

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

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January 23, 2009

COURT DOCKETS

Supreme Court Crownside in Halifax will be held on the following dates: January 29th, February 5, 12, 19 and 26th, 2009.

Appearance Days will be held at 12 noon on January 30th February 6, 13, 20 and 27th, 2009.

The Court of Appeal hearing docket and the Bankruptcy hearing docket can be consulted on the courts website at the following location:
http://courts.ns.ca/dockets_on_line/index_dockets_on_line.htm

COURT OF APPEAL

1. The Court of Appeal, on January 22, 2009, approved some minor changes to Civil Procedure Rule 90. These changes will be gazetted soon. I want to draw your attention to the major changes: a) Rule 90.26 (1) has been amended to provide for the filing of the Certificate of Readiness **4 days** in advance of the hearing of the motion to set the appeal down; (you will recall in the last issue I noted that the Certificate needed to be filed 5 days in advance of the hearing); and b) Rule 90.33 has been amended to permit the filing of a JOINT Book of Authorities at the same time as the Respondent's Factum, where the parties to the appeal have agreed to file the joint book.
2. I have created a new series of packages to be posted on the courts website to cover almost all types of motions and matters before the Court of Appeal. In total 17 packages. These will be posted on the courts website at the following location http://courts.ns.ca/appeals/ca_forms.htm.

SUPREME COURT

1. When a Chambers motion or an Application in Chambers or Court requires more than ½ hour to be heard, counsel are to file their documents leaving the time and date for the hearing blank. The documents will be provided to the scheduling office and the scheduler will contact the parties by e-mail indicating the date and time

assigned for the hearing. If the parties/counsel do not indicate, by return e-mail, within the response time set out by the scheduler, that the date is not convenient due to another obligation, the date and time will be deemed confirmed and the date and time will be inscribed in the documents returned to the filing party for service.

2. Counsel who bring foreclosure matters before the court are aware that a Practice Memorandum is being prepared by the court to supplement Civil Procedure Rule 72-Mortgages. While this is being prepared, counsel are advised that foreclosure proceedings are to be commenced in the Supreme Court by the filing of **Notice of Application in Chambers** - Form 5.03 can be adapted to add the mortgage and other required information by way of a Schedule, attached to the Notice of Application. The Mortgagee's affidavit and the Solicitor's affidavit must be filed with the Notice of Application. The Certificate of Title can be filed as a separate document in advance of the hearing but closer in time to the hearing - be certain to include the proper style of cause on the Certificate. **ADDITIONALLY**, the motion contemplated at Rule 35.12(2) is not a stand alone motion by way of Notice of Motion, but rather is automatically included in the application for the order for foreclosure and sale.
3. Counsel are reminded that the place of proceeding has changed as a result of the new Rules. Practically speaking, for example, in Halifax, this means that all SH designations have been replaced by Hfx. This applies to ALL files whether opened prior to January 1, 2009 or not. Please insure your documents are drafted accordingly. Staff, in Halifax, will start rejecting documents that continue to have the SH designation effective February 1, 2009.
4. Counsel are reminded that the headings of documents has been modified slightly under the new Civil Procedure Rules. In the past, **IN THE SUPREME COURT OF NOVA SCOTIA** was used - please note this has now been replaced with: **SUPREME COURT OF NOVA SCOTIA**. The words: **IN THE** have been dropped.
5. When filing a Notice of Defence to Crossclaim, to Counterclaim or to a Third Party Claim remember to adapt Form 4.05 to reflect what type of defence is being filed and who is defending what. The Statement of Defence must also be properly titled.
6. When filing a Notice of Action for debt, insure that the information you provide in the section "Amount of Judgment" concurs with the information in your Statement of Claim. The Tariff D amounts are set out at Civil Procedure Rule 77.

A.M.B.