

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

February 6, 2004

COURT OF APPEAL

1. Counsel are asked to provide copies of their Appeal Book and Factum in electronic form on a disk in WordPerfect format at the same time as they file their hard copies. Over the past several months it has been noticed that disks are not being filed at all by counsel.
2. As a reminder, the setting down of an appeal is always done in Chambers - in person on Thursdays at 10am or by telephone at a pre-arranged time of Wednesdays. You must file a Notice of Application **AND** the Certificate Respecting the Preparation of the Appeal Book (Form 62.02(5)). ***You cannot alter the Certificate by deleting portions.*** Also note that a copy of the Order is required to set down the appeal as contemplated in the Certificate.

SUPREME COURT

1. **Fax filing** at 424-0524 **ONLY** is permitted pursuant to **Civil Procedure Rule 4A**. Please note that filings must be fax received by 4:30 PM to be processed on that day. A cover page is required. Faxed documents are stamped by court staff as "Received by Fax" and will become the originals for the court's purpose. However, where the document requires a court filing fee the original must be provided to the court with the reference that the document was previously faxed so the proper date is stamped on the original.
2. The number of Orders being submitted to the court for issuance that **do not include** reference to whom the Order is being taken out before is staggering. I have raised this matter in the past. Please remember that when drafting orders you ensure they are taken out before the applicable person - that is to say either 'BEFORE THE HONOURABLE JUSTICE.....' or 'BEFORE THE PROTHONOTARY.....' Reference is made to Civil Procedure Rule 51.05 to know the type of Orders the Prothonotary can grant.

3. As of late counsel are only sending one copy of the Order they seek to have issued to the court - be advised you are required to provide a sufficient number of copies of orders for certification when submitting orders to the court - when only one copy of the order is forwarded to the court it becomes the court file copy. When counsel at a later date request certified copies, additional certification fees will apply.
4. Out of town documents - counsel requesting that the Halifax Prothonotary receive for filing or issue documents from another judicial district are reminded that they require a letter confirming that the Prothonotary in the originating judicial area is aware of the request and has approved it in advance. Once that confirmation is received the Halifax Prothonotary will process the document.
5. Documents being filed which are not compliant with the Civil Procedure Rules will be returned to counsel with a letter attached setting out the reason for the return of the unfiled documents.
6. A new package of documents has been developed for probate applications being heard before a Supreme Court judge sitting as a judge of the Probate Court. Please consult the courts web page for electronic copies of the package. Hard copies can also be obtained at the Court Administration office,

A.M.B.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

May 7, 2004

There are two items which I would like to bring to your attention in this information piece that contain useful details which deal with Law Courts information as opposed to specific court information.

Firstly, we have prepared a narrated "directory" which is attached hereto to assist in directing your telephone inquiries within the Law Courts building. It is hoped that this will assist all persons, contacting the Law Courts, to rapidly get access to the proper person they require to assist them with their particular inquiry.

Secondly, the Civil Procedure Rules revision project has commenced and I direct you to the courts website under the heading Civil Procedure Rules which contains information regarding the project.

COURT OF APPEAL

1. Where a dispute arises between counsel regarding the contents of the appeal book, an application should be made forthwith, returnable at Court of Appeal Chambers (in person on a Thursday), to obtain directions regarding the content of the appeal book from the Chambers judge. Where the dispute arises before the setting down of the appeal, the appropriate forum to obtain directions is at the setting down hearing, which in that case cannot be done by way of telephone Chambers.

SUPREME COURT

1. Counsel are reminded that documents must be filed no later than 10:00 am on the Wednesday for the Thursday Crownside docket. Documents filed after that time will be placed on the docket for the Thursday one week hence.
2. Counsel are equally reminded that Practice Memorandum No. 21 of the Civil Procedure Rules sets out all the required information for the filing of summary conviction appeals in the Supreme Court. As with documents being submitted to the court on civil matters, summary conviction appeal documents that do not comply with the Practice Memorandum will be returned to counsel unissued.
3. We have prepared an Information sheet and example forms to be used by counsel for probate applications which must be heard before a Supreme Court judge sitting as a judge of the Probate Court in Chambers. This information and the forms are

posted on the courts website and are also available in the court administration offices.

