

Helping self-rep clients prepare for court

November 17, 2020



DISCLAIMER

Nothing we say in this presentation should be construed as legal advice. This is simply for information purposes only. Please consult with a lawyer if you need legal advice.

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Harry Potter v. Ginny Weasley

- Ginevra, or Ginny, is our client and the opposing party is Harry. They have three children, James, Albus, and Lily.
- Harry and Ginny were married on January 1, 2010.
- They separated on December 31, 2019 when Harry left Ginny.
- She alone cares for their three children. He has not been paying any kind of support to her or the children.
- Ginny is unable to work. She receives BC benefits and has no other financial support. She was in a serious ski accident which resulted in a full body cast. She will be in cast for at least three more months and has some serious physio to do afterwards.
- Ginny was an elementary school teacher before they had their first child and decided to stay at home to provide care for the children after James' birth. She used to earn approximately \$55,000. Ginny needs retraining to return to the workforce.
- Harry works as a tax auditor for the government of BC earning \$85K per year.
- Ginny has not received any financial documents from Harry.
- A hearing has been scheduled in **BC Provincial Court** with regards to child and spousal support for **March 1, 2021**

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How can you help Ginny?

- What evidence Ginny have/need in order to prove her case?
- What are the legal issues?
 - Evidence must be relevant to child and spousal support only
- Is it a *viva voce* trial or trial by affidavit?
- Are there other witnesses?
 - Ginny and Harry will be witnesses at trial
 - May want to consider having Ginny's doctor appear as a witness
- What documents do Ginny need for trial?
- Any court deadlines?

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Trial Preparation Conference (PTC)

Also known as Pre-Trial Conference

Rule 8 of *Provincial Court (Family) Rules*

- Must be ordered by a judge - Rule 8 (1)
 - When the trial is ordered by a judge, ask for a PTC to be ordered as well before the trial judge and scheduled at least 30 days before the trial
- If not ordered at the same time as trial, ask for one through a Notice of Motion and supporting affidavit:
 - “Pursuant to Rule 8 of the *Provincial Court Family Rules*, an Order that the parties shall attend a Trial Preparation Conference with the trial judge at least 30 days prior to the date of the hearing, currently scheduled for March 1, 2021”

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Orders that can be made at PTC

Rule 8(4)

- a) Order a party to allow inspection and copying of records
- b) Order parties to serve will-say statements
- c) Order outstanding applications to be heard at a specific time
- d) Order parties to file a statement of agreed facts
- e) Discuss evidence required and procedure that will be followed at trial
- f) Allow parties to submit evidence by affidavit at trial

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Why are PTCs helpful?

- *Allows the judge to make an order that the trial can be heard by affidavit*
- Allows the trial judge to be familiar with the unrepresented parties and for the trial judge to make certain orders of how trial will be conducted
- Allows Ginny and Harry to understand what the issues are at trial and how the trial will be conducted
- Allows parties to prepare and exchange documents and financial statements within a specific deadline

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Trial Brief

Prepare trial brief to help Ginny at PTC (see Resources on Sched)

1. Summary of Issues and Positions
 - a. Ginny is claiming \$800 in child support and \$500 in spousal support
2. Witnesses to be Called
 - a. Ginny Weasley
 - b. Molly Weasley?
 - c. Ron Weasley?
3. Witnesses to be Cross-Examined
 - a. Harry Potter
 - b. Any other witnesses called by Harry Potter

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Trial Brief (continued)

4. Orders that may affect conduct of trial
 - a. Provide date and summary of order
5. Documents and Exhibits
 - a. Provide list of support documents Ginny wants to use for trial
6. Orders at trial
 - a. An Order that Harry Potter shall pay to Ginny Weasley the sum of \$800 per month for the support of the Children,
 - b. An Order that Harry Potter shall pay to Ginny Weasley for her support the sum of \$500 per month, commencing on...

