



COVID-19: FREQUENTLY ASKED QUESTIONS IN THE COURT OF APPEAL

Tuesday, April 28, 2020

It has been more than a month since the World Health Organization declared the COVID-19 virus a global pandemic, forcing us all to make difficult decisions in our personal and professional lives.

Like many other jurisdictions in Canada, Nova Scotia remains under a provincial State of Emergency. The Courts continue to operate, but with new restrictions that are based on the advice of public health officials.

Practical measures like reducing staff, electronic filing of documents, hearing more matters remotely, and adjourning non-urgent proceedings are helping protect the health and safety of those working in and appearing before the courts during the pandemic.

Our current situation looks to be the new normal, at least for the foreseeable future. With that in mind, we have endeavoured to answer the most frequent questions that have come in about matters in the Nova Scotia Court of Appeal.

We appreciate that this is a difficult and uncertain time for everyone, including our court staff. We ask for your patience and cooperation as we work through these new processes and develop a plan for the months ahead.

Thank you.

Michael J. Wood
Chief Justice of Nova Scotia
Chief Justice of the Nova Scotia Court of Appeal

Q/ What matters are currently proceeding in the Court of Appeal?

The Court of Appeal is hearing urgent and essential chambers motions only. All but two of the appeal hearings that were scheduled for the remainder of the March/April term, and all the appeal hearings scheduled for the upcoming May/June term have been adjourned and will be heard this fall.

Q/ What deadlines have been suspended in the Court of Appeal?

The time periods for commencing civil appeals under Rules 90.13(3) and 90.14, and criminal appeals under Rules 91.09(1) and 91.10 of the Civil Procedure Rules are suspended for the period of March 26 to June 26, 2020. The deadlines for making a motion for date and directions in Rule 90.25(2) and 91.12(2) are also suspended for this period. This does not apply to appeal periods set out in other legislation.

Q/ Can I start a new appeal?

Yes. There is no prohibition on filing new Notices of Appeal in the Court of Appeal.

Q/ Can I file paper documents?

Yes. Paper filing is permitted; however, counsel and parties are encouraged to request permission to file electronically by email and hold off on filing paper copies until the Court of Appeal resumes regular operations. E-filing requests should be emailed to the Registrar, Caroline McInnes, at Caroline.McInnes@courts.ns.ca. In most instances, we expect these requests will be granted during the pandemic.

Q/ Are my appeal book and factum filing deadlines still in place?

Yes. These deadlines are set by a Court of Appeal judge and remain in place unless changed by a judge. For all appeals that were previously scheduled for the March/April and May/June terms and subsequently adjourned, new filing deadlines have been set to reflect the new hearing date. Deadlines may be extended by consent in certain circumstances. Such requests should be sent to the Registrar, Caroline McInnes, at Caroline.McInnes@courts.ns.ca.

Q/ Can I make a motion to schedule my appeal hearing?

Scheduling of appeals takes place through a motion for date and directions in chambers. Effective March 27, 2020, chambers motions have been limited to those determined to be urgent or essential by the chambers judge. A motion for date and directions that meets this criterion will be heard. In addition, if all parties agree, a motion for date and directions will be heard without having to be urgent or essential.

Q/ Are chambers matters still being heard?

Yes. Chambers is available for urgent or essential motions, as determined by the chambers judge. In addition, motions for date and directions will be heard with agreement of the parties. Chambers motions will be heard by telephone, unless the chambers judge decides that another procedure is more appropriate, based on the circumstances. This might include video conference or by written submissions only.

Q/ I have an appeal scheduled for this fall. What will happen if an in-person hearing is not possible or advisable at that time?

We expect that appeals set for this fall will proceed as scheduled. Work is underway to ensure that appeals can be heard remotely by video or telephone conference, if necessary or advisable. The panel of judges assigned to each appeal will have discretion to determine the procedure whereby the matter will be heard. If the panel determines that an in-person hearing is essential and cannot be accommodated, the panel will then consider whether an adjournment is required.