4. Counsel are reminded that when settlements are reached on files involving infant Plaintiffs that court approval of the settlement is required pursuant to Civil Procedure Rule 6. This means that a Chambers application is required. Consent Dismissal Orders are not appropriate and are being returned to counsel unissued when an infant is involved in the litigation as a Plaintiff. If the infant has reached the age of majority at the time of the settlement a Consent Dismissal Order can be presented along with the child's birth certificate.
5. Pursuant to Civil Procedure Rule 18.05, Notices of Examination issued by the Court Administration Office require the name **AND** address of the person to be discovered. Notices without the full civic address of the person to be discovered will not be issued by the Court Administration office. Counsel are reminded that only when the person to be examined is a party to the proceedings is it possible to serve the notice upon the solicitor for that person - thereby using the solicitor's address on the Notice of Examination itself.
6. Notices of Change of Solicitor must be filed with the court each time a new solicitor takes on carriage of a file, even when the lawyer is within the same law firm. Where this is not done, we will continue corresponding with the solicitor who is noted as being solicitor of record at the address noted for that solicitor. The solicitor name and firm information is only entered into our computer data base when an originating document, defence or Notice of Change of Solicitor is filed with the court.
7. Case management bring forward dates are a vital component of our case management system. However, I as the Prothonotary have flexibility in setting these bring forward dates. For example, in keeping with Practice Memorandum No. 27, whether a file is deemed "active" or not, a Notice to Appear is sent out automatically at the 24 month period after the close of pleadings, **OR** when pleadings have not closed 24 months after the action was commenced. If counsel do not need the assistance of the court on that file, at that time, counsel can call me to remove the matter from the Appearance Day docket by providing information of why the appearance is not necessary. I will remove the matter from the docket, but will require counsel to set a bring forward date for me to bring the file forward for a further status check. Normally, counsel suggest a 6 month bring forward date - and then some are annoyed when I touch base at the 6 months mark to inquire on the status of the action. I would ask counsel to insure that the bring forward date they suggest is a realistic one - however, a bring forward date is necessary to insure files continue to be monitored.

As Prothonotary I am attempting to coordinate bring forward dates under Rule 68 (Practice Memorandum No. 27) **AND** Rule 28.11 **AND** Rule 9.07(4). This is a

challenge - thus where counsel receive notices on files in rapid succession I am counsel are encouraged to telephone me to discuss the matter.

Counsel are encourage to telephone on any case management issue arsing from correspondence or documents issued on a file at the instance of the court.

A.M.B.

Directory Assistance for the Law Courts

Reception 424-4900

1. General inquiries
2. Hours of Operation
3. Fax numbers
4. Daily Docket information

Court Administration Switchboard 424-6900

1. filing fees
2. status of certified copies of orders
3. appointments for commissioner of oaths/ notarizing documents
4. fax filing questions
5. questions regarding the filing of documents
6. self help kits - precedents

Justice Officer III - 424-6904

1. Judgments/ Execution Order

File Vault 424-6909

1. copies of divorce certificates
2. checking court files for filings or documents
3. file requests

Exhibit Clerk 424-2238

1. questions regarding exhibits
2. physical access to and viewing of exhibits
3. file requests for Chambers for lower court files for Court of Appeal

Scheduling Office (see list)

1. Dates or removal from the court docket
2. Date Assignment Conference times

Criminal Scheduler: 424-7967

Civil Scheduler: 424-7963
Chambers Scheduler: 424-5782
Jury Scheduler: 424-2729

Justice Officer II 424 -6907

1. satisfaction pieces
2. sheriff services

Deputy Registrar of Bankruptcy 424-6908

1. Bankruptcy filings
2. Bankruptcy hearing dates

Probate Court 424-7422

1. Probate filings
2. Probate hearing dates

Sheriff Services 424 - 8212

1. Sheriff's accounting
2. Payment of monies in and out of Court

Prothonotary / Registrar of Court of Appeal 424-6187

1. Court of Appeal extensions
2. Court of Appeal - questions regarding Rules and procedures
3. Case Management Issue including Appearance Day
4. Prothonotary - questions regarding Rules and procedures
5. Computation of time issues
6. Appointments for notarizing of documents