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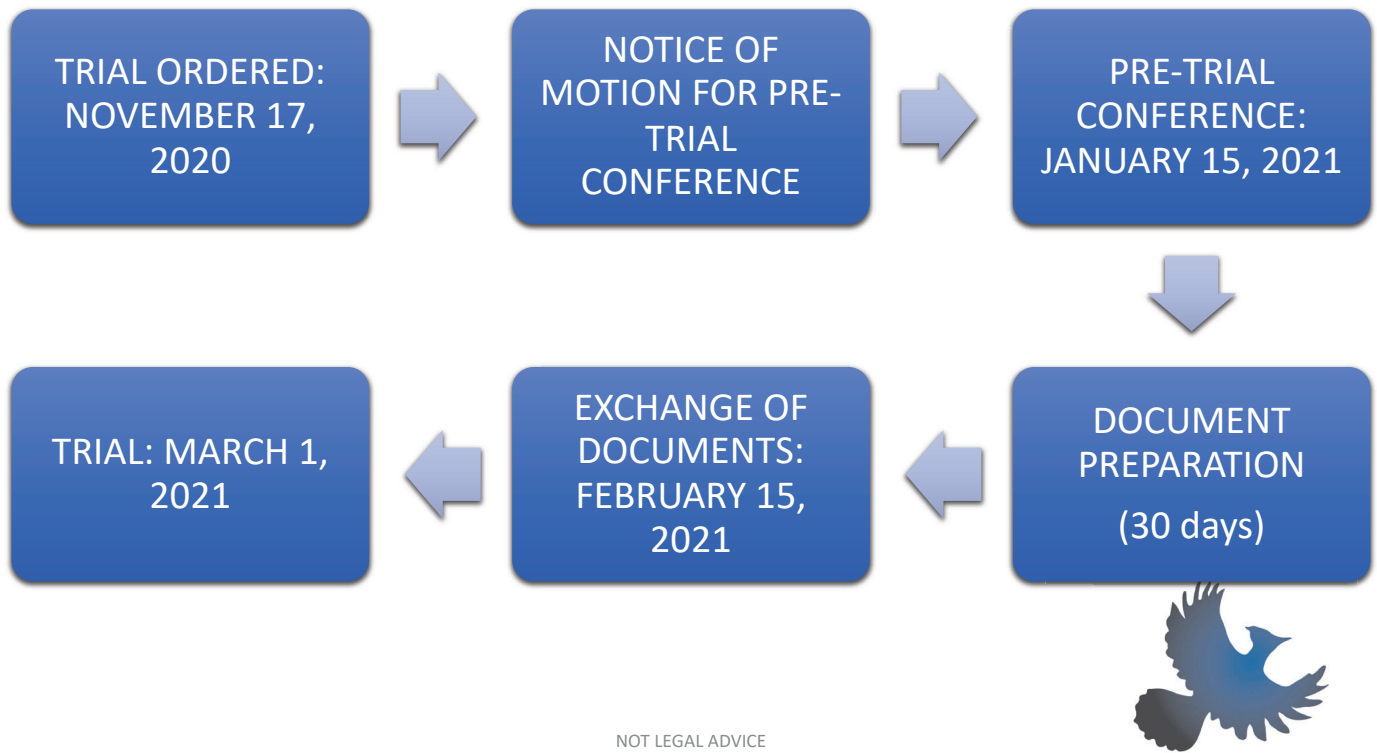
What orders should Ginny as for at the PTC?

Orders:

- Parties shall submit their evidence by way of affidavit for the trial scheduled for March 1, 2021
- Parties shall file and exchange the affidavits for trial on or before February 15, 2021.
- Parties are permitted to cross-examine all affiants that provided affidavits for the purposes of the trial at the trial scheduled on March 1, 2021.
- Parties shall file and exchange a sworn Financial Statement in Form 4 of the Provincial Court (Family) Rules, including all attachments listed on page 2 of that Form on or before February 15, 2021.

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What should be included for Ginny's affidavit?



<https://opentextbc.ca/abealf3/wp-content/uploads/sites/95/2015/02/question-words1.jpg>

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Facts to include for Ginny's affidavit

- Ginny's previous work history
- Ginny's relationship with Harry and the children
- Ginny's attempts to locate Harry
- Ginny's attempts to ask Harry to pay support
- Harry's response or lack of response to Ginny's requests
- Ginny's current situation and her need for support
- Ginny's ski accident and the needed medical care
- Ginny's plan for training and return to work

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What documents does Ginny need for trial?



Brainstorm
Session

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Documents to be included as Exhibits and/or in Financial Statement

- Ginny's financial statement, including proof that she receives BC benefits, tax returns, Notices of Assessments
- Documents to show that she needs spousal support:
 - Bills
 - Inability to obtain job (medical reason or otherwise)
 - Training/upgrading expenses
- Harry's financial statement, including his most recent paystub and most recent tax returns/Notice of Assessments
- Medical proof that Ginny is unable to work

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Documents required (*continued*)

- Documents that Ginny used to earn \$55,000
- Proof that Ginny has requested for financial support before OR
- Proof that Ginny could not locate Harry
 - Text messages / emails to Harry that were unanswered vs. Ginny's testimony that she called him, left voicemails
- DivorceMate calculations for spousal support

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How should Ginny present her evidence?

- Affidavit in Form 17 (Rule 13)
 - Exhibits using letters
 - A, B, C ... AA, BB, CC
 - Each document does not need its own exhibit letter
 - Page numbered consecutively from beginning to end, including exhibits

Review earlier session re: Affidavits (November 5, Patrick Grayer)

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How should Ginny her evidence?

