

HINTS AND TIPS FROM THE PROTHONOTARY - REGISTRAR

ANNETTE M. BOUCHER

April 21, 2006

Supreme Court Crownside in Halifax will be held on the following dates: April 27th, May 2, 11, 18 and 25, 2006.

Regarding Appearance Days for the calendar year 2006, please note that there will be NO Appearance Days on the following dates: May 5, September 15, November 24, December 15 and 22, 2006.

COURT OF APPEAL

1. Counsel are reminded that the new Form 62.02(5) is required for the setting down of appeals. It is the responsibility of the Appellant to fully complete the Certificate Respecting Preparation of Appeal Book.

SUPREME COURT

1. Counsel are asked to ensure that when they are filing a Defence and Counterclaim or a Defence and Crossclaim that it is clearly indicated on the first page of the Defence that this is the case. It has become common practice to state on the first page of the document that it is a "Defence" but deeper in the document it becomes apparent that a counterclaim or a crossclaim is also included. This leads to confusion for the reader of the document.
2. Where counsel have filed a Notice of Intended Action with the court they are reminded that the same court file number is to be used on the documents filed subsequently to commence the action.
3. The judges of the Supreme Court have approved an amendment to Practice Memorandum No. 2 with respect to adjournments of Chambers matters as follows:
 - (a) When an ex parte chambers application has been settled or the party, for any reason, is seeking an adjournment of an ex parte chambers application, the Chambers judge must be notified forthwith. The case may be removed from the docket only by telephoning the Judge's office and providing a confirming letter or fax to the Judge and to either the Prothonotary's office or the Chambers Coordinator.
 - (b) Complex and Special Chambers applications may be adjourned only with the

approval of the Chambers Judge who is assigned to hear the application. Where all parties agree and the Chambers Judge allows the adjournment, the party applying for the adjournment shall forward forthwith a confirming letter to the Judge and to either the Prothonotary's Office or the Chambers Coordinator.

- (c) Where all parties have not agreed to an adjournment, counsel must appear in court to make submissions or counsel may, where possible, arrange a telephone conference with the Judge to present the request for the adjournment.
- 4. A trend appears to be developing where opposing counsel, on a Special Time Chambers application, are filing their own "new" Chambers "response" application which they make returnable at the same time as the original Special Time Chambers hearing. This presents a grave practical problem - the original time is set based on the representations of counsel for the applicant on the original application being filed and the time required to hear that sole application. That time requirement is often adequate for one single application but is often inadequate for two applications. Where opposing counsel wish to bring a second application, in the same time slot as an originally filed and scheduled Special Time Chambers application, that counsel must first obtain the permission of the presiding Special Time Chambers justice. A request in writing is to be presented to the justice scheduled to hear the Special Time Chambers application. Where the presiding justice determines that the second application will be heard at the same Special Time Chambers sitting, the documents will then be accepted for filing by the court administration staff.
- 5. Over the last several months there has been an increase in Chamber filings where an abridgment of time is being requested for the hearing of the application. This occurs when the application is being brought outside of the time lines set out in the Civil Procedure Rules. Counsel are reminded that the Interlocutory Notice **MUST** clearly indicate that the first remedy being sought from the Chambers judge is the abridgment of time. Where this is not clearly indicated, the documents will not be accepted for filing. Counsel are further reminded that when their documents are accepted for filing (if in proper form) that this **DOES NOT** mean that the presiding justice has agreed to abridge the time for hearing the application. Counsel must address the remedy of abridgment of time at the outset of the hearing and the presiding justice will make a determination of whether or not that remedy will be granted in the particular case before the court.

A.M.B.