Deputy Registrar of Court of Appeal 424-6937

1. Court of Appeal Chambers - questions regarding scheduling

Supervisor of Court Administration 424-6902

1. Emergency Protection Orders
2. Customer Service issues

Supervisor of Central Services 424-8223

1. Request for tapes of Court Hearings
2. Questions regarding translation services

Supervisor of Judicial Assistants 424-6938

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

June 18, 2004

COURT OF APPEAL

1. As July 1, 2004 is a holiday, the Court of Appeal Chambers schedule will be modified that week only. Telephone Chambers will be held on Tuesday, June 29, 2004 with filings completed no later than Thursday, June 24th at 4:30 pm. Regular Chambers will be held on Wednesday, June 30, 2004 at 10am with filings completed by Friday, June 25th, 2004 at 4:30 pm. Counsel are reminded that 2 clear days are required for the Chambers filings and attention to this will be required when working around the August 2 and September 6 holidays.

SUPREME COURT

1. At the most recent Bench-Bar Civil Procedure Rule meeting, it was determined that I as Prothonotary will not longer accept for filing any Notices of Intention to Act in Person which are signed by the former lawyer and not the self-represented person so as to have compliance with Rule 44.04.
2. Counsel are reminded that section (9) (b) of Schedule "C" (Court Fees) of the Regulations made pursuant to the **Costs and Fees Act** requires the payment of a \$235.00 fee where an adjournment of a trial is requested within 90 days proceeding the commencement of the trial. Thus, when an adjournment is requested within the time period noted, the trial will not be removed from the court docket unless the fee is paid.
3. Counsel are asked to insure when they move offices that Notices of Change of Solicitor are filed with the court where the file is taken over by a new lawyer in the former office **OR** the lawyer inform the Prothonotary by letter of their new address where they maintain carriage of the file.
4. When counsel submit documents for the entering of a default judgment, the original Originating Notice (Action) and the original Affidavit of Service are required. Where these documents are not in the package of materials, the entire package will be returned to counsel.

5. Affidavits are often submitted to the court either not signed or not sworn. Such Affidavits will not be accepted for filing. In the case where a draft Affidavit is being submitted to the court with the intention that the original signed and sworn version will follow a covering letter must be addressed to the judge and attached to the Affidavit to that effect.
6. As backers or no longer used on documents, counsel often send documents to the court administration office to be filed without a covering letter and no notation of who is filing the document or to whom it must be returned. This occurs for Orders, Notices, Subpoenas and Affidavits to name just a few. To assist counsel and the court administration staff, I attach a Supreme Court Document Cover Sheet to be used when submitting documents to the court for filing without a covering letter. Please use this form to ensure your documents are promptly returned to the proper lawyer. Where the document must be processed and returned to you on an urgent basis, please note on the cover sheet that it is URGENT.
7. Special Time Chamber applications - these were referred to at item 3, Supreme Court in my December 12, 2002 and at item 6, Supreme Court in my October 10, 2003 information pieces. The documents required to be filed there are listed in those pieces. In the event that you are unable to file an Affidavit with the Application a covering letter is required setting out the reason as to why the Affidavit is missing. The same applies for Draft Orders, if you are unable to submit such a document the covering letter should state why it is missing otherwise the application will not be accepted for filing.
8. In the June 13, 2003 edition of this information piece at item 1, Supreme Court, I spoke of the video conference pilot project - the pilot period has now come to an end and is now a permanent option. Please see the attached information sheet.
9. Appearance Day continues throughout the summer every Friday at 12 noon.

A.M.B.

Attachments

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER
September 24, 2004

Fall is upon us and if the past few weeks are any indication, the courts will be quite busy over the up coming months!!

Be advised that there will be **NO** Appearance Day on the following dates: **October 1, October 22, November 26, December 10 and 24th, 2004.**

Be advised that there will be **NO** regular Supreme Court Chambers on **October 22, 2004.**

Courts will be closed on holidays October 11 and November 11, 2004.

Regular **Court of Appeal Chambers** will be held on **WEDNESDAY, NOVEMBER 10** rather than November 11 and telephone Chambers will be held on **TUESDAY, NOVEMBER 9** rather than November 10, 2004.

Regular Court of Appeal Chambers will be held on **TUESDAY, NOVEMBER 23**, rather than November 25th and telephone Chambers will be scheduled during that week on an as required basis.

Counsel are reminded that once documents are filed with the court and entered into the computerized civil index that the documents are then accessible to the public and media.

When corresponding with the Prothonotary - Registrar, please include the court file number in your reference line.

