

## HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

October 27, 2008

Please be advised that commencing with this article and continuing for several weeks, I will be putting out the Hints and Tips weekly and will be addressing one topic per week from the new Civil procedure Rules under the heading: NEW RULES NUGGET.

### COURT DOCKETS

Supreme Court Crownside in Halifax will be held on the following dates: November 6, 13, 20 and 25<sup>th</sup> (note this is a Tuesday rather than a Thursday), December 4, 11 and 18<sup>th</sup>, 2008.

There will be NO Regular 9:30 am Supreme Court Chambers in Halifax on November 26<sup>th</sup>, 27<sup>th</sup> or 28<sup>th</sup>, 2008.

Appearance Days will be held at 12 noon on November 7<sup>th</sup>, 14<sup>th</sup>, 21<sup>st</sup>, December 5<sup>th</sup>, 12<sup>th</sup> and 19<sup>th</sup>, 2008. There is NO Appearance Day on Friday, November 28<sup>th</sup>, 2008.

Counsel are reminded that telephone Appearance Days are available when one or more counsel reside outside of the metro Halifax area. The telephone Appearance Days are pre-booked at either 11 am or 11:30 am on the Friday and the call is set up at the expense of the party requesting the appearance by telephone. Counsel are reminded they cannot wait until the morning of the scheduled Appearance Day to request that a conference call be set up to participate by telephone that day.

The Law Courts will be close at 12 noon on Wednesday December 24<sup>th</sup>, be closed on December 25<sup>th</sup> and be closed on December 26<sup>th</sup>, re-opening at 8:30 am on Monday, December 29<sup>th</sup>, 2008.

### COURT OF APPEAL

1. Please note the following changes for the month of November and December, 2008 to the Court of Appeal Chambers schedule: week of November 24<sup>th</sup>, 2008 - telephone Chambers will be held on Monday, November 24<sup>th</sup>, and regular Chambers will be held on Tuesday, November 25<sup>th</sup> AND for the week of

**December 22<sup>nd</sup>, there will be NO telephone Chambers and NO Regular Chambers that week. For the week of December 29<sup>th</sup>, 2008 - Regular Chambers will be held on Monday, December 29<sup>th</sup> in the MORNING ONLY at 10:00 am and telephone Chambers will be held on Monday, December 29<sup>th</sup> in the AFTERNOON ONLY at a pre-booked and arranged time.**

2. Since August of this year it has been noticed that counsel are habitually filing their Appeal Books and Factums **LATE**. When dates are set for filings in Chambers , counsel are expected to agree to realistic filing dates which they can in turn respect. Please ensure when you are setting filing dates that they are realistic and that you are indeed filing your material on the due dates. When filings are late, this creates turmoil in the preparation of appeals by judges of the court.
3. The new Civil Procedure Rules provide for the use of 12 point font for **BOTH** the Appeal Book and the Factum. Counsel are asked to commence implementing this practice **IMMEDIATELY**. It has been noted that counsel are habitually using point font of less than 12 which make the material excessively difficult for the judges of the court to read.
4. The Court of Appeal has updated the list of Supreme Court of Canada cases that may be referred to in Facta **WITHOUT** being included in Books of Authority - there are now 21 cases and they are attached in a separate document.

### **SUPREME COURT**

1. Counsel are reminded to pay particular attention to the filing information for a Defence which they include on their Originating Notices. Counter staff have been instructed to verify the Statement of Claim to identify the "location" of the Defendant, then verify the front page of the Originating Notice to insure that the filing deadline indicated does in fact apply to the location noted for the Defendant. By way of example, if there is but one Defendant and in the Statement of Claim it is noted that the defendant resides in Nova Scotia AND the Originating Notice indicates that the time for filing the defence is 60 days, the document will NOT be accepted for filing as the current Rules clearly indicate that the time for filing a defence when served in Nova Scotia is 20 days. Likewise, if there are several defendants located in several jurisdictions, then the front page of the Originating Notice needs to include the times for filing the defences for EACH of the jurisdictions in which service will take place.

### **NEW RULES NUGGET**

Civil Procedure Rule 4.06 introduces a new feature: the filing of a Demand for Notice on FORM 4.06, where a defendant, who does not have a defence to an action, or does not choose to defend an action, demands notice **of all steps in the proceeding**.

The defendant MUST file the Notice for Demand for Notice with the court and provide it to the other parties to the action, as follows (and as set out in Rule 31.12):

- within 15 days, if notification of the action is by personal service in Nova Scotia;
- within 30 days, if notification of the action is by personal service elsewhere in Canada; and
- within 45 days, if notification of the action is by personal service elsewhere in the world.

The person who files a Notice for Demand will be required, by staff, to file a Designation of Address for Delivery, Form 31.18. The effect of this is that the onus is placed on the person filing the Demand for Notice to provide all the required information to designate an address for delivery and the other party and the court can then rely on this designation to prove delivery pursuant to Rule 31.26.

This will likely have an impact on motions for default judgment as notice will be required to the defendant who has filed a Demand for Notice by the Prothonotary prior to the motion for default being considered.

**A.M.B.**