

THE NEWFOUNDLAND AND LABRADOR GAZETTE

PART I

PUBLISHED BY AUTHORITY

Vol. 91	ST. JOHN'S, FRIDAY, JULY 29, 2016	No. 30
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MINERAL ACT

NOTICE

Published in accordance with section 62 of CNLR 1143/96 under the *Mineral Act*, RSNL 1990 cM-12, as amended.

Mineral rights to the following mineral licenses have reverted to the Crown:

Mineral License Held by Situates near On map sheet	020630M Ucore Rare Metals Inc. Caribou Brook, Western NL 12B/09
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Mineral License Held by Situates near On map sheet	011901M South Coast Ventures Inc Nugget Pond, Baie Verte Peninsula 02E/13
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A portion of license Held by Situates near On map sheet	013808M Altius Resources Inc. Little Wing Pond, Central NL 02E/01
--	--

more particularly described in an application on file at Department of Natural Resources.

Mineral License Held by Situates near On map sheet	018764M Northern Star Minerals Ltd. Sims Lake 23H/13 23I/04
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Mineral License Held by Situates near On map sheet	018770M Rio Tinto Exploration Canada Inc. Shabogamo Lake Area 23G/08
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Mineral License Held by Situates near On map sheet	018771M Rio Tinto Exploration Canada Inc. Shabogamo Lake Area 23G/07
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Mineral License Held by Situates near On map sheet	018773M Rio Tinto Exploration Canada Inc. Shabogamo Lake Area 23G/07
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Mineral License Held by Situates near On map sheet	018775M Rio Tinto Exploration Canada Inc. Bruce Lake 23G/02
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Mineral License Held by	018776M Rio Tinto Exploration Canada Inc.
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Situate near On map sheet	Bruce Lake 23G/02	Mineral License Held by Situate near On map sheet	021855M Ryan, Kevin Hawke Hill, Avalon Peninsula 01N/06
Mineral License Held by Situate near On map sheet	018780M Rio Tinto Exploration Canada Inc. Bruce Lake 23G/02	Mineral License Held by Situate near On map sheet	021864M Guinchard, Wayde Lapland Pond, Central NL 12A/15
Mineral License Held by Situate near On map sheet	018782M Rio Tinto Exploration Canada Inc. Lake Virot 23B/14	Mineral License Held by Situate near On map sheet	022863M Pike, Lloyd Powderhouse Cove, Central NL 02E/06
Mineral License Held by Situate near On map sheet	018788M Rio Tinto Exploration Canada Inc. Flora Lake 23B/14	Mineral License Held by Situate near On map sheet	022865M Quinlan, Andrew Burnt Lake, Central NL 02E/07
Mineral License Held by Situate near On map sheet	018789M Rio Tinto Exploration Canada Inc. Flora Lake 23B/14 23G/03	Mineral License Held by Situate near On map sheet	022872M Ryan, Kevin Harbour Mille, Burin Peninsula 01M/10
Mineral License Held by Situate near On map sheet	018790M Rio Tinto Exploration Canada Inc. Lake Virot 23B/14	Mineral License Held by Situate near On map sheet	022875M Hicks, David Winter Hill, Southern NL 01M/12
Mineral License Held by Situate near On map sheet	018791M Rio Tinto Exploration Canada Inc. Shabogamo Lake 23G/02	Mineral License Held by Situate near On map sheet	022878M Altius Resources Inc. IKadlivik Brook 14D/08
Mineral License Held by Situate near On map sheet	018806M Noel, Nathaniel Fleur De Lys, Baie Verte Peninsula 12I/01	Mineral License Held by Situate near On map sheet	022879M Stares, Mike Ugjuktok Fiord 14L/05
Mineral License Held by Situate near On map sheet	018824M Lannon, George Baie Verte Area 12H/16	Mineral License Held by Situate near On map sheet	022880M Hicks, Darrin Winter Hill, Southern NL 01M/12
Mineral License Held by Situate near On map sheet	020675M 1512513 Alberta Ltd. Deer Cove Area, Baie Verte Peninsula 12I/01	Mineral License Held by Situate near On map sheet	022912M Mercer, Norman Grog Pond, Avalon Peninsula 01N/10
Mineral License Held by Situate near On map sheet	021845M Ryan, Kevin St Lawrence, Burin Peninsula 01L/14	Mineral License Held by Situate near On map sheet	022913M Mercer, Norman Freshwater Pond, Avalon Peninsula 01N/10
Mineral License Held by Situate near On map sheet	021854M Ryan, Kevin Hawke Hill, Avalon Peninsula 01N/06	Mineral License Held by Situate near On map sheet	022914M Mercer, Norman Conception Bay South, Avalon Peninsula 01N/07

