

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

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### **COVID-19**

Please continue to refer to the Courts of Nova Scotia [COVID-19 Updates Page](#) for current information on the directives related to COVID-19 in both the Supreme Court and the Court of Appeal. Counsel appearing in the Court of Appeal should also review that Court's [Practice Directive for Appeals Proceeding during COVID-19](#). Access to the Court of Appeal's E-Filing Instructions can be found [here](#).

The Supreme Court continues to operate under a safe services model, and all current COVID-19 restrictions in place in the Nova Scotia Courts, including masking, will continue for the foreseeable future.

As per the [March 23, 2022, Notice](#), the Supreme Court announced that the COVID-19 accommodations that had allowed for personal service by email and virtual commissioning of affidavits in the Supreme Court would end on April 4, 2022.

At the Halifax Law Courts, documents may continue to be dropped off using the drop-box inside the main entrance. For tips on how to have a document processed urgently, please see Practice Tip #7 in this document.

The court administration office continues to operate by appointment for self-represented litigants, although walk-ins are accommodated where possible. Viewing court files and conducting litigation searches continue to be by appointment only, made through the Court Administration office.

## **PRACTICE TIPS**

### **Supreme Court:**

#### **1. What Court can I file my documents in?**

Counsel are reminded that [Civil Procedure Rule 32.02\(2\)](#) requires that all documents filed in a proceeding must be filed at the office of the Prothonotary in the selected place. This means, if your matter is a Kentville file, you must file all of your documents with the Prothonotary in Kentville, and not in any other court.

The exception to this Rule is in relation to subpoenas for trial, application hearing, etc. These may be filed with the Prothonotary at any courthouse: see [Civil Procedure Rule 50.02\(1\)](#). Note that this exception does not extend discovery subpoenas or subpoenas for the attendance of a witness at the hearing of a motion – those must continue to be filed at the office of the prothonotary as per [Civil Procedure Rule 32.02\(2\)](#).

#### **2. Where can I have my motion heard?**

[Civil Procedure Rule 47.03\(1\)](#) allows a party to select the place where their motion will be heard. This means that a party may choose to have a motion on their Kentville file heard in Halifax, for example. The motion documents, as well as any documents filed responding to the motion, however, would still have to be filed in Kentville.

The procedure for doing this would be as follows:

- Contact the Halifax scheduling office to ensure the date and time you have selected for your motion are available. Or, if you are selecting a special time, ensure you are following the procedure required by the scheduling office to do so.
- File your documents with the Kentville Prothonotary's office in the normal course.
- Provide a covering letter with your documents to Kentville, copied to Halifax, to advise that you have selected Halifax as the location for your motion to be heard, and have arranged for this date and time (if applicable), and that you request that Kentville transfer the file to Halifax
- If you have questions, call the local Prothonotary.

The exception to this Rule is in relation to appearance day or appearance motions as set out in [Civil Procedure Rule 24](#). These motions cannot be heard in other courts: see #3 below.

### **3. Does the procedure identified in Practice Tip #2 also apply for Appearance Day or appearance motions?**

**No!** Appearance motions as set out in *Civil Procedure Rule 24* are exceptions to the Rule that a motion may be heard in any Supreme Court. These motions must be heard in the place selected for the proceeding as set out in *Civil Procedure Rule 32.02(2)*. *Civil Procedure Rule 24* sets out the process Halifax matters must follow to have an Appearance Day motion heard, as well as the process district matters must follow to have appearance motions heard in their home courts.

### **4. Where do I submit my Judicial Settlement Conference materials?**

Materials provided to a judge in advance of a Judicial Settlement Conference (JSC) may be submitted to the office of the Prothonotary at a courthouse other than the 'home court' if the judge hearing the JSC is at that location, for example.

