

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

**ANNETTE M. BOUCHER, Q.C.
February 12, 2010**

COURT DOCKETS

Supreme Court Crownside in Halifax will be held on the following dates: February 18 and 25, March 4, 11, 18 and 25, 2010.

Appearance Days will be held at 12 noon on February 19, and 26, March 5, 12, 19 and 26, 2010.

COURT OF APPEAL

- 1.** Counsel are reminded that any Factum submitted for filing which exceeds forty (40) pages in length will not be accepted. Civil Procedure Rule 90.32(4)(g) states that the factum will be no more than forty (40) pages in length EXCLUDING the appendices.
- 2.** Changes to Civil Procedure Rule 90 were published in the December 16th, 2009 issue of the Royal Gazette. Of note are changes which require the inclusion of any written submissions in the appeal book.
- 3.** It is the responsibility of counsel for the Appellant or the self-represented Appellant pursuant to Rules 90.16(5) and 91.10 (1)(d) to deliver a copy of the Notice of Appeal to the court appealed from for the information of the judge who made the decision. The Registrar sends a copy of a prisoner Notice of Appeal to the judge whose decision is the subject of the appeal.
- 4.** On January 13, 2010 further amendments to Civil Procedure Rule 90 were published in the Royal Gazette. In particular a new Form 90.07B was added which is a Notice of Appeal (Tribunal). Where an Application for Leave to Appeal is granted by the court on a WCAT matter, the Notice of Appeal is to be filed using Form 90.07B.
- 5.** As Registrar, I am keeping a list of counsel who are not filing their Appeal Books and Factums on the dates assigned by the Chambers judge at the setting down motions and who have not sought an extension of the filing date from me as Registrar.

SUPREME COURT

1. Effective January 29, 2010 the Supreme Court has adopted Practice Memorandum No. 1 - Foreclosure Procedures. The full text of the Practice Memorandum and the forms can be found on the courts website at:
http://www.courts.ns.ca/Rules/cpr_practice_memos/nssc_foreclosure_procedure_s_practice_memorandum_10_02_01.pdf
2. Amendments have been made to the Civil Procedure Rules including those necessary to Rule 72 to support the Practice Memorandum. The amendments are effective February 10, 2010, the date of publication in the Royal Gazette.
3. I especially draw the attention of counsel to the amendment to Civil Procedure Rule 5.08(1) - a Respondent to a Notice of Application in Court now has 15 days after being notified of the application to file a Notice of Contest.
4. The court has asked that I remind counsel of their notification obligations to other parties when documents are filed with the court. Rule 31.15 requires a party who files a document with the court to deliver a copy of the document to each other party **IMMEDIATELY BEFORE OR IMMEDIATELY AFTER** it is filed with the court. It is clear that many of the filing issues which have arisen over the last several months are as a result of counsel not providing court files documents to the other parties in a timely fashion as required by the rule. It has been noted that counsel are, in particular, filing the Request for Date Assignment Conference with the court but are omitting to provide it to opposing counsel.
5. Where an amended notice of motion is being filed with the court showing a new hearing date a cover letter is required to insure counter staff forward the document to the scheduling office for docketing for the new court date.
6. The court has directed that Rule 39.09 applies to exhibits to an Affidavit of Service. This means that notwithstanding Form 31.05, a certified copy of the document served **MUST** be exhibited, identified and sworn as any exhibit to an affidavit. Additionally where an affidavit of service has several documents attached as exhibits they must be separately sworn and the entire document (affidavit and exhibits) must be bound or stapled together as one complete document- clips such as large paper clips are not permissible for "holding the affidavit together"
7. Counsel are reminded that exhibits to any type of affidavit are not to be paper clipped together - the exhibits must be attached by stapling them to the affidavit or having the entire affidavit and exhibits bound together.
8. At the January 29, 2010 meeting of the Supreme Court, the justices approved the following policy on Court Decorum and the court anticipates and thanks counsel in advance for their cooperation in this matter:

Beverages and gum in the court room

Recently, it has been noticed that some lawyers, clients and witnesses are bringing coffee cups, water bottles and pop cans into the courtroom. In some cases, these are put on counsel tables and even brought into the witness box. Water is provided for counsel and witnesses.

Court staff have also on occasion had to tell those in the courtroom not to chew gum.

Counsel are reminded that such items are not appropriate in the courtroom and we ask counsel to bring this to the attention of their clients and witnesses.

This is not only a matter of proper decorum in the courtroom but it is also a matter of safety and also protection of exhibits. It is easier to deal with water on an exhibit than coffee for example. Hot coffee, cans and bottles can become a problem if emotions run high.

Court staff and sheriffs will be asked to ensure this policy is enforced.

9. Counsel are reminded that when they request a settlement conference they must do so in writing to the Prothonotary addressing the following issues: all parties consent to voluntarily participate at the settlement conference; whether an ordinary or a trial like settlement conference is being requested and whether a full day or a half day is required for the holding of the settlement conference.
10. Appellants filing Summary Conviction appeals in the Supreme Court are reminded that they must do so in compliance with Civil Procedure Rule 63. In particular I refer to Rule 63.03 which sends you to Rule 91 for applicable procedures. Rule 91.10(1)(d) requires a copy of the Notice of Appeal be sent to the judge from whose judgment the appeal is brought. This means on summary conviction appeals counsel for the Appellant or the Appellant personally **MUST** send a copy of the Notice of Appeal to the lower court judge whose decision is being appealed.

A.M.B.