

## **HINTS AND TIPS FROM THE PROTHONOTARY – REGISTRAR**

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### **COURT DOCKETS FOR THE HOLIDAYS AND THE NEW YEAR**

**Please Note: The Prothonotaries' Offices will be closed on the following holidays:**

**Tuesday Dec. 24, 2019** – Closing at 12:00 p.m. (noon) for Christmas Eve

**Wednesday Dec. 25, 2019** – Closed all day for Christmas Day

**Thursday Dec. 26, 2019** – Closed all day for Boxing Day

**Wednesday Jan. 1, 2020** – Closed all day for New Year's Day

**Monday, Feb. 17, 2020** – Closed all day for Heritage Day

\*For the purpose of calculating clear days in accordance with Civil Procedure Rule 94.02, Tuesday Dec. 24, counts as a day the Prothonotary's Office in Halifax is open.

#### **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, except as set out below. Please call ahead to the Deputy Registrar, Cheri Brown, at 90-424-6937 to book a time.

For the week of Dec. 23, 2019:

- Regular chambers will be held on Monday, Dec. 23, 2019, at 10:00 a.m.
- Telechambers will be held in the afternoon on Monday, Dec. 23, 2019, at 2:00 p.m.

For the week of Dec. 30, 2019:

- Telechambers will be held on Tuesday, Dec. 31, 2019
- Regular chambers will proceed as per usual on Thursday, Jan. 2, 2020, at 10:00 a.m.

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](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 am:

- Dec. 19, 2019
- Jan. 2, 9, 16, 23 and 30, 2020
- Feb. 6, 13, 20 and 27, 2020

Appearance days will be held on Fridays at 12:00 p.m. (noon) in Halifax.

## **PRACTICE TIPS**

### **Supreme Court:**

I have reviewed the 'pink slips' we have signed over the past few months and thought it might be helpful to provide a reminder to counsel on the matters listed below in order.

#### **1. Filing Documents in Originating Court**

Please keep in mind that documents for any matter (regardless of where it is sought to be heard) must be filed in the court selected for the main proceeding (see Civil Procedure Rule 32.02(2)). **The only exception to this is trial subpoenas. A party may have these issued at any court (see Rule 50.02(1)).**

You may deliver an extra copy of materials directly to the judge assigned to hear your matter, but you must still file your materials in the normal course at the court selected for the main proceeding.

#### **2. Covering Letters**

Please keep in mind that court staff deal with hundreds of documents every week. Including a covering letter explaining what you are filing, noting any urgency, or identifying unusual circumstances cannot be extremely helpful. A covering letter can also help court staff process your documents more quickly and efficiently.

#### **3. Scheduling Matters in Halifax – who picks the date?**

Below is a reminder about who picks the date and whether you insert the date in your document before filing or whether you should leave it blank.

**a) General Chambers:** The moving party selects the date to appear for general chambers and insert this into the motion document before filing.

**b) Motion for directions:** The moving party must call ahead to the scheduling office (902-424-5782) and reserve a date. The scheduling office will hold this date for 24 hours. The moving party must insert this date into their document before filing.

**c) Special (Complex) Chambers:** Typically, the moving party would leave the date and time for the hearing blank in the motion document upon filing, but still indicate the length of hearing requested. The scheduling office will reach out to the parties to find a suitable date and will return court-stamped copies to the moving party, with the date inserted, once a date has been set.

There may be instances where a special time chambers date has been scheduled ahead of time and the court is holding this date. If that is the case, the moving party would insert the date and time into their motion document upon filing.

#### **4. Filing Fees**

Before sending your documents to the court for filing, please review to ensure that you have provided the required filing fee. You may refer to the Courts' website for a summary chart of filing fees for Supreme Court (General Division) and the Court of Appeal: [https://www.courts.ns.ca/Fees Of Courts/fee docs/NSCA NSSC fees 15-04-01.pdf](https://www.courts.ns.ca/Fees%20Of%20Courts/fee_docs/NSCA%20NSSC%20fees%2015-04-01.pdf)

#### **5. Notice Periods and Clear Days**

Please doublecheck the notice periods required under the applicable Civil Procedure Rule before filing your document. You may find Rules 23.11 for motions and 5.06 for applications helpful.

In particular, remember that the notice period for filing an *ex parte* motion is now the same as for filing a motion on notice: five (5) clear days (see Rule 23.14(5)).

To calculate these notice periods, please refer to Civil Procedure Rule 94.02 for assistance on how to calculate clear days. Clear days is different than business days because you do not count the day the period begins or the day the period ends (Rule 94.02(1)(a) & (d)).

For example, if you want to appear for a motion in general chambers on Wednesday, Jan. 8, 2020, you will need to have your documents filed five (5) clear days in advance. Therefore, the latest you can file your documents is Monday, Dec. 30, 2019, since Wednesday, Jan. 1, 2020, is a holiday and the Prothonotary's Office in Halifax is closed, and Saturday, Jan. 4, and Sunday Jan. 5, are weekends. This gives you five (5) business days between the day the period begins (the filing date) and the day the period ends (the day the motion will be heard).

## **6. Headings**

Please remember that the forms created under the Rules for headings are mandatory (see Rule 82.09(2) and the corresponding forms).

In addition, once the heading is established by the originating document, all further documents filed in the matter must contain that standard heading unless it is varied in accordance with Rule 82.09(3), permitted under Rule 83 – Amendment or ordered by a judge (see Rule 82.09(4) & (8)).

Do not vary the title of the parties for a counterclaim or crossclaim, or to denote who is making a motion (Rule 82.09(7)).

Do not automatically remove a party from the heading when the claim has been discontinued or dismissed against that party. A discontinuance or dismissal against a party does not vary the heading. You may, however, seek to vary the heading by order or by requesting the prothonotary to do so if the conditions in Rule 82.09(10) are met.

## **7. Affidavits**

Please remember the following when filing affidavits:

- Affidavits must be bound together by staple or binding coil. Paper clips or bull clips are insufficient.
- Ensure there is a copy for the Court that is signed in original ink.
- Ensure all exhibits are referred to in the body of the affidavit and properly marked in accordance with Rule 39.09.
- If the affidavit has more than 10 exhibits attached, the exhibits must be separated by a lettered number or tab and the affidavit must contain a table of contents identifying the exhibits (see Rules 39.09(4) and (5)).

## **8. Asking Court staff to check your mail slot at the Court Administration Office**

Court staff receive an overwhelming number of daily requests from law offices to have their mail slots checked to see if documents are available for pickup. Please understand that we simply do not have the resources to be able to check your mail slot upon request. However, court staff are happy to look in our electronic database to advise if a document has been processed.

### **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](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.