



Family Court hearings – the First Return Hearing

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In family law proceedings, after filing your initiating court documents, your matter will be listed for a First Return Hearing in the Federal Circuit and Family Court of Australia ("the Court"). A First Return Hearing (also called a First Return Date or First Court Event) is a procedural hearing and, as the name suggests, is the first Court event after you have filed an application to have a matter dealt with by the Court.

How am I notified that a family law application has been filed?

If you are the Respondent in the proceedings (the person responding to an application), the other party (usually your ex-partner or other parent) is required to serve you with a copy of their court documents as soon as practicable after filing them with the Court, and at least 7 days prior to the First Return Hearing.

If you have a lawyer, your lawyer may accept service on your behalf. Alternatively, the documents must be personally served on you (usually via a process server). You must then file responding material within 28 days. This includes a Response setting out the orders that you want the Court to make and an Affidavit in support.

What is the purpose of the First Return Hearing?

It is a common misconception that a matter will be determined at the First Return Hearing. There is a pathway that determines how a matter proceeds through the Court system, beginning with the First Return Hearing.

The purpose of the First Return Hearing is:

1. to ascertain whether any orders can be made by consent;
2. to ascertain whether the parties have complied with the pre-action procedures and made a genuine attempt to resolve the issues in dispute;
3. to identify the issues in dispute and the steps required to resolve them;
4. to consider whether an Interim Hearing is required; and
5. to consider whether [dispute resolution](#) is required.

An overview of the First Return Hearing in family law

The First Return Hearing usually occurs within 1 to 2 months of filing your application (subject to the availability of the Court at any given time). At this hearing, your matter will be listed in a 'duty list' before a Judicial Registrar. There will be several other matters listed on the same day and each matter is only allocated a small amount of the Court's time.

What is a Judicial Registrar?

A Judicial Registrar has some of the powers of a Judge delegated to them, and they have particular skills in case management and dispute resolution.

The Judicial Registrar should be addressed as "Judicial Registrar".

The First Return Hearing will usually be conducted online via Microsoft Teams. It is important that you are in a quiet and private location with a stable internet connection.

If you are legally represented, you should ensure your microphone and video are switched off, and your lawyer or barrister will address the Court on your behalf. If you are self-represented, you should only turn your microphone and video on once your matter has been called.

If there are matters to be discussed with the other side, your matter may be 'stood down' or put on hold for a short time, and the Court will deal with your case later in the day. This provides the parties the opportunity to negotiate and possibly reach agreement without the Court needing to make a decision on your behalf.

Despite the hearing being conducted virtually/online, the Court is a formal place, and you should dress accordingly to demonstrate your respect for the Court system. This includes removing sunglasses and hats and ensuring that children are not present.

For more information presenting yourself for Court, visit the [Federal Circuit and Family Court of Australia page about "court etiquette and tips"](#).

What types of orders can a Judicial Registrar make?

A Judicial Registrar can make orders by consent, either on an interim (temporary) or final basis. For example, in [parenting matters](#), this may include orders setting out care arrangements for children. In [property settlement matters](#), this may include orders setting out financial arrangements.

A Judicial Registrar cannot make contested (disputed) orders. If you cannot reach an agreement, the Judicial Registrar will make directions as to what needs to happen next. This may include:

- orders for the exchange of [full and frank financial disclosure](#);
- [sworn valuations](#);
- the preparation of expert reports (such as a [family report](#) or psychological assessments); and
- listing the matter for future hearings.

What happens after the First Return Hearing?

If there are any urgent matters requiring determination by the Court, your matter may be listed for an Interim Hearing before a Senior Judicial Registrar or a Judge. This will usually take place after the release of any expert reports and subpoenaed documents which are likely to assist with the determination of the issues in dispute.

Following the Interim Hearing (if required), unless exceptional circumstances exist, the parties will be required to participate in dispute resolution. Exceptional circumstances could include, for example:

- [family violence](#) or safety concerns; or
- urgent matters.

Dispute resolution may be a Court-based Family Dispute Resolution or private mediation subject to the means and resources of the parties.

Following dispute resolution, and in the event that agreement has not been able to be reached on a final basis, matters are usually listed for a further procedural hearing before the same Judicial Registrar to determine the next steps. This may include listing the matter for a Compliance and Readiness Hearing to ascertain whether the case is ready to proceed to a Final Hearing before a Judge.

Generally, matters will be listed for a Final Hearing within 12 to 18 months of the First Court Event.

How a family lawyer can help

Litigation can be very complicated and stressful. As such, it is important to obtain legal advice early to ensure that the appropriate strategic decisions are made to set your matter up in the best possible way.

If you are considering issuing court proceedings or proceedings are already on foot, contact one of our lawyers for a free half-hour consultation to discuss how we can help you.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.