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Mineral License Held by Situates near On map sheet	022915M Turpin, Alexander J. Beacon Hill, Burin Peninsula 01M/03	Situates near On map sheet	Shabogamo Lake 23G/02
Mineral License Held by Situates near On map sheet	022916M Turpin, Alexander J. Boat Harbour Area, Burin Peninsula 01M/07	Mineral License Held By Situates near On map sheet	018679M Rio Tinto Exploration Canada Inc. Shabogamo Lake 23G/02
Mineral License Held by Situates near On map sheet	022917M Turpin, Alexander J. Western Feeder Pond, Burin Peninsula 01M/07, 01M/10	Mineral License Held By Situates near On map sheet	018725M North Atlantic Iron Corporation Hamilton River 13F/03
Mineral License Held By Situates near On map sheet	017787M Pleasant Ridge Resources Inc. Bridgeport, Central NL 02E/10	Mineral License Held By Situates near On map sheet	019306M Kendell, Colin Albert Little River, Southern NL 01M/13, 02D/03, 02D/04 more particularly described in an application on file at Department of Natural Resources.
Mineral License Held By Situates near On map sheet	017949M Commander Resources Ltd. South Voisey 13N/12	Mineral License Held By Situates near On map sheet	021267M Rogers, Peter Evening Lake Area 23G/09
Mineral License Held By Situates near On map sheet	018280M Quinlan, Roland Duder Lake, Central NL 02E/07 more particularly described in an application on file at Department of Natural Resources.	Mineral License Held By Situates near On map sheet	021388M Commander Resources Ltd. North of Adlatok River 13N/12, 13N/05, 13M/08, 13M/09 more particularly described in an application on file at Department of Natural Resources.
Mineral License Held By Situates near On map sheet	018357M Northern Star Minerals Ltd. Shoal Lake 23J/08	Mineral License Held By Situates near On map sheet	021443M Kalt, Ryan Natashquan River Area 13D/03
Mineral License Held By Situates near On map sheet	018672M Rio Tinto Exploration Canada Inc. Julienne Lake 23G/02	Mineral License Held By Situates near On map sheet	021471M Ubique Minerals Ltd. Daniels Harbour, Great Northern Peninsula 12I/06 more particularly described in an application on file at Department of Natural Resources.
Mineral License Held By Situates near On map sheet	018673M Rio Tinto Exploration Canada Inc. Shabogamo Lake 23G/02	Mineral License Held By Situates near On map sheet	021637M Noel, E. Michele Jonathans Second Pond, Central NL 02E/02
Mineral License Held By Situates near On map sheet	018675M Rio Tinto Exploration Canada Inc. Julienne Lake 23G/02	Mineral License Held By Situates near On map sheet	021820M Lawrence, Gordon Shirley Lake, Central NL 02E/02
Mineral License Held By Situates near On map sheet	018677M Rio Tinto Exploration Canada Inc. Shabogamo Lake 23G/02	Mineral License Held By Situates near On map sheet	021842M Platinum Group Metals Ltd. Natashquan River 13D/06
Mineral License Held By	018678M Rio Tinto Exploration Canada Inc.		

