

HINTS AND TIPS FROM THE PROTHONTARY - REGISTRAR

ANNETTE M. BOUCHER

January 10, 2003

This is my second monthly information piece relating to “practical tips” for your filings and appearances before the Supreme Court in Halifax and the Court of Appeal.

COURT OF APPEAL

1. Where counsel intends to seek leave of the court to cross examine on affidavit evidence on a Court of Appeal Chambers application, counsel are to contact the Registrar in advance of the hearing to inform the court of this request.
2. Telephone Chambers is available **only** for setting down appeals. Telephone Chambers is held on Wednesday at a pre-arranged time through Joan Flewelling, Deputy Registrar at 424-6937.
3. Amendments to the Notice of Appeal can be made within 20 days of the filing of the Notice of Appeal and thereafter only with leave of a Chambers judge (Rule 62.04(4)). The amended Notice of Appeal must be filed with the court and served upon the Respondent(s) forthwith.
4. Where a Chambers matter is settled prior to the hearing, counsel are asked to telephone and fax the Registrar and the judge’s secretary informing the court of the settlement.

SUPREME COURT

1. Faxes from counsel to judges relating to Regular and Special Chambers are to be addressed to the Presiding judge in Chambers **and** the first line of the letter is to be bolded stating the case name and the date and time of the Chambers hearing. Where the fax is of an urgent nature the word urgent is to be bolded and capitalized on the top of the letter/fax. This will ensure that urgent faxes are remitted to the

Chambers judge in a timely fashion.

- 2.** Where a chambers matter is settled or an adjournment is being requested counsel are directed to Practice Memorandum No. 2 (IV B. 6.) that requires they notify the judge by telephoning the judge's secretary along with a letter or fax to the judge and to the Prothonotary. Sending a fax only to the Prothonotary's office is not sufficient.
- 3.** For emergency Chambers applications counsel are directed to Practice Memorandum No. 2 (IV B. 3). Counsel are reminded that the judge will make the determination based on the letter from counsel as to whether the matter is an emergency or not.

A.M.B.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

February 14, 2003

This is my third monthly information piece relating to “practical tips” for your filings and appearances before the Supreme Court in Halifax and the Court of Appeal.

COURT OF APPEAL

- 1.** It is recognized that Civil Procedure Rule 62.15 does not set out the number of Book of Authorities which are required to be filed with the Court of Appeal. It would be appreciated if counsel could file 5 copies of their Book of Authorities. Additionally, notwithstanding Civil Procedure Rule 62.15(8) it would be appreciated if the Book of Authorities can be filed at the same time that the Factum is filed.
- 2.** When filing a Notice of Appeal from an interlocutory judgment or as to costs only counsel are to use Form 62.05A as set out in the Civil Procedure Rules.
- 3.** When the Appeal Book consists of several volumes kindly number each of the volumes in consecutive order. It is helpful if on the cover it is noted ‘Appeal Book - Volume 1 or 2 or 3, etc...’
- 4.** Electronic copies of cases can be used in Books of Authorities and in submissions on Chambers applications - please ensure that the versions of the cases being submitted to the court are legible.

SUPREME COURT

- 1.** Civil Procedure Rule 37.09 provides that evidence at a hearing can only be given by a witness in person with leave of the Court. Counsel who wish to have a subpoena issued for a Chambers application should first send a letter of request to the Chambers judge who is hearing the application. The Chambers judge can then advise the Prothonotary and requesting counsel as to whether the subpoenas can

be issued and if so the Prothonotary can proceed to issue the subpoenas for that specific Chambers application.

- 2.** Counsel are reminded that when they are drafting their orders they ensure they are taken out before the applicable person - that is to say either 'BEFORE THE HONOURABLE JUSTICE.....' or 'BEFORE THE PROTHONOTARY.....' Counsel should refrain from using the term Before The Honourable Justice **Mr.**
- 3.** Electronic copies of cases can be in submissions to the Supreme Court - please ensure that the versions of the cases being submitted to the court are legible.

