

Nova Scotia Civil Procedure Rules

Amendment

October 29, 2010

The following Rules and Forms are amended as follows:

1. The words "The party questioning must respond to an" at the beginning of Rule 18.17(6) are replaced by the words "A party who objects to a question may, nevertheless, rely on Rule 18.17(1) and answer the question, and otherwise the party questioning must respond to the ~~objection~~".
2. The comma between "purpose" and "by" in Rule 68.06(3) is removed.
3. The words "an action" in Rule 68.08(1) are changed to "a proceeding".
4. The phrase "no less than five" is replaced with "no more than fifteen" in the paragraph titled "You may participate" in Form 5.07.


Practice Memorandums October 29, 2010

The attached Practice Memorandum No. 2, Affidavits of Service, and No. 3, Neutral Citation, are adopted.

Certificate

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on October 29, 2010 a majority of the judges of the court made the foregoing amendments to the *Nova Scotia Civil Procedure Rules* and adopted the attached practice memorandums.

Signed October 29, 2010



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

Practice Memorandum No. 2

Affidavits of Service

Personal service of a notice is proved by an affidavit of service that includes a certified copy of the notice: Rule 31.05(2)(c). However, this Rule does not apply to proof of service of other documents, such as an affidavit in support of an application or motion. In that case, the affidavit of service need only provide sufficient details about the served document that the reader can be satisfied about what got served.

Parties should consider using the following form of affidavit of service for applications, and a modified version for motions requiring personal service or other processes requiring personal service.

Affidavit of Service for Application

I, _____, of _____, [make oath and say that/affirm that] I did, on _____ before the hour of [a.m./p.m.], personally deliver a certified copy of a notice of application (*in chambers/in court*), the same as the certified copy to which this affidavit is attached, together with other documents bearing the same heading, namely a copy of an affidavit of [name] sworn on _____, 20____, a draft order, [other], to _____. The delivery took place at [community]. I knew the person to be the one to whom delivery was to be made because [state how identified person]

[Sworn to/Affirmed] before me)
 on _____, 20____)
 at _____)
 _____)
 _____)
 _____)

 Signature of Authority
 Print name:
 Official Capacity:

 Signature of Witness

Practice Memorandum No. 3
Neutral Citation and Paragraph References

Case law that has a neutral citation should be referred to by that citation. Other citations that refer to a report series, or an electronic database, may be included after the neutral citation.

A reference to a decision that has been published in numbered paragraphs should pinpoint the relevant paragraphs, unless the decision is referred to generally.

For more details, and some examples, see the attached Direction on Use of Neutral Citation for Case Law made by the Court of Appeal on September 17, 2010.

Direction
Use of Neutral Citation for Case Law

The purpose of this Practice Direction is to ensure that counsel provide the Neutral Citation to any case law cited in court submissions for all courts in Nova Scotia.

Since its establishment in 1999, Canadian courts in all jurisdictions have progressively implemented the Neutral Citation for Case Law. When a court assigns a Neutral Citation, the reference is conspicuously located near the top of the decision. It looks like this:

Smith v. Jones, 2006 NSCA 435

the last part (“2006 NSCA435”) being the essential element that allows easy access to the decision.

The Neutral Citation was implemented for decisions for all of the courts of Nova Scotia in the year 2000. The citation is assigned by the court prior to the release of a decision so that counsel and litigants can cite and retrieve decisions without having to rely on a citation that is specific to a case law reporter service.

Effective October 1, 2010 counsel are directed to use the Neutral Citation where available to refer to case law in their submissions to this court.

Where counsel choose to use parallel citations from reporter series or electronic databases, the Neutral Citation shall be the first used, as in the following example:

Smith v. Jones, 2006 NSCA 435, 87 D.L.R. (4th) 334, [2006] N.B.J. No. 198 (QL)

Pinpoint references shall be made to paragraph numbers where available, preceded by “at para.” or “at paras.”, as in the following example:

Smith v. Jones, 2006 NSCA 435, at paras. 34 and 36-39.

The Honourable Chief Justice Michael MacDonald
for the Nova Scotia Court of Appeal

September 17, 2010