- Financial Statement in Form 4, include most recent statement from BC Benefits, last 3 years of tax returns and Notices of Assessments
 - Page number consecutively from beginning to end, including attachments

Review earlier session re: Financial Statements (November 3, Rhona Lichtenwald)

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Organize, Organize, and... Organize

- Book of Orders
 - Index page
 - Separated by tabs
 - Newest order on top, oldest on bottom
 - 3 copies (one for judge, one for Harry, one for Ginny)
- Book of Documents
 - Index page and separated by tabs
 - Ginny's affidavit
 - Ginny's financial statement
 - Harry's affidavit
 - Harry's financial statement
 - 3 copies (or give index to Harry and he can print himself)
- Have this ready for the day of trial, March 1, 2021

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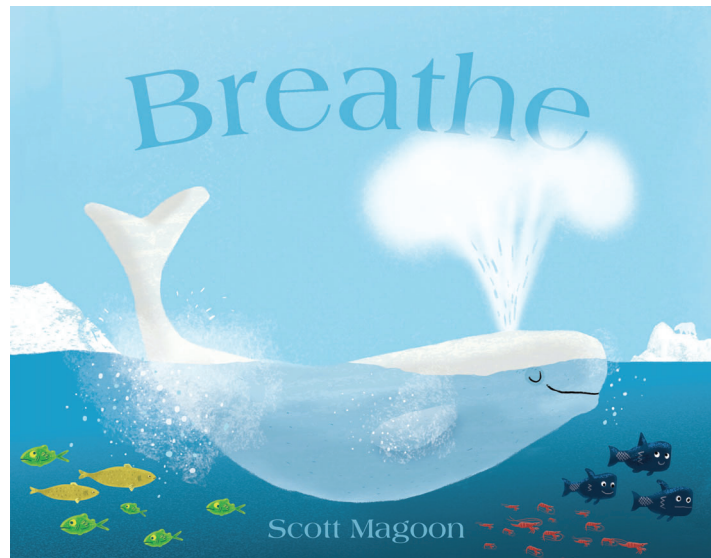
Day of Trial: March 1, 2021

- Bring binders/books
- This is Ginny's application for child and spousal support, she will start first
- Harry will have opportunity to cross-examine Ginny on her affidavit and any other individual who provided an affidavit
- Judge will make sure that cross-examination is appropriate
- Judge will most likely have questions for Ginny based on affidavit and/or cross-examination
- Ginny will have opportunity to cross-examine Harry and anyone else who provided affidavit.

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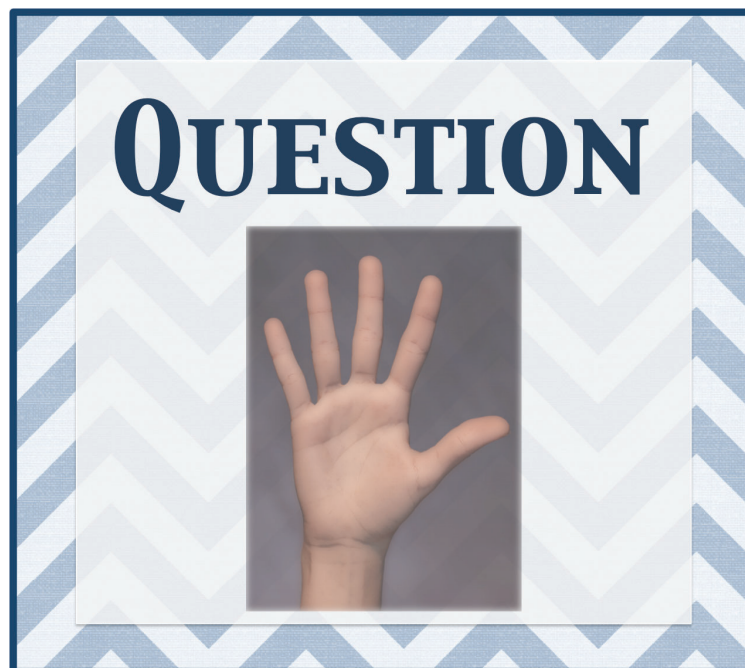


Don't forget to ...



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THANK YOU!

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WOMEN'S LEGAL CENTRE

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Court File No.: 11-11111
Court Registry: Vancouver

In the Provincial Court of British Columbia

Applicant: Ginny Weasley

Respondent: Harry Potter

TRIAL BRIEF

Completed by: Ginny Weasley

The trial of this family law case is scheduled for 1 day and is scheduled to begin on March 1, 2021.