COURT OF APPEAL

1. Counsel are reminded that Appeal Books and Factums cannot be fax filed with the Court of Appeal - reference is made to Civil Procedure Rule 4.A.01.
2. The present turn around time for the production of tapes from court proceedings is three (3) weeks. When requesting tapes counsel are asked to use the attached Request Form and to indicate whether the tapes are being requested to prepare for an appeal. Then forward the request form to Ethel Chaulk, Supervisor Court Administration, at the Law Courts.

SUPREME COURT

1. Counsel are reminded that Notices of Change of Solicitor /Notices of Intention to Act in Person can only be signed and filed by the now self-represented person personally and not by the former lawyer. A trend is developing where former solicitors are signing and filing these notices on behalf of the now self-represented client and this is not in compliance with Civil Procedure Rule 44.04 as pointed out in my June 18, 2004 issue of Hints and Tips.
3. When moving to Default Judgment, counsel are asked to ensure that the Affidavit of Service as it relates to a corporate Defendant clearly indicates the name and position of the person who accepted service on behalf of the corporate Defendant.
4. Counsel are asked to ensure that the time to file a Defence is clearly noted in the Originating Notice (Action). This also applies to Originating Notices (Counterclaim). Where dates are not included the documents will be returned to counsel to include the missing information.
5. Another trend that is noted is that counsel are attempting to file a single Notice of Trial for several court files. Counsel are reminded that if an Order has not been granted by the Court providing for the consolidation of actions or an Order directing that more than one action be tried together that a Notice of Trial is required for each individual action.
6. It is the responsibility of the party upon whom the Notice of Trial is served to file a memorandum with the Prothonotary in accordance with Civil Procedure Rule 28.06(2) setting out the requested information. I note that this is very rarely done!
7. Counsel are reminded that a Notice of Trial is a separate document from the Record for the Trial Judge - these are two separate documents filed at the same time.
8. Counsel are reminded that Practice Memorandum 2 requires that contested Chambers matters be scheduled on Tuesday, Wednesday or Thursday where they are under 1 hour. If an application is being made in Chambers on an inter partes basis **AND** it is **NOT** contested, it can be scheduled for the non-contested Chambers days which are each week day at 9:30 AM. If it is not noted by cover letter that an inter partes application is **NOT CONTESTED**, counter staff will assume it is contested and will only accept it for filing with a return day of Tuesday, Wednesday or Thursday. Therefore, counsel are requested to clearly indicate to counter staff by a cover letter, that an inter partes application, they wish to set down for a Monday or a Friday is being done on an **UNCONTESTED** basis.

A.M.B.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

October 8, 2004

Be advised that there will be **NO** Appearance Day on the following dates: **October 22, November 26, December 10 and 24th, 2004.**

Be advised that there will be **NO** regular Supreme Court Chambers on **October 22, 2004.**

Courts will be closed on holidays October 11 and November 11, 2004.

Regular **Court of Appeal Chambers** will be held on **WEDNESDAY, NOVEMBER 10** rather than November 11 and telephone Chambers will be held on **TUESDAY, NOVEMBER 9** rather than November 10, 2004.

Regular Court of Appeal Chambers will be held on **TUESDAY, NOVEMBER 23**, rather than November 25th and telephone Chambers will be scheduled during that week on an as required basis.

SUPREME COURT

1. **Computation of time** - a challenge for both court staff and counsel is the computation of time where reference in the Rules is made to "at least". In particular the use of this phrase is found at **Rule 18.05** on Notices of Examination for Discovery: "...at least five (5) days before...", **Rule 31.28** on Subpoenas: "...at least five (5) days prior...", **Rule 31.29** on Subpoenas in aid of an inferior court or tribunal: "...not less than four (4) days...". Civil Procedure **Rule 3.01(b)** states that in those cases we exclude the days on which the events happen - that is to say the date of issue and the date on which the examination or attendance will occur. **HOWEVER**, in **addition** to this I refer to **Rule 3.01 (h)** which states that where the time limited to do something is less than six (6) days, that Saturdays and holidays are **NOT INCLUDED** in the computation of time.

By way of example: today, October 8 counsel attend the Court Administration Office with a Notice of Examination to be issued - the date of examination must **not be before October 19, 2004.** We do not count either October 8 or October 19th as those are the dates on which the events occur (Rule 3.01(b)), we exclude October 9 (Saturday), October 10(Sunday) and October 11(holiday) (Rule 3.01(h)). Thus our "at least" five (5) days become October 12, 13, 14, 15 and 18th.

