

EX PARTE MOTION
IN THE SUPREME COURT OF NOVA SCOTIA

1. Once an action is commenced, it may be necessary to make an ex parte motion to request a specific remedy from a justice. A common example of an Ex Parte motion would be to seek an order for substituted service where it is proving impossible to serve the action on the defendant.
2. Generally a party will be allowed to bring an ex parte motion in one of the following circumstances:
 - a) the order sought does not affect the interests of another person;
 - b) the party makes a motion in an ex parte application;
 - c) the other party is dis-entitled to notice under Rule 31
 - d) legislation or the Rules permit the motion to be made ex parte;
 - e) there are circumstances of sufficient gravity to justify making a motion without notice, for which examples are listed in Rule 22.03(2)
3. Read the attached Ex Parte Motion (Form 23.14) carefully and retype the Ex Parte Motion with your own information paying particular attention to the areas you must complete :
 - a) description of the motion
 - b) details of the affidavit filed in support of motion
 - c) identify the legislation, rules, points of law you are relying on to bring your motion
 - d) set out reasons for making this on a ex parte basis
 - e) set the date for the hearing
4. You must file the following:
 - a) an original and one copy of the Ex Parte Motion (Form 23.14)
 - b) supporting affidavit (Form 39.08)
 - c) three copies of a Draft Order (Form 78.05)
 - d) Brief (Civil Procedure Rule 40) two copies
5. These documents must be filed two days in advance of the hearing. Time is calculated in accordance with Rule 94. You do not count the day you file your documents nor the day of the hearing, but rather you count 2 days between the two events excluding a Saturday, Sunday or a day on which the Prothonotary's Office is closed.
6. The motion must be set for 9:30 a.m. in Chambers on Monday, Tuesday, Wednesday, Thursday or Friday.
7. The court filing fee for an Ex Parte Motion is \$60.60.

April 2011.

