

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER, Q.C.
June 16, 2010

COURT DOCKETS

Supreme Court Crownside in Halifax will be held on the following dates: June 17, 24, July 8, 22, August 5, 19, 2010. Reduced to twice per month for the summer.

Appearance Days will be held at 12 noon on June 18, 25, July 2, 9, 16, 23, 30, August 6, 13, 20, and 27th, 2010.

There will be no Supreme Court Chambers in Halifax on Mondays and Fridays for the month of July and August 2010. Starting July 1, 2010 and continuing until September 7, 2010 there will only be regular chambers on Tuesday, Wednesday and Thursday at 9:30 a.m.

Court of Appeal Chambers will continue during the summer at 10:00 a.m. on Thursday in person and at pre-arranged telephone times on Wednesday. **EXCEPTION:** telephone chambers will be held on Tuesday, June 29th and in person chambers on Wednesday, June 30th because of the July 1st holiday.

SUPREME COURT

1. Amendments have been made to the Civil Procedure Rules effective June 16, 2010, the date of publication in the Royal Gazette. Copies are attached for ease of reference.
2. The court has asked that I remind counsel of their notification obligations to other parties when documents are filed with the court. Rule 31.15 requires a party who files a document with the court to deliver a copy of the document to each other party **IMMEDIATELY BEFORE OR IMMEDIATELY AFTER** it is filed with the court. It is clear that many of the filing issues which have arisen over the last several months are as a result of counsel not providing court files documents to the other parties in a timely fashion as required by the rule. **It has been noted that counsel are, in particular, filing the Request for Date Assignment Conference with the court but are omitting to provide it to opposing counsel.**
3. It has been noted that counsel and parties are writing to the court by sending correspondence to the Prothonotary or to the judge for inclusion in the court file and

the correspondence is not being copied to opposing counsel/party by the author of the letter. It is the responsibility of the author of correspondence to the court to insure it is copied to the opposing party/counsel.

4. When counsel are preparing their affidavits in support of a motion to confirm sheriff sale, I would ask that the newspaper ads be legible . The print is being shrunk on counsel's photocopier to the point it is not legible. I will be returning affidavits and not accepting them for filing where the newspaper ads are not legible.
5. Counsel are reminded that over the summer holidays staff will be reduced in the Prothonotary's office because of summer vacations and the cooperation of all would be greatly appreciated.
6. Although there have been many reminders to counsel regarding the filing of only one Book of Authorities with briefs, this continues to be an issue for the court. **Please note: where a brief filed with the court references case law, only ONE COPY of the Book of Authorities is to be filed.** Duplicate briefs are to be filed but only one copy fo the Book of Authorities is to be filed.
7. Counsel are reminded that exhibits to any type of affidavit are not to be paper clipped together - the exhibits must be attached by stapling them to the affidavit or having the entire affidavit and exhibits bound together.

A.M.B.

Nova Scotia Civil Procedure Rules

Amendment

May 13, 2010

The following Rules and Forms are amended as follows:

1. The words of Rule 5.14(2) are changed to read as follows:

A judge who is satisfied on all of the following may grant an order summarily disposing of an application against a respondent:

- (a) the respondent is notified of the application under Rule 31 - Notice;
 - (b) the respondent either files no notice of contest or fails to appear at the hearing of the application or on the motion for directions;
 - (c) the applicant discloses to the judge all communications between the applicant and the respondent about the application;
 - (d) the evidence supports the granting of the order.
2. The numeral 5 in Rule 11.02(5) is changed to 4.
 3. The numeral 4 in "(4)" of Rule 24.03(4) is changed to 3.
 4. The misspelling of prothonotary in Rule 62.13(6) is corrected.
 5. The subtitle of Rule 62.20 is changed to "Statement of income" and the parentheses and numeral (1) are removed.
 6. The second Rule 76.04(3)(e) is changed to 76.04(3)(f).
 7. The numeral 5 in Rule 81.03(5) is changed to 3.
 8. The period at the end of rule 82.09(2) is removed and the following is added:

Notice of Application	59.07	82.09K
Petition for Divorce	59.09	82.09L
Notice of Variation Application	59.12	82.09K
Application for Divorce by Agreement	59.45	82.09M
Joint Application for Divorce	59.46	82.09N
Petition for Divorce	62.09	82.09O
Application for Divorce by Agreement	62.14	82.09P
Joint Application for Divorce	62.15	82.09Q.

9. Rule 92 - Transition is replaced by the new Rule 92 - Transition attached.
10. The word "Claims" in the third line of the index to Part 22 - Forms is changed to "Claim".
11. The words "Rule 84 - Court Records" in the explanatory notes for the style of cause in Form 60A.07 are changed to "Rule 82 - Administration of Civil Proceedings".
12. The words "complete heading as required by Rule 84 - Court Records" in the explanatory notes for the style of cause in Forms 60A.07A, 60A.12, 60A.16, 60A.17, 60A.19, 60A.20, 60A.21, and 60A.22 are changed to "copy standard heading".
13. The misspelling of the word prothonotary in Form 81.03 is corrected.
14. The attached forms of heading are added to Part 22 - Forms as Forms 82.09K, 82.09L, 82.09M, 82.09N, 82.09O, 82.09P, and 82.09Q.