Mineral License Held By Situates near On map sheet	021916M Quinlan, Roland Northwest Gander River, Central NL 02D/05	Mineral License Held By Situates near On map sheet	022826M Kelloway, Keith Dantzic Hill, Burin Peninsula 01L/13
Mineral License Held By Situates near On map sheet	021919M Quinlan, Roland Goobies Area, Avalon Peninsula 01N/13	Mineral License Held By Situates near On map sheet	022827M Hurley, Wayne Riviere Joir 13B/12
Mineral License Held By Situates near On map sheet more particularly described in an application on file at Department of Natural Resources.	022105M Keats, Allan E. T. LLoyds River, Central NL 12A/06, 12A/11	Mineral License Held By Situates near On map sheet	022828M Lewis, Kenneth J. Riviere Joir 13B/12
Mineral License Held By Situates near On map sheet	022811M McDonald, Martin Collins Brook, Southern NL 01M/13	Mineral License Held By Situates near On map sheet	022833M Chafe, Paul Southwest River, Eastern NL 02D/01
Mineral License Held By Situates near On map sheet	022813M Fancey, Derrick Weirs Pond, Central NL 02E/01	Mineral License Held By Situates near On map sheet	022835M Hicks, Darrin Bay Du Nord River, Central NL 02D/03
Mineral License Held By Situates near On map sheet	022816M White, Jason Butter Pot, Avalon Peninsula 01K/14	Mineral License Held By Situates near On map sheet	022838M Abbott, Dylan Main Beach Pond, Avalon Peninsula 01N/06
Mineral License Held By Situates near On map sheet	022817M Crocker, James Richard Northwest Gander River, Central NL 02D/14	Mineral License Held By Situates near On map sheet	022840M Guinchard, Wayde Flowers Cove, Great Northern Peninsula 12P/07
Mineral License Held By Situates near On map sheet	022818M United Gold Inc. Mitchell Brook, Western NL 12G/08	Mineral License Held By Situates near On map sheet	022841M Laracy, Patrick J. Gull Pond, Baie Verte Peninsula 12H/16
Mineral License Held By Situates near On map sheet	022822M Chafe, Paul Four Mile Pond, Avalon Peninsula 01N/06	Mineral License Held By Situates near On map sheet	022842M Lewis, Gary E. Exploits River, Central NL 12A/16
Mineral License Held By Situates near On map sheet	022823M Chafe, Paul Four Mile Pond, Avalon Peninsula 01N/06	Mineral License Held By Situates near On map sheet	022843M Laracy, Patrick J. Gull Pond, Baie Verte Peninsula 12H/16
Mineral License Held By Situates near On map sheet	022825M LeDrew, Donald Weirs Brook, Central NL 02E/02, 02E/01	Mineral License Held By Situates near On map sheet	022844M Power, Raymond J. English Pond, Avalon Peninsula 01N/04
		Mineral License Held By Situates near On map sheet	022846M Collier, Ross Great Burnt Lake, Central NL 12A/08

Mineral License 022847M
Held By Kennedy, Jacob
Situate near Four Mile Pond, Avalon Peninsula
On map sheet 01N/06

Mineral License 022848M
Held By Kennedy, Chad
Situate near Mitchell Brook, Western NL
On map sheet 12G/08

Mineral License 022854M
Held By Kennedy, Chad
Situate near Middle Ridge, Burin Peninsula
On map sheet 01L/13

Mineral License 023074M
Held By Jones, Brian
Situate near No. 5 Steady, Central NL
On map sheet 12A/10
more particularly described in an application on file at
Department of Natural Resources.

Mineral License 023290M
Held By Rowsell, Gary
Situate near Hungry Hill, Central NL
On map sheet 12A/10
more particularly described in an application on file at
Department of Natural Resources.

The lands covered by this notice except for the lands within
Exempt Mineral Lands, the Exempt Mineral Lands being
described in CNLR 1143/96 and NLR 71/98, 104/98,
97/2000, 36/01, 31/04, 78/06, 8/08, 28/09 and 5/13 and
outlined on 1:50 000 scale digital maps maintained by the
Department of Natural Resources, will be open for staking
after the hour of 9:00 a.m. on the 32nd clear day after the
date of this publication.

DEPARTMENT OF NATURAL RESOURCES
JUSTIN LAKE
Manager - Mineral Rights

File #'s 774: 1391, 4017, 6803, 6876, 6897, 6899, 8630;
775: 0109, 0110, 0111, 0112, 0184, 1214, 1643,
1714, 1757, 2006, 2007, 2009, 2011, 2012,
2013, 2057, 2085, 2091, 2092, 2094, 2096,
2097, 2101, 2103, 2109, 2110, 2111, 2112,
2125, 2139, 2143, 3564, 3837, 3883, 4020,
4044, 4166, 4277, 4298, 4301, 4309, 4310,
4316, 4422, 4862, 4864, 4867, 4868, 4869,
4875, 4877, 4878, 4879, 4880, 4885, 4887,
4890, 4892, 4893, 4894, 4895, 4896, 4898,
4900, 4902, 4903, 4905, 4910, 4913, 4916,
4920, 4921, 4922, 4923, 4924, 4925, 4926,
4927, 5012

July 29

MUNICIPALITIES ACT, 1999

TOWN OF MASSEY DRIVE NUISANCE REGULATIONS, 1993 AMENDMENT, SECTION 9

At the regular public council meeting of July 18, 2016 the
Town Council of the TOWN OF MASSEY DRIVE passed
a resolution to adopt the following amendment to the
TOWN OF MASSEY DRIVE Nuisance Regulations, 1993:
Section 9 replaced with:

9. No person shall create a noise within the Municipality,
through the unnecessary revving of an engine of a dirt bike
or ATV, or create a nuisance from dust through the use of a
dirt bike or ATV, within 100 metres of any residence
within the municipality. Any area within 100 metres of any
residence in the municipality may only be used by dirt
bikes and ATV's as pass through access to area trails and
shall not be used for continuous riding or operation.