A.M.B.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

March 14, 2003

This is my regular information piece containing practical tips and information relating to the Supreme Court here in Halifax and the Court of Appeal.

COURT OF APPEAL

- 1.** Updated information and application forms are located on the courts website relative to applications for the use of cameras in the Nova Scotia Court of Appeal.

SUPREME COURT

- 1.** As Prothonotary I have been directed by the Bench Civil Procedure Rule Committee to no longer accept for filing at the Court Administration office Offers to Settle being made pursuant to Civil Procedure Rule 41A. The committee has taken the position that the Civil Procedure Rule itself does not require the filing with the court of an Offer to Settle. I will be returning to counsel all Offers to Settle which were filed with the court since January 1, 2003.
- 2.** At the March 6, 2003 Supreme Court Liaison Subcommittee (Civil) meeting the Bench members reminded counsel that unsolicited letters to judges are not appropriate. Counsel are to refrain from writing to judges on an 'unsolicited' basis. For example, where counsel cannot agree or decide upon the form of an order, an application before the court to finalize the form of the order is the appropriate forum to resolve the dispute between counsel rather than writing to the judge. Writing directly to a judge is permissible where all counsel involved in the case agree collectively to send the letter and have endorsed their consent on the letter to be sent to the judge.

- 3.** Since January, 2003, with respect to criminal matters, we have established a number of criminal teams of 5 judges each. The teams will rotate every three months - thus during a three month period one team of 5 judges will handle all criminal jury and judge alone trials as well as crownside and any summary conviction appeals. This approach will result in 5 judges, during a three month period, handling all criminal matters on the court docket.

A.M.B.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

May 9, 2003

This is my regular information piece containing practical tips and information relating to the Supreme Court here in Halifax and the Court of Appeal.

I apologize for not providing the information piece last month and thank the individuals who made inquiries about it's whereabouts!

COURT OF APPEAL

1. Forms 62.04A and Form 62.05A have recently been amended and counsel are asked to use the new forms when filing their Notices of Appeal with the court. These will be published by Butterworths, however, the courts website Rules have been updated and contain the new forms.
2. Over the next few weeks updated information packages will be posted on the website for self-reps who come before the Court of Appeal. It would be of assistance to the court to know that counsel are also familiar with these packages and you are encouraged to review these materials as they are posted. If hard copies are required they can always be obtained from the Court Administration Office.
3. Counsel are reminded that on bail hearings the pre-sentence report and the judge's sentencing remarks are required.

SUPREME COURT

1. Counsel are reminded that Practice Memorandum No. 28 applies to appeals involving the ***Freedom of Information and Protection of Privacy Act*** at the both Supreme Court and Court of Appeal levels.

2. Counsel are required to provide a sufficient number of copies of orders for certification when submitting orders to the court - often only one copy of the order is forwarded to the court and it becomes the court file copy. Where only one copy of the order is forwarded to the court and counsel at a later date request certified copies, additional certification fees will apply.
3. Pursuant to Rule 68.04(2) requires the filing of an Appearance Day Notice with the court ten days before the motion being heard. As Appearance Day becomes increasingly popular I note that counsel forget about the 10 day filing requirement.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

June 13, 2003

This is my regular information piece containing practical tips and information relating to the Supreme Court here in Halifax and the Court of Appeal.

COURT OF APPEAL

1. Counsel are requested, where possible, to insure that the Order which is being appealed is attached to the Notice of Appeal. The most recent changes to the Notice of Appeal specify that the Order or decision being appealed is to be provided, if available, at the time of filing the Notice of Appeal.
2. Court of Appeal Chambers will continue to be held each Thursday at 10:00 am during the months of July and August, 2003.