1. Summary of Issues and Positions

The following is a list, in numbered paragraphs, of the issues in dispute and the Applicant's position on each:

Issue in dispute	My position
1. Child support and s. 7 expenses	<ul style="list-style-type: none">The Applicant is asking for child support based on the Respondent's annual income of \$85,000 and is asking for s. 7 expenses proportionate to their income for the Children's extracurricular activities.
2. Spousal support	<ul style="list-style-type: none">The Respondent shall pay ongoing spousal support to the Applicant.
3. Retroactive Child support	<ul style="list-style-type: none">The Respondent shall pay retroactive child support from December 31, 2019
4. Retroactive Spousal Support	<ul style="list-style-type: none">The Respondent shall pay retroactive spousal support to the Applicant from December 31, 2019 (date of separation)

2. Witnesses To Be Called

The following are the names and addresses of the witnesses the Applicant intends to call at trial, and an estimate of the time each witness will need for giving direct evidence:

Name	Time needed
1. Ginny Weasley	1 hour
2. Molly Weasley	1 hour
3. Ron Weasley	1 hour

Commented [VL1]: Only include a time estimate section if it is a *viva voce* trial. If it is a trial by affidavit, you do not need to give time estimate.

3. Witnesses To Be Cross-Examined

The following are the names of the witnesses the Applicant anticipates cross-examining at trial, and an estimate of the time the Applicant will need for each:

Name	Time needed
1. Harry Potter, the Respondent	1 hour
Any other witnesses called by the Respondent	unknown

4. Orders that may affect the conduct of the trial

The following orders contain provisions that may affect the conduct of the trial:

Date of order	Nature of order

Commented [VL2]: Provide a summary of the history of orders. Start with the newest and work chronologically to the oldest.

5. Document and Exhibits

The following are the documents and other exhibits the Applicant intends to tender at trial:

1	DATE	FMEP payment history
2	DATE	FMEP arrears
3	DATE	Tax Returns of Ginny Weasley
4	DATE	Notices of Assessments for Ginny Weasley
5	DATE	Statement from BC Benefits

Commented [VL3]: If any/available

Commented [VL4]: If any/available.

6	Various dates	Receipts for Children's extracurricular activities,
7	DATE	Medical letters/notes that Ginny can't work
8	DATE	Emails to Harry from Ginny
9	DATE	Text Messages to Harry from Ginny
10	DATE	Proof that Ginny used to earn \$55,000
11		Description of Ginny's retraining program
12		Cost of Ginny's retraining program
13	DATE	DivorceMate Calculations

6. Orders

The following are the terms of the order the Applicant will seek at trial:

1. The Respondent shall pay to the Applicant, the sum of \$800.00 per month, commencing on March 1, 2021 and continuing on the 1st of each and every month thereafter, for as long as the Children are longer eligible to receive child support under the Family Law Act or until further Court order.
2. The Respondent shall pay to the Applicant retroactive child support from December 1, 2019 to February 1, 2021, the sum of \$800.00 per month, commencing on March 1, 2021 and continuing on the 1st of each and every month thereafter until the amount is paid in full or until further Court Order.
3. The special and extraordinary expenses of the Children shall be shared between the parties on a 90/10 basis, with the Respondent paying 90% and the Applicant paying 10%, such expenses to consist of basic medical and dental expenses, piano lessons, and swimming lessons commencing March 1, 2021.
4. For as long as the Children are eligible to receive child support, the parties will exchange: (a) copies of their respective income tax returns for the previous year,

including all attachments; and (b) copies of any Notice of Assessment and Reassessment provided to them by Canada Revenue Agency, no later than July 1st of each year.

5. The Respondent shall pay to the Applicant for her support the sum of \$500.00 per month, commencing on March 1, 2021 and continuing on the 1st day of each and every month thereafter until March 1, 2031, at which time spousal support will be terminated.
6. The Respondent shall pay retroactive spousal support to the Applicant starting from December 31, 2019.

Commented [VL5]: This is just a random date but follow the DivorceMate calculation on the duration of spousal support

7. Procedural Orders prior to Trial

The Applicant is requesting the following procedural orders to be made prior to trial:

1. Parties shall submit their evidence by way of affidavit for the trial scheduled for March 1, 2021.
2. Parties shall file and exchange the affidavits for trial on or before February 15, 2021.
3. Parties are permitted to cross-examine all affiants that provided affidavits for the purposes of the trial at the trial scheduled on March 1, 2021.
4. Parties shall file and exchange a sworn Financial Statement in Form 4 of the Provincial Court (Family) Rules, including all attachments listed on page 2 of that Form on or before February 15, 2021.

Date: December 15, 2020

Signature of Ginny Weasley, Applicant