The previous section 9 is now section 10, section 10 is now
section 11, section 11 is now section 12, section 12 is now
section 13, and section 13 is now section 14.

This amendment is effective the date of its publication in
The Newfoundland and Labrador Gazette.

TOWN OF MASSEY DRIVE
Rodger Hunt, Town Manager/Clerk

July 29

URBAN AND RURAL PLANNING ACT, 2000

NOTICE OF REGISTRATION CITY OF MOUNT PEARL DEVELOPMENT REGULATIONS 2010 AMENDMENT NO. 54, 2016 (PERSONAL CARE USE AMENDMENT)

TAKE NOTICE that MOUNT PEARL Development
Regulations 2010 Amendment No. 54, 2016, adopted by
Council on the 31st day of May, 2016, has been registered
by the Department of Municipal Affairs.

In general terms, the purpose of MOUNT PEARL
Development Regulations 2010 Amendment No. 54, 2016,
is to add "Personal Care Use" to the list of Discretionary
Uses in the Apartment (APT) Zone.

MOUNT PEARL Development Regulations 2010
Amendment No. 54, 2016, comes into effect on the day that
this notice is published in *The Newfoundland and Labrador
Gazette*. Anyone who wishes to review a copy of this
amendment may do so at Mount Pearl City Hall, 3
Centennial Street, during normal working hours.

CITY OF MOUNT PEARL
Per: Michele Peach, Chief Administrative Officer

July 2

**NOTICE OF REGISTRATION
CITY OF MOUNT PEARL
DEVELOPMENT REGULATIONS 2010
AMENDMENT NO. 55, 2016
(ROOF OVER PATIOS, DECKS
AND GAZEBOS AMENDMENT)**

TAKE NOTICE that MOUNT PEARL Development Regulations 2010 Amendment No. 55, 2016, adopted by Council on the 14th day of June, 2016, has been registered by the Department of Municipal Affairs.

In general terms, the purpose of MOUNT PEARL Development Regulations 2010 Amendment No. 55, 2016, is to regulate the construction of roofs over patios, decks and gazebos in the rear yards of residential dwellings.

MOUNT PEARL Development Regulations 2010 Amendment No. 55, 2016, comes into effect on the day that this notice is published in *The Newfoundland and Labrador Gazette*. Anyone who wishes to inspect a copy of this amendment may do so at the Mount Pearl City Hall, 3 Centennial Street, during normal working hours.

CITY OF MOUNT PEARL
Per: Michele Peach, Chief Administrative Officer

July 29

**NOTICE OF REGISTRATION
TOWN OF PORT BLANDFORD
MUNICIPAL PLAN AND DEVELOPMENT
REGULATIONS, 2016**

TAKE NOTICE that the TOWN OF PORT BLANDFORD Municipal Plan Amendment No. 3 and Development Regulations Amendment No. 3, adopted on the 6th day of April 2016, have been registered by the Minister of Municipal Affairs.

The purpose of these amendments is to give Council the discretionary authority to permit the development of campgrounds in the Rural Resource designation.

These amendments come into effect on the day that this notice is published in *The Newfoundland and Labrador Gazette*. Anyone who wishes to inspect a copy of the documents may do so at the Port Blandford Town Office during normal business hours.

TOWN OF PORT BLANDFORD
Vida Greening, Town Clerk

July 29

QUIETING OF TITLES ACT

**2016 06G 0110
IN THE SUPREME COURT OF
NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (General)**

NOTICE OF APPLICATION UNDER THE *QUIETING OF TITLES ACT*, RSNL 1990 cQ-3.

NOTICE IS HEREBY given to all parties that BARRY WALTERS, of Barrie, in the Province of Ontario, has applied to the Supreme Court, Trial Division, Grand Bank, to have title to all that piece or parcel of property situate at Port Rexton, in the District of Bonavista, in the Province of Newfoundland and Labrador, which property is more particularly described in Schedule "A" hereto annexed and shown in Schedule "B" hereto annexed.

