, unless otherwise ordered by the court, send it to all other parties present at the hearing for approval of its form or content, or both.

Approval of form of order required

- 70.33(4) Unless otherwise ordered by the court, if a party to a proceeding
- (a) is represented by a lawyer, the order shall be sent to the party's lawyer for approval; and
 - (b) is not represented by a lawyer, the order shall be sent to the party.

Approval of form of order not required

- 70.33(5) Approval of the form of an order is not required for an order that merely dismisses or adjourns a motion, proceeding or appeal, or allows a party to withdraw a claim for relief, with or without costs.

Signing orders

- 70.33(6) Subject to subrule (7), every order shall be submitted for the signature of the registrar at the place of hearing unless the judge or officer who pronounced the order
- (a) signed it; or
 - (b) directs that it be signed by the judge or officer who pronounced it.

Signing of order where party not represented by a lawyer

70.33(7) If a party to a proceeding was not represented by a lawyer, the order shall be submitted to the registrar for the signature of the judge or officer who made it.

Signing of order where form of order approved

70.33(8) Where all the parties at the hearing have approved the form of the order, the party who prepared the order shall

- (a) file a copy of the order with the approval as to form, of all parties present at the hearing; and
- (b) leave the order with the registrar for signing by the registrar, judge or officer, as the case may be.

Signing of order where approval of form not required

70.33(9) Where approval of the form of an order is not required under subrule (5), the party who prepared the order shall leave it with the registrar.

Signing of order where registrar satisfied

70.33(10) Where the order is to be signed by the registrar and the registrar is satisfied that the order is in proper form, the registrar shall sign the order and return a true copy to the party who left it to be signed.

Signing of order where registrar not satisfied

70.33(11) Where the registrar is not satisfied that the order is in proper form, the order shall be returned unsigned to the party who left it to be signed and the party may

- (a) submit the order in proper form and, if required by the registrar, file the approval of the parties to the order in that form, together with a copy of the order; or
- (b) arrange to have the order settled and signed by the judge or officer who made it.

Appointment to settle where form of order not approved

70.33(12) Where approval as to form is not received within a reasonable time, a party may obtain an appointment to have the order settled and signed by the judge or officer who made it.