SUPREME COURT

1. The Law Courts has launched a video conference pilot project which will be of interest to parties who wish to use this technology for the presentation of evidence at trial. More information is available on the courts website under the heading "Useful Information".
3. For the months of June, July, August and September 2003, counsel are reminded that Appearance Day will continue to be held every Friday at 12:00 noon with the exception of September 12, 2003, when there will be no Appearance Day.
4. Counsel are reminded that at present there is a two (2) week turn around time for processing tape requests. For large requests the tapes are processed in lots of ten (10) tapes.
5. Counsel who are having Family Division matters heard at The Law Courts are reminded that all court filings are to be completed at the Family Division on Devonshire Avenue. If the judge hearing the matter requests that the court filings

be completed at The Law Courts a covering letter is required from counsel so stating at the time of filing. Counsel are also reminded that Orders are issued by the Family Division .

6. Practice Memorandum No. 27 regarding filings on Settlement Conferences applies to Settlement Conferences convened on cases governed by Rule 69 and 70.
7. Rule 31.29 allows the Prothonotary to issue subpoenas in aid of inferior court or tribunal. Counsel are encouraged when making such a request to cite the authority which allows the inferior tribunal to hear a witness. The Rule also sets the time frame for the issuance of the subpoena.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

October 10, 2003

It has been several months since my last information piece of June 2003.

COURT OF APPEAL

1. Justice Joel Fichaud will be sworn in as a judge of the Court of Appeal on Tuesday, October 14, 2003 at 4:30 pm in court room 502. All are invited to attend.
2. Over the summer technical improvements have been made to court room 502 and include: **audio playback** - this system allows the recording room to play previously recorded proceedings into the court room as required, **teleconferencing** - the court room has been "wired" to allow teleconferencing, **video conferencing** - the court room has been "wired" to allow video conferencing and I refer you to my June 2003 information piece for details, and **internet access** - there are four internet access points available to counsel at their tables along with the electrical outlets.
3. When Butterworths published the amendments to Form 62.05A they included the signature page at the end of the form - when filing your Notice of Appeal please **exclude** the judge signature portion from the form.
4. Recently questions have arisen regarding the type of application which can be made to the Chambers judge - you may find the case ***Future Inns Canada Inc v. Labour Relations Board (N.S.) et al, (1996) 154 N.S.R. (2d) 358*** useful in your determination of whether your particular application should be put before a Chambers judge or a Panel of the Court of Appeal.
5. All filings for the Court of Appeal must be directed to the Court Administration office and counsel are reminded that Rule 4.A does not permit fax filing of either Appeal Books or Factums. The FAX number for the Court Administration office is 424-0524. The Court of Appeal FAX number is 424-0646 and can be used for correspondence directed to the Court of Appeal judges.

SUPREME COURT

1. Rule 20.01(1) provides that a party to a proceeding shall file a List of Documents within sixty (60) days of the close of pleadings, unless otherwise ordered by the court. Supplementary Lists of Documents are not affected by this Rule. Counsel will have recently noted that the Rule is being strictly enforced. Where your filing is out of time, please submit your List of Documents **along with** a Consent Order for approval of a judge of the Supreme Court. A Chambers application/hearing will not be required as I will present the Consent Order to the Chambers judge - if granted, the List of

Documents will be filed and your copies along with the certified copy of the Consent Order will be returned to you. Where a Consent Order cannot be obtained, please set the extension of time to file the List of Documents on Appearance Day using Form 68.04A - there is no filing fee for Appearance Day.

I have asked the Bench-Bar Civil Procedure Rules committee to look at this Rule to determine if any amendments are required. Please feel free to contact the Bar representatives on the committee with your comments - a list of the members is posted on the Barristers' Society website.