All bearings aforementioned, for which BARRY WALTERS claims to be the owner investigated and for a Declaration that he is the absolute owner in fee simple in possession and the said BARRY WALTERS has been ordered to public Notice of Application as required by the above named Act.

All persons having title adverse to the said title claimed by the said BARRY WALTERS shall file in the Registry of the Supreme Court of Newfoundland and Labrador, Trial Division, Grand Bank, particulars of such adverse claim and serve the same together with an Affidavit verifying same on the undersigned Solicitors for the Petitioner on or before the 29th day of August, 2016, after which date no party having any claim shall be permitted to file the same or to be heard except by special leave of the Court and subject to such conditions as the Court may deem just.

All such adverse claims shall be investigated then in such manner as the Supreme Court of Newfoundland and Labrador, Trial Division, Grand Bank, may direct

DATED AT Clarenville, in the Province of Newfoundland and Labrador, this 30th day of June, 2016.

MILLS PITTMAN & TWYNE
Solicitors for the Applicant
PER: Gregory J. French

ADDRESS FOR SERVICE:
111 Manitoba Drive, Suite 201
Clarenville, NL A5A 1K2

Tel: 709-466-2641
Fax: 709-466-7109

SCHEDULE "A"

ALL THAT piece or parcel of land situate and being in the Town of Port Rexton, in the Electoral District of Bonavista abutted and bounded as follows:

THAT IS TO SAY: Beginning at a point on the western limit of Batson's Road the said point having coordinates N 5 362 103.30 metres and E 280 011.52 metres of the Three Degree Modified Transverse Mercator Projection (NAD-83) for the Province of Newfoundland and Labrador;

THENCE along the said western limit of Batson's Road south ten degrees forty-one minutes zero zero seconds west (S10°41'00"W) forty-two decimal seven one (42.71) metres;

THENCE by property of Geffery Fowlow and by property of the Estate of the Late Phoebe Day north eighty-five degrees forty-five minutes zero zero seconds west (N85°45'00"W) one hundred and eighty-one decimal zero five (181.05) metres;

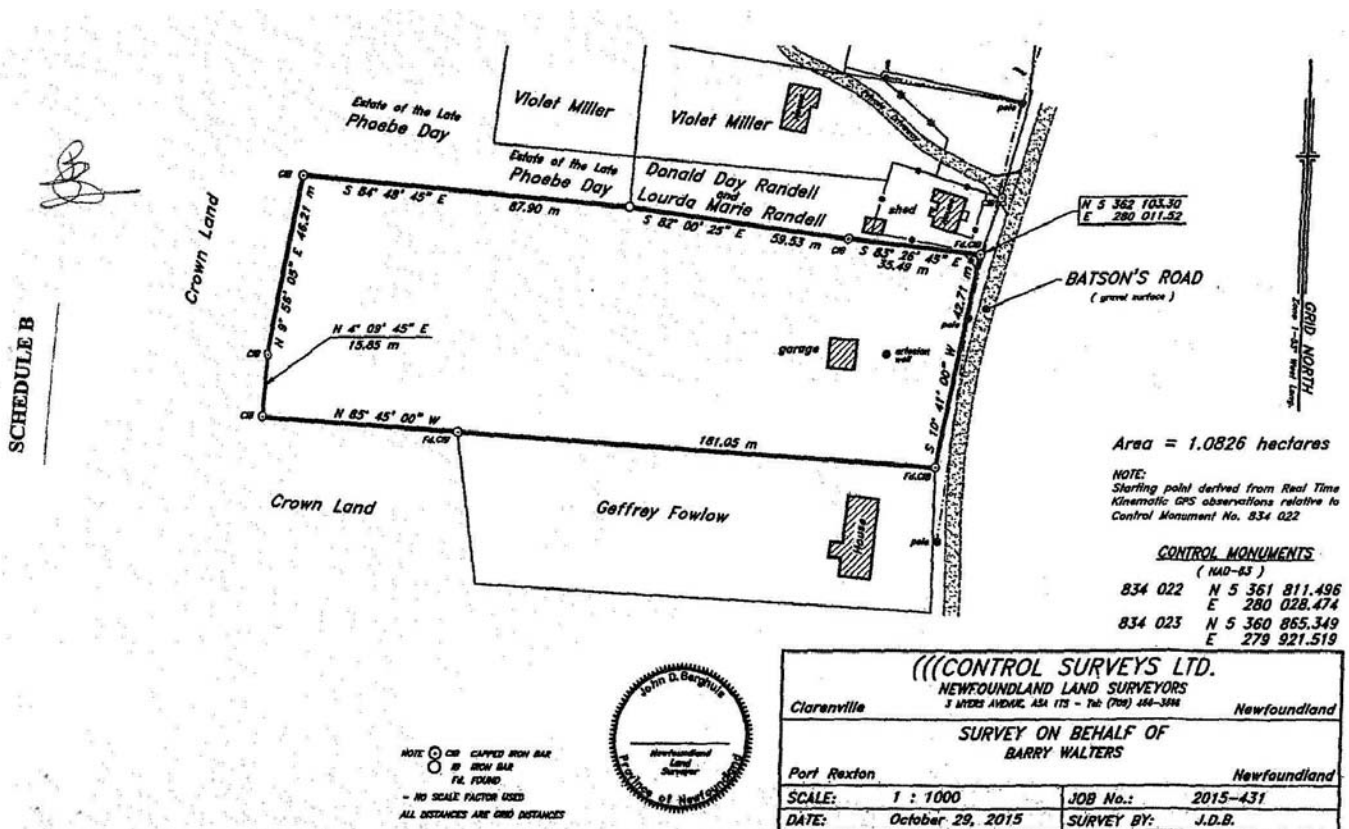
THENCE by Crown Land north four degrees zero nine minutes forty-five seconds east (N4°09'45"E) fifteen decimal eight five (15.85) metres, north nine degrees fifty-six minutes zero five seconds east (N9°56'05"E) forty-six decimal two one (46.21) metres;

