

Nova Scotia Civil Procedure Rules

Amendment

May 28, 2015

The following Rules and Forms are amended as follows:

1. The phrase "Form 5.09" in Rule 5.10(3) is replaced with "Form 5.10".
2. The phrase "Form 5.10" in Rule 5.11(3) is replaced with "Form 5.11".
3. Rules 5.18 to 5.22 are renumbered 5.20 to 5.24 and the following Rule 5.18 is added:

Adjournment of application in court

- (1) A judge may adjourn the hearing of an application in court sixty days or more before the application is scheduled to be heard.
 - (2) A judge assigned to hear an application in court, or any judge if no judge is assigned or the assigned judge is not available, may adjourn the hearing of the application less than sixty days before the hearing.
 - (3) A judge who determines a motion for an adjournment less than sixty days before the date for hearing an application in court must consider each of the following:
 - (a) the prejudice to the party seeking the adjournment, if the party is required to proceed to the hearing;
 - (b) the prejudice to other parties, if they lose the hearing dates;
 - (c) the public interest in making the best use of court facilities, judges' time, and the time of court staff.
4. The following Rule 5.19 is added to Rule 5 - Application:

Directions and indemnity

A judge who adjourns the hearing of an application in court may give directions for the further conduct of the proceedings and order a party whose conduct, in whole or in part, caused the adjournment to indemnify, in whole or in part, another party for expenses caused by the adjournment.

5. The word "cross examination" as it appears twice in the table at Rule 23.11(1) is changed to "cross-examination".
6. The word "pre-trial" in Rule 26.02(4) is replaced with "pretrial".
7. Rule 29.01(1) is replaced with the following:

After it is confirmed in a trial readiness conference that the parties are ready for trial, all pretrial motions must be made to the judge assigned to preside at the trial, unless no judge is assigned as yet, the assigned judge determines that another judge should hear the motion, or the assigned judge is not available within the time required for the motion.

8. Rules 29.01(2) and (3) are renumbered (3) and (4) and the following Rule 29.01(2) is added to Rule 29 - Motion to Presiding Judge:

A prehearing motion in an application, judicial review, or appeal to be heard less than sixty days before the hearing of the application, judicial review, or appeal must be made to the judge assigned to hear the proceeding, unless no judge is assigned as yet, the assigned judge determines that another judge should hear the motion, or the assigned judge is not available within the time required for the motion.

9. Rules 32.02(3) to (5) are renumbered (4) to (6) and the following Rule 32.02(3) is added:

A document to be filed at an office not regularly open Monday to Friday, save holidays, may be delivered on days the part-time office is closed to any prothonotary and that prothonotary shall note the filing on behalf of the prothonotary at the part-time office on the day of delivery and transmit the document to that prothonotary.

10. Rule 52.09(1)(b) to (f) are relettered (c) to (g) and Rule 52.09(b) is added as follows:
 - (b) the defendant, who undertakes to open a case in defence and not to make a motion for non suit, makes a speech about the anticipated case in defence;
11. The words "who did not elect to make a speech before the plaintiff's evidence is adduced" are added after the words "the defendant" at the beginning of Rule 52.09(1)(d) as relettered by this amendment.
12. The word "cross examination" in Rules 53.05, 59.36(5)(f), and 59.40(3)(c) are changed to "cross-examination".

13. The words "at Halifax" are added after the word "prothonotary" in Rule 94.02(1)(c).
14. The "Notice of Respondent's Claim" listed at page 1 of the Table of Contents of Part 22 - Forms is renumbered "5.10".
15. The "Notice of Contest of Respondent's Claim" listed at page 1 of the Table of Contents of Part 22 - Forms is renumbered "5.11".
16. Form 5.09 is renumbered "5.10".
17. Form 5.10 is renumbered "5.11".

Certificate

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on May 28, 2015, a majority of the judges of the court made the foregoing amendment to the *Nova Scotia Civil Procedure Rules*.

Signed May 28, 2015

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