A.M.B.

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER
November 5, 2004

Be advised that there will be **NO** Appearance Day on the following dates: **November 26, December 10 and 24th, 2004.**

Courts will be closed on holiday November 11, 2004.

Regular **Court of Appeal Chambers** will be held on **WEDNESDAY, NOVEMBER 10** rather than November 11 and telephone Chambers will be held on **TUESDAY, NOVEMBER 9** rather than November 10, 2004.

Regular Court of Appeal Chambers will be held on **TUESDAY, NOVEMBER 23**, rather than November 25th and telephone Chambers will be scheduled during that week on an as required basis.

The Law Courts building will close at 12 noon on Friday, December 24, 2004 and re-open at 8:30 am on Wednesday, December 29, 2004.

COURT OF APPEAL

1. Counsel are reminded that **Certificates Respecting the Preparation of Appeal Book** are required for interlocutory appeals.
2. Where it is more convenient for counsel to forward an e-mail containing the Appeal Book and/or Factum rather than a diskette, counsel are asked to e-mail me directly with the attached document at boucheam@gov.ns.ca
3. With respect to bail applications, counsel are directed and asked to follow this directive:
 - (a) The appellant should always appear in Chambers for the bail application. Then, if the application is successful and the bail decision is not reserved, the paperwork can be completed on-site. If the decision is reserved the appellant will be taken back to the correctional center. If bail is later granted, the appellant will be brought back to the Law Courts on a later date to sign the necessary undertakings.
 - (b) Bail orders should provide that the appellant turn themselves in to the relevant correctional facility within 24 hours of being advised that the decision on the

appeal is to be released, instead of the evening before the hearing date.

- ©) The order should also provide that bail is conditional upon the appeal proceeding on the date scheduled for the hearing. If the date is to be changed for any reason, the bail order shall be reviewed in Chambers.
- (d) In cases where the appellant is released on bail, the Court will not render an oral decision from the bench. The decision will always be reserved. If a panel is in a position to indicate the date that the decision will be delivered, it might indicate at the conclusion of the hearing that the accused shall surrender to the correctional facility at noon on the day before.
- (e) It will not be necessary to have an appellant who has been released on bail attend at the hearing of his appeal.

SUPREME COURT

1. **Civil Procedure Rule 70** has been amended. The new Rule and the new FORMS are posted on the courts website under the heading Civil Procedure Rules at: <http://www.courts.ns.ca/Rules/toc.htm> . Please note that the effective date of the new Rule will be upon publication in the Royal Gazette which is expected on either November 10th or 17th, 2004.
2. **Practice Memorandum No. 22** has been amended. The Practice Memorandum is posted on the courts website. The address is : http://www.courts.ns.ca/practice_memoranda/practice_memo_toc.htm Please note that the effective date of the new Practice Memorandum will be upon publication in the Royal Gazette which is expected on either November 10th or 17th, 2004.
3. Counsel are asked to ensure that Affidavits and their exhibits are properly sworn. Recently, we have been receiving Affidavits that are not sworn or are sworn without the Affiant signing the Affidavit. Likewise exhibits are not being sworn. Should the practice not improve, commencing in January 2005, the Court Administration Office will be refusing for filing any Affidavits which are not properly sworn.
4. Some time ago, at a joint Bench Bar Civil Liaison Committee meeting, it was agreed that counsel could, by way of letter to the schedulers or to the Prothonotary, request a specific judge to conduct a Settlement Conference. We will try to accommodate counsel where the judge's schedule permits. During the recent consultations with the Bar on the Civil Procedure Rules Revision project counsel repeatedly expressed surprise that this was an option available to them. Thus, this note is simply meant to

be a reminder to counsel that indeed the option is available.

- 5** Counsel are reminded when submitting Consent Orders to the Court to vacate and discharge a mechanics' lien that the Court requires an Affidavit supporting the granting of the Consent Order which states that the relevant Registry of Deed's office has been searched and that no other Claims of Lien or Certificates of Lis Pendens have been filed by any other party in respect to the property AND that the Prothonotary's file has been searched and there are no other Affidavits filed by parties sheltering under the action which is sought to be dismissed by consent.

A.M.B.