

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.