Certificate

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on May 13, 2010, a majority of the judges of the court made the foregoing amendment to the *Nova Scotia Civil Procedure Rules*.

Signed May 13, 2010

Joseph P. Kennedy
Chief Justice of the Supreme Court
of Nova Scotia

Form 82.09K

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between:

[name of applicant or names of each in a series]

[Applicant/Applicants]

and

[name of respondent or names of each in a series]

[Respondent/Respondents]

Form 82.09L

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between:

[name]

Petitioner

and

[name]

Respondent

Form 82.09M

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between:

[name]

Applicant

and

[name]

Respondent

Form 82.09N

20

No.

Supreme Court of Nova Scotia
(Family Division)

Between:

[name]

Joint Applicant

and

[name]

Joint Applicant

Form 82.09O

20

No.

Supreme Court of Nova Scotia

Between:

[name]

Petitioner

and

[name]

Respondent

Form 82.09P

20

No.

Supreme Court of Nova Scotia

Between:

[name]

Applicant

and

[name]

Respondent

Form 82.09Q

20

No.

Supreme Court of Nova Scotia

[name of both spouses]

Joint Applicants

Part 19 - Transition

Rule 92 - Transition

Effective date of these Rules and definition

- 92.01 (1)** These Rules take effect on June 30, 2010 for a family proceeding and on January 1, 2009 for all other proceedings, except as provided in this Rule 92.
- (2) In this Rule, "family proceeding" means a proceeding started under Part 13 - Family Proceedings.

Application to outstanding proceedings

- 92.02 (1)** Unless this Rule provides or a judge orders otherwise these Rules apply to all steps taken after the following dates in the following kinds of proceedings:
- (a) June 30, 2010 in a family proceeding started before that day;
- (b) January 1, 2009 in an action started before that day.
- (2) The *Nova Scotia Civil Procedure Rules* (1972) apply to all other proceedings started before January 1, 2009 unless a judge orders otherwise.

Document and step in action preserved

- 92.03** On a motion, in a trial or hearing, and in connection with any other step taken after June 30, 2010 in a family proceeding started before that day, or after January 1, 2009 in an action started before that day, both of the following apply:
- (a) each notice, pleading, affidavit, order, and other document filed in the action under the *Nova Scotia Civil Procedure Rules* (1972) must be treated, as nearly as possible, as if it conformed with these Rules;
- (b) each step taken in the family proceeding, or action, and completed before June 29, 2010 in the family proceeding, or January 1, 2009 in the action, must be treated, as nearly as possible, as a step taken under these Rules.

Outstanding interlocutory steps

92.04 Each of the following steps that is outstanding in a family proceeding on June 30, 2010, or in an action on January 1, 2009, must be completed under the *Nova Scotia Civil Procedure Rules* (1972), unless the parties agree or a judge orders otherwise:

- (a) answers to a demand for particulars delivered before the date;
- (b) an interlocutory or interim application;
- (c) the disclosure of documents and electronic information in an action in which a party has served a list of documents before the date;
- (d) an examination for discovery agreed to, or for which a notice of examination is issued, before the date;
- (e) answers to interrogatories delivered before the date;
- (f) a reference made before the date;
- (g) the assignment of trial dates, delivery of an expert's report, and discovery in a divorce proceeding in which a party files a request for trial date and certificate of readiness before the date, and in an action in which a party files a notice of trial before the date;
- (h) default judgment, including for foreclosure, sale, and possession, on a claim made in an action started before that date;
- (i) all steps in an undefended or uncontested divorce proceeding.

Notice in an outstanding action

92.05 (1) The *Nova Scotia Civil Procedure Rules* (1972), rather than Rule 31 - Notice, apply to both of the following in a family proceeding started before June 30, 2010, or an action started before January 1, 2009:

- (a) giving notice of the action to a person after the date;
 - (b) a motion for a default judgment made after the date.
- (2)** An address for service given before June 30, 2010 in a family proceeding, or January 1, 2009 in any other proceeding, is treated as a designated address under these Rules.

- (3) A party to a family proceeding started before June 30, 2010, or an action started before January 1, 2009, who has not stated an address for service, or who has ceased to be assured of receiving a document delivered to the address for service, must designate an address for delivery.

Actions under \$100,000

92.06 Rule 57 - Action for Damages Under \$100,000 does not apply to an action started before January 1, 2009, but a motion may be made under Rule 58 - Action for Claim Valued Under \$100,000.

Registry number on headings

92.07 The prothonotary at Halifax may direct that the registry number in the heading of each proceeding be changed to show the new registry codes in Rule 32 - Place of Proceeding.

Directions to apply present or former Rules

- 92.08 (1)** A judge who presides at a trial or hearing of a family proceeding started before June 30, 2010 may direct which of these Rules and which of the Rules in the *Nova Scotia Civil Procedure Rules* (1972) apply to the trial or hearing.
- (2) A judge who is satisfied that the application of this Rule 92 to a family proceeding started before June 30, 2010, or any other proceeding started before January 1, 2009, causes one party to gain an unfair advantage over another party may order either of the following:
- (a) these Rules apply to the proceeding, or a part of the proceeding, despite Rules 92.02(2), 92.04, and 92.05(1);
 - (b) the *Nova Scotia Civil Procedure Rules* (1972) apply to the proceeding, or a part of the proceeding, despite Rule 92.02(1).