THENCE by property of the Estate of the Late Phoebe Day south eighty-four degrees forty-eight minutes forty-five seconds east (S84°48'45"E) eighty-seven decimal nine zero (87.90) metres;

THENCE by property of Donald Day Randell and Lourda Marie Randell south eighty-two degrees zero zero minutes twenty-five seconds east (S82°00'25"E) fifty-nine decimal five three (59.53) metres, south eighty-three degrees twenty-six minutes forty-five seconds east (S83°26'45"E) thirty-five decimal four nine (35.49) metres, more or less to the point of beginning and containing an area of 1.0826 hectares.

All bearings refer to the above mentioned Projection.

((((CONTROL SURVEYS LTD.



TRUSTEE ACT

ESTATE NOTICE

IN THE ESTATE of JOHN JOSEPH DOYLE, Computer Technologist, Late of the Town of Channel-Port Aux Basques, Province of Newfoundland and Labrador, Canada, deceased.

ALL PERSONS claiming to be creditors or who have any claims or demands either as beneficiaries or next-of-kin (by blood, legal adoption or marriage) upon or affecting the Estate of JOHN JOSEPH DOYLE, Computer Technologist, Deceased, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned solicitors for the Administratrix of the Estate of the said deceased on or before the 29th day of August, 2016, after which date the said Administratrix will proceed to distribute the said Estate having regard only to the claims to which she shall then have had notice.

DATED at the Town of Channel-Port aux Basques, Province of Newfoundland and Labrador this 21st day of July, 2016.

MARKS & PARSONS
Solicitors for the Administratrix

ADDRESS FOR SERVICE:
P.O. Box 640
174 Caribou Road
Channel-Port aux Basques, NL
A0M 1C0

Tel: 709-695-7341
Fax: 709-695-3944

July 29

ESTATE NOTICE

IN THE MATTER OF the Estate of PETER DUFFY, Late of St. John's, in the Province of Newfoundland and Labrador, Deceased,

ALL PERSONS claiming to be creditors of, or who have any claims or demands either as beneficiaries or next-of-kin (by full or half blood, legal adoption or marriage) upon or affecting, the Estate of PETER DUFFY, Gentleman, who died at Corner Brook, Newfoundland and Labrador on or about 16th day of June, 2015, are hereby requested to send particulars thereof, in writing, duly attested, to: Office of the Public Trustee Suite 401 - 136 Crosbie Road, St. John's, NL, A1B 3K3.

Particulars will be received by the Public Trustee, as Administrator of the Estate of PETER DUFFY, on or before 29th day of August, 2016, after which date the said Administrator will proceed to distribute the Estate having regard only to the claims of which he then shall have had notice.

DATED at the City of St. John's, in the Province of Newfoundland and Labrador, this 29th day of July, 2016.