Why is this allowed? It is because the materials provided to a judge in advance of a JSC, and in accordance with [Civil Procedure Rules 10.13 & 10.14](#), are not actually filed with the Court. They are, instead, submitted to the judge. This distinction is important as it means that the restriction on filing documents in the place of proceeding as set out in *Civil Procedure Rule 32.02(2)* does not apply to JSC materials. Further, as you may be aware, although JSC materials get a court stamp and are tracked in our internal electronic database, they do not actually form part of the official court record and are required to be destroyed at the conclusion of the JSC.

### **5. Judicial Settlement Conference – Decorum**

The Court has asked that I remind counsel and parties around decorum at JSCs. In particular, counsel and parties are required to rise at the start of the JSC when the judge enters. The purpose of this is to maintain decorum and respect for the Court and the official JSC process. JSCs are an official court function and therefore standing at the start of the proceeding is helpful to convey this to litigants. A judge will typically advise counsel and parties that they are not required to stand after their initial entrance after the JSC has begun.

### **6. Civil Procedure Rules 35.11 & 36 – Stay upon Death & Naming a Representative**

The Court has asked that I remind counsel of the Rules that apply when a party to a proceeding dies, and the process to follow to have a representative named.

When a party dies, [Civil Procedure Rule 35.11](#) provides that the matter is stayed until a personal representative is appointed in accordance with [Civil Procedure Rule 36](#). This is required even if the party who died was noted in default and disentitled to notice. For example, in a foreclosure proceeding where a Defendant does not defend and is noted in default and subsequently dies, the Plaintiff is still required to comply with **Civil Procedure Rule 36** to have a representative named.

## **7. How do I get urgent documents filed and returned quickly?**

If you have an urgent matter and need documents processed quickly, please contact your local Prothonotary. We will do our best to accommodate your request and have documents returned to you as soon as possible.

Please understand that electronic filing (or e-filing) is no longer permitted in the Supreme Court, and therefore email cannot be used to file an urgent document. In Halifax, we continue to accept documents by fax, through our drop-box or, in exceptional circumstances where we have made arrangements in advance, we can meet you personally to accept the documents.

The Supreme Court continues to accept payment of filing fees by credit card. This can be a useful mechanism to pay filing fees if you are filing documents by fax, for example. If you will be paying by credit card, please indicate this in a covering letter with your documents and advise who court staff should contact for payment, along with that person's contact information.

## **8. Covering letter with phone, email, fax**

When filing documents with the Court, please provide a covering letter setting out what is being filed and any specific directions or requests of court staff regarding the documents. In addition, please include in the covering letter contact information for counsel including phone number, fax (if applicable) and email.

## **BOTH COURTS**

### **Free Legal Clinic at the Law Courts**

The Nova Scotia Courts offer free legal clinics for self-represented litigants who have limited or no experience navigating the legal system. These clinics are offered weekly at the Halifax Law Courts, and every other week in Yarmouth, Truro, and Sydney, Cape Breton.

The Halifax free legal clinic offers appointments most Thursdays between 8:30 a.m. and 12:30 p.m., excluding holidays. Each session lasts one hour. Appointments can be in person on the 2<sup>nd</sup> Floor at the Law Courts, or more recently by telephone.

This initiative was created to fill a gap in services for people needing assistance with their civil law matters and family law appeals, excluding child protection matters. Legal Aid provides duty counsel services at most courthouses to help self-represented individuals with criminal and family law matters, but there was nothing available for other types of cases.

***The Free Legal Clinic in Halifax is currently seeking volunteers for the Spring/Summer session, which begins on June 2 and continues until Aug. 25. If you are interested in providing pro bono legal services, please email [hfxfreelegalclinic@courts.ns.ca](mailto:hfxfreelegalclinic@courts.ns.ca).***

If you have any litigants in mind who you believe might benefit from this service, kindly refer them to the Court Administration office at the Law Courts. Litigants can also request an appointment by emailing [hfxfreelegalclinic@courts.ns.ca](mailto:hfxfreelegalclinic@courts.ns.ca). For more information, please visit [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 composed of members of the Bar and the 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.