

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

Caroline McInnes
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My contact information is as follows:

phone: 902-424-8962

fax: 902-424-0524

email: Caroline.McInnes@courts.ns.ca OR PROTHONOTARYHFX@courts.ns.ca

Timothy Morse's contact information is as follows:

phone: 902-424-7968

fax: 902-424-0524

email: Timothy.Morse@courts.ns.ca OR PROTHONOTARYHFX@courts.ns.ca

COURT DOCKETS FOR MARCH & APRIL

Please note: the Prothonotaries' Offices will be closed on the following holidays:

Friday, April 10, 2020 – Closed all day for Good Friday

Monday, April 13, 2020 – Closed all day for Easter Monday

A) Court of Appeal:

Court of Appeal regular chambers will be held on Thursdays at 10:00 a.m. and telechambers will be held on Wednesdays at pre-appointed times. Please call ahead to the Deputy Registrar, Cherri Brown, at 902-424-6937 to book a time.

The Court of Appeal posts the docket for appeal hearings, including the date, time, location of the appeal and the panel members, on its website:

http://courts.ns.ca/Appeal_Court/NSCA_dockets.htm

B) Supreme Court:

Crownside in Halifax will be held on the following Thursdays at 9:00 a.m.:

- March 5, 12, 19 and 26
- April 2, 9, 16, 23 and 30

Appearance days will be held on Fridays at 12 p.m. (noon) in Halifax.

CIVIL PROCEDURE RULE AMENDMENTS

The judges of the Supreme Court and the Court of Appeal have approved amendments to the Civil Procedure Rules, which are to be tabled, and therefore considered in force, within 20 days of the opening of the current sitting of the Provincial Legislature (which opened Feb 20).

Please ensure you review these Rules carefully as there are many changes, including changes to precedent forms.

The approved amendments are posted on the Court's website:

https://www.courts.ns.ca/Civil_Procedure_Rules/cpr_2008_originals_and_amendments.htm. They will be added to the consolidated version of the Rules in due course.

I do not propose to review every Rule change, however, I will highlight the areas the Rule changes cover, for your convenience. Please note these summaries of the changes are mine and not the judges.

COURT OF APPEAL:

Appeal Book in Criminal Appeals

Rule 91.15(2)(b)(iii)(C) has been amended. It now requires the appeal book in criminal appeals to include a copy of the transcript of everything said in the course of the proceedings under appeal, including "a copy of any written submissions and the transcript of submissions made".

SUPREME COURT:

Amendment: Unified Family Court

The Supreme Court judges approved an amendment to the transition Rule in anticipation of the roll out of the Unified Family Court across the Province.

Amendments contained in the 'Miscellaneous' amendment document:

1. Expiry of Actions (see paras 3, 25 and 26 of the Amendment document)

New sub-rules are being added to Rules 4.04 and 84.02. The result of these changes will be that, when a proceeding expires in accordance with Rule 4.04, the prothonotary will deliver a notice advising of the expiry to a party who designated an address for delivery of ordinary mail to that address. In addition, the proceeding will be marked expired in the Civil Index System database.

2. Prothonotary's Motion to Dismiss – Rule 4.22 (see para 4 of the Amendment document)

This Rule is being amended to clarify that the prothonotary need only make a motion to dismiss a defended action under Rule 4.22. Motions to dismiss will not need to be made on expired actions any longer as they will be marked expired as noted above.

3. New Requirements for Deadline for Filing Information re: Notice on Respondent (see paras 6, 7, 8 and 11 of the Amendment document)

New sub-rules are being added to various sections of the Rules requiring the moving party no later than two clear days before the hearing of a motion, a motion for directions on a judicial review or appeal, or a motion for default judgment before a judge, to do one of the following:

- file an affidavit of service proving required notice;
- advise the prothonotary that the respondent has stated in writing their intention to appear at the hearing; or
- advise the prothonotary that notice has not been effected.

4. Case Management Rule (at paras 12-15 of Amendment document)

The Conference Rule 26 is amended and will be Rule 26A and a new Case management Rule has been added (as Rule 26B).

5. Motions by Correspondence – Rule 27 (at para 16 of Amendment document)

This Rule has been amended to add a new subsection (2), which states: “Unless a judge permits otherwise, a motion by correspondence must include a notice of motion, a supporting affidavit, a draft order, and a brief”.

Note: This is the practice that Halifax Law Courts have been following at the direction of Chief Justice Deborah K. Smith; however, it has now been formalized into the Rule.

6. Rule 57 and 58 Actions (at paras 20-22, 24 and 32 of the Amendment document)

These actions, previously for damages/claims under \$100,000, are now for damages/claims under \$150,000.

Please note: This will mean the corresponding forms for Notice of Action and Notice of Action for Debt must also be changed. **Please ensure you update your precedents.**

7. Interim Confidentiality Orders – Rule 85.04 and 85.05 (at paras 27-31 of the Amendment document)

New sub-rules are being added to Rule 85.04. These new sub-rules introduce interim confidentiality orders (covering the time period between filing a motion for a confidentiality order and the hearing of the motion, for example), and give authority to a prothonotary or chambers judge to grant them and restrict access to the record of the motion and to any other record sought to be made the subject of the confidentiality order.

Rule 85.05 states that a motion for an interim confidentiality order may be made *ex parte* (unless a judge orders otherwise), and Rule 85.04(4) states that it may be made by correspondence.

These amendments largely codify the practice that was in place at the Halifax Law Courts, except that now the prothonotary also has the authority to grant interim orders.

Amendments contained in the 'Appearance' amendment document:

There is an entire amendment document on Rule 24, which was previously 'Appearance Day Motion' and is now changed to 'Appearance Motion'.

These changes provide a process for appearance motions to be heard in the districts in regular chambers or as the district judge directs. The amendments also include changes to Form 24.03. It was previously an 'Appearance Day Notice' and is now titled "Notice of Appearance Motion". **Please ensure you update your precedent forms.**

STANDING ITEMS - Both Courts:

Free Legal Clinics

Free Legal Clinics are now available in Halifax, Sydney, Yarmouth and Truro. Volunteer lawyers meet with clients by appointment for one-hour sessions.

The Clinics are intended for self-represented litigants with limited to little experience in the court system. The Clinic provides service for civil matters and, at the Halifax clinic, for civil and family law appeals (excluding child protection appeals) at the Court of Appeal. They do not provide service on criminal matters.

If you have any litigants in mind that you believe might benefit from this service, kindly refer them to the Court Administration Office at the appropriate courthouse. Litigants may initiate the sign-up process in person or by telephone as follows:

The Law Courts (Halifax): 902-424-3690

Sydney: 902-563-3559

Yarmouth: 902-742-0580

Truro: 902-893-3953

For more information, go to the Courts website:
http://courts.ns.ca/self_reps/nsca-nssc_free_legal_clinic.htm

Liaison Committees

Both the Court of Appeal and the Supreme Court have Liaison Committees that are composed of members of both the Bar and Bench. These Committees sit approximately twice a year. Counsel are reminded that they are invited to bring forward items they would like raised at Liaison Committee meetings to Bar members of the relevant committees. Current information on committee membership may be obtained from the Nova Scotia Barristers' Society.