OFFICE OF THE PUBLIC TRUSTEE
Administrator of the Estate of
PETER DUFFY

ADDRESS FOR SERVICE:
Viking Building, Suite 401
136 Crosbie Road
St. John's, NL A1B 3K3
Tel: 709-729-2548
729-0850
Fax: 709-729-3063

July 29

ESTATE NOTICE

IN THE ESTATE of ANDREW SEARS MACARTHUR, Retired Carpenter, Late of the Community of Upper Ferry, District of St. George's-Humber, Province of Newfoundland and Labrador, Canada, deceased.

ALL PERSONS claiming to be creditors or. or who have any claims or demands either as beneficiaries or next-of-kin (by blood, legal adoption or marriage) upon or affecting the Estate of ANDREW SEARS MACARTHUR, Retired Carpenter, Deceased, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned solicitors for the Administratrix of the Estate of the said deceased on or before the 29th day of August, 2016, after which date the said Executrix will proceed to distribute the said Estate having regard only to the claims to which she shall then have had notice.

DATED at the Town of Channel-Port aux Basques, Province of Newfoundland and Labrador this 21st day of July, 2016.

MARKS & PARSONS
Solicitors for the Executrix
PER: M. Beverley L. Marks, Q.C.

ADDRESS FOR SERVICE:
P.O. Box 640
174 Caribou Road
Channel-Port aux Basques, NL
A0M 1C0

Tel: 709-695-7338/7341
Fax: 709-695-3944

July 29



THE NEWFOUNDLAND AND LABRADOR GAZETTE

PART II

SUBORDINATE LEGISLATION FILED UNDER THE STATUTES AND SUBORDINATE LEGISLATION ACT

Vol. 91

ST. JOHN'S, FRIDAY, JULY 29, 2016

No. 30

NEWFOUNDLAND AND LABRADOR REGULATION

NLR 38/16



NEWFOUNDLAND AND LABRADOR REGULATION 38/16

Court of Appeal Rules
under the
Judicature Act

(Filed July 26, 2016)

Under the authority of section 55 of the *Judicature Act*, the Rules Committee of the Court of Appeal makes the following Rules.

Dated at St. John's, July 22, 2016.

J. Derek Green
Chairperson, Rules Committee

RULES

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6. Gap in the rules
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10. Appeal involving a tribunal
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54. Factum - legal and case authorities
55. Factum - form
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PART 1 INTERPRETATION

Citation	1. These rules apply to civil proceedings in the Court of Appeal and may be cited as the <i>Court of Appeal Rules</i> .
Purpose	2. The purpose of these rules is to provide for the orderly and expeditious administration of justice in the Court.
Proportionality	3. In applying these rules, the Court shall make orders and give directions that are proportionate to the importance and complexity of the issues.
Practice notes	4. (1) The Court may issue practice notes on any matter respecting appeals. (2) A practice note shall be published once in the Gazette but does not constitute a regulation under the <i>Statutes and Subordinate Legislation Act</i> .
Calculation of time	5. Unless otherwise provided, time under these rules shall be calculated on the basis that (a) where the Court is closed on the day on which a thing is to be done, it may be done on the next day on which the Court is open; (b) "within", "not less than" or a reference to a number of days shall not include the day on which the thing is to be done; and (c) where the time limit is less than 6 days, days on which the Court is closed shall not be counted.
Gap in the rules	6. Where a procedural issue arises that is not covered by these rules, the Court may adopt and give directions regarding an appropriate procedure.
Definitions	7. In these rules (a) "appeal" means an appeal to the Court of Appeal and includes a reference made to the Court under a statute;

- (b) "appellant" means a person who files a notice of appeal and includes a tribunal that states a case or brings a reference;
- (c) "Chief Justice" means the Chief Justice of Newfoundland and Labrador;
- (d) "Court" means the Court of Appeal, a panel of judges or a judge of that Court;
- (e) "court appealed from" means a court, judge, or tribunal from which an appeal lies to the Court;
- (f) "electronic version" means an electronic version in a format acceptable to the Court;
- (g) "file" means to file and serve a document in accordance with rule 28;
- (h) "judgment" means the disposition of a matter by the Court, including a decision of a judge not to recuse himself or herself, and in the case of a panel of judges, the disposition by a majority of those judges;
- (i) "order appealed from" or "order under appeal" means
 - (i) the formal order settled by the court appealed from and filed after the decision has been given,
 - (ii) an order or decision of a tribunal,
 - (iii) an order or decision made in an uncompleted matter, and
 - (iv) any document accepted by a court or tribunal as having the same effect as a formal order;
- (j) "registrar" means the clerk, officer or employee of the Court responsible for the operation of the registry of the Court who, in consultation with the Chief Justice, is designated by the Chief Executive Officer appointed under section 59.1 of the *Judicature Act*, and includes a person appointed by the registrar to fulfil the duties of the registrar in circumstances where the registrar is unavailable;