2. Appearance Day continues to be held every Friday at 12:00 noon . There will be **no** Appearance Day on **Friday, December 12 or 26, 2003.**
3. Please remember that although Rule 31.29 allows the Prothonotary to issue subpoenas in aid of an inferior court or tribunal this must be done no less than four (4) days before the hearing.
4. When commencing an action against the provincial Crown, counsel will be asked whether they have given the statutory required notice of sixty (60) days to the Attorney General (see the ***Proceedings Against the Crown Act***) prior to accepting the document for filing to ensure compliance with the ***Act***.
5. For counsel's reference the FAX number for the Court Administration office is 424-0524, the FAX number for the Supreme Court scheduling office (civil and criminal matters **excluding** Appearance Day matters) is 424-8367 and the FAX number for the Supreme Court judges is 424-0536. Using the correct fax number will avoid delays in directing faxes to the recipients.
6. In addition to Practice Memorandum No. 2 counsel are reminded that for Special Time Chambers applications you must file your documents with the return court date blank. The civil scheduler will consult with counsel and inscribed the agreed upon date for the application to be heard and the documents will be returned to counsel for the applicant for service.
7. Documents being filed which are not compliant with the Civil Procedure Rules will be returned to counsel with a sheet attached setting out the reason for the return of the unfiled documents.
8. Effective, October 14, 2003, all visitors(including counsel) to the secured area of the Law Courts (for meetings, settlement conferences, resolution conferences, etc) will be required to sign in at the reception desk and wear a visitor's pass or a provincial government photo ID card to gain access to the secured area. Please remember to return the pass and sign out when you leave the building.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

December 5, 2003

The holiday hours at the Law Courts are as follows: we will close at 12noon on Wednesday, December 24, 2003 and re-open on Monday, December 29, 2003 at 8:30 AM. The Law Courts will be closed on Thursday, January 1, 2004.

COURT OF APPEAL

1. Counsel are advised that the Court of Appeal has approved a **new Civil Procedure Rule** regarding appeals from decisions of Chambers judges. The new rule is **62.36** and it is posted on the courts website and will be included in the new set of updates published by Butterworths. The effective date for the new rule is the date it was published in the Royal Gazette namely November 26, 2003.
2. There will be no Chambers during the week of December 22, 2003 - that is to say no telephone Chambers or regular Chambers. Regular Chambers will be held on Tuesday, December 30, 2003 at 10AM and telephone Chambers at a pre-arranged time in the afternoon of December 30, 2003. All filings to be completed by 4:30 PM on Tuesday, December 23, 2003 for December 30, 2003 Chambers.

SUPREME COURT

1. In the October 10, 2003 issue of the Prothonotary Hints and Tips information piece the Bar was reminded that Civil Procedure Rule 20.01 was being strictly enforced. Lists being filed outside the time frame required a Consent Oder allowing the late filing.

At their meeting on November 18, 2003 the joint Bench-Bar Rules committee agreed that the Rule had to be reviewed and amended. Ideas about possible amendments were discussed but not decided upon at that meeting. Ideas included: removing the requirement of having the Lists filed with the court or changing the time frames. The Bench Rules committee will now look at the content of the Rule. There is a wonderful window of opportunity here for the Bar to make it's views known on the content of the Rule through their representative on the joint committee. For your information your reps are: Tom Donovan, Rollie Thompson, Gus Richardson, John Keith, Ray Wagner, Michael Donovan, Catherine Lunn, Andrew Fraser and Darrel Pink.

At the November 26, 2003 meeting of the joint Bench-Bar Civil Liaison committee the "process" for filing Lists of Documents in the "**interim period**" until the Rule is

amended was agreed upon and is now as follows: Lists of Documents will be accepted for filing without the need for a Consent Order or other document.

2. Regular Chambers will be held at 9:30 AM on December 24, 2003.
3. The following policy is now in effect regarding lockers situated in the Barristers Robing Room at The Law Court:
 - No locks will be permitted on the lockers overnight;
 - Locks left on lockers will be removed the next morning and the contents placed in a secured area to await collection;
 - Barristers who wish to reserve a locker for the duration of a specific trial should contact the Court Administration Office.