

STAYING LOWER COURT ORDER UNTIL APPEAL HEARD
BEFORE SUPREME COURT OF NOVA SCOTIA

1. You may request a stay of the lower court order pending the hearing of your appeal before the Supreme Court of Nova Scotia. You must have filed your Notice of Appeal with the court before you can file a Motion for a stay.
2. Such a motion is heard on “notice” so the other party can also be present and be heard on the motion.
3. Read the attached Notice of Motion (Form 23.03) carefully. Retype the Notice on Motion with your own information paying particular attention to the areas you must complete:
 - a) the concise description of the motion being made and by whom
 - b) the time the motion will be heard
 - c) identify and list the legislation, Rules or points of law you rely on to bring the motion
 - d) listing of each affidavit relied on by the party, identified by the name of the deponent of the affidavit and either the date it was sworn or a brief description of its contents
4. How time is set for the hearing of the motion:
 - a) if the motion will take less than half ($\frac{1}{2}$) hour in chambers and there is no cross examination on submitted affidavits, you choose the day at 9:30 a.m. - either a Monday, Tuesday, Wednesday, Thursday or Friday
 - b) if the motion will take less than half ($\frac{1}{2}$) hour and there will be cross examination on affidavits, you choose 9:30 am on either Tuesday, Wednesday or Thursday
 - c) if more than half ($\frac{1}{2}$) hour is required to hear this motion, you must leave the time and date blank on your Notice of Motion. The Scheduling office will set this date.
5. You must file the following :
 - a) an original and at least two copies (or one for each person named as parties to the action) of the Notice of Motion (Form 23.03)
 - b) supporting affidavit (Form 39.08)
 - c) three Draft Orders (Form 78.05)
 - d) two copies of the Brief
6. The Affidavit in support of your motion for a stay of the lower court decision should explain why you believe the lower court decision will cause you harm if it is not stayed pending the hearing of your appeal.

7. The Brief is a concise statement of the grounds including material facts that the appellant seeks to establish and a reference to legislation relied on by the appellant . Copies of any case law referred to in the brief must be compiled in a Book of Authorities.
8. All parties named on the appeal as Respondents must be provided with a copy of all the documents you file with the Court.
9. The documents noted in Section 5 must be filed no less than five (5) days before the hearing if the motion is half ($\frac{1}{2}$) hour or less or ten (10) days for a Motion requiring more than half ($\frac{1}{2}$) hour.
10. Time is calculated in accordance with Civil Procedure Rule 94 - this means you do not count the day you file the documents nor do you count the hearing date. You count the days between excepting Saturday, Sunday or a day the Prothonotary's Office is closed.
11. The Court filing fee for a Notice of Motion is \$60.60.

April 2011