- (k) "request" means a request in writing delivered to the Court;
- (l) "respondent" means a person served with a notice of appeal or named as a respondent in an appeal or an application;
- (m) "tribunal" means any person or body from which an appeal lies to the Court, including any board, commission, committee, minister, public official, or other public or governmental agency or authority, including the Lieutenant-Governor in Council, but not including a court or judge; and
- (n) "uncompleted matter" means a matter where the issues between the parties have not been determined by a final decision or order in the court appealed from.

PART 2 APPEALS TO THE COURT

Notice of appeal

8. (1) An appeal shall be commenced by filing a notice of appeal in Form 1.

(2) A notice of appeal shall be filed with the Court

(a) within 30 days after the order appealed from has been filed in the court appealed from; or

(b) in an uncompleted matter, within 10 days after the order appealed from has been filed in the court appealed from.

(3) Where the court appealed from does not provide for the filing of a document for purposes of subsection (2), the time set out in subsection (2) shall commence 7 days from the date when the order or decision appealed from is made.

(4) A notice of appeal shall

(a) specify the order and court appealed from, the date the order was filed or made, the file number on the order, and the neutral citation, if any, where there is a written decision;

(b) state the subject matter of the appeal by giving a brief summary of what the appeal is about and what the issues are;

- (c) identify the portion of the order under appeal if only a portion is being appealed;
- (d) state the relief, disposition or order requested;
- (e) give the names, postal addresses, email addresses and telephone numbers of the appellant and the persons being served with the notice of appeal, or their solicitors;
- (f) indicate if there is an access restriction or publication ban in effect;
- (g) state the reason if the appellant is requesting that the appeal be expedited; and
- (h) if applicable, state that the appeal involves the custody of, access to, protection of, support for or responsibility for a child.

(5) Where a party is not represented by a solicitor and for reasons of protection of a party or a child, there is a question with respect to providing the information set out in paragraph (4)(e) and in serving documents under rule 28, the party may

- (a) provide an alternate name and address for service on the Form, and provide the information regarding the party to the Court in a separate envelope marked "Confidential"; or
- (b) make a request for directions from the Chief Justice.

Appeal involving a child

9. (1) Every notice of appeal, application or response to either that involves custody of, access to, protection of, support for or responsibility for a child shall have noted in the top left corner, between the name of the Court and the style of cause, the words "THIS MATTER INVOLVES A CHILD".

(2) An appeal under subsection (1) shall be monitored by the registrar to ensure that the appeal proceeds as expeditiously as possible.

(3) On instruction from the Chief Justice, the registrar may, by written, oral or electronic notice to each party, specify a time by which any further step in the proceeding is required to be taken.

(4) Upon application or of its own motion, the Court may convene a hearing to give directions or make orders.

(5) Not less than 4 days before the hearing of an application or an appeal involving a child, a party may file a notice in Form 9 for the purpose of providing the Court and other parties with current information regarding any other court proceedings involving the child.

(6) Upon application or of its own motion, where an appeal involves a child, the panel hearing the appeal may permit or require a party, by affidavit, to provide current information regarding the child.

Appeal involving a
tribunal

10. (1) Subject to statutory requirements, these rules shall apply with the necessary changes to an order appealed from a tribunal.

(2) Other than where an appeal directly to the Court is authorized by statute, where the order under appeal involves an order or decision of a tribunal, notice of the appeal shall be served on the tribunal, and the tribunal may participate in the appeal to the extent permitted by the Court.

(3) A party in a proceeding before a tribunal who is not named as a party in the appeal may apply to the Court to be added as a party, and the Court may give such directions and orders as are appropriate.

Cross-appeals

11. (1) A respondent to an appeal may make submissions by cross-appeal where the respondent

- (a) seeks to appeal an order or portion of an order appealed from that is not appealed by the appellant;
- (b) contends that the order appealed from should be varied or affirmed on grounds other than those given by the court appealed from; or
- (c) contends that the respondent is entitled to other or different relief or disposition than given by the court appealed from.

(2) Where a respondent intends to make submissions under paragraph (1)(a) or (c), a notice of cross-appeal in Form 15 shall be filed within 30 days after the respondent receives a copy of the notice of appeal.

(3) Failure to file a notice of cross-appeal under subsection (2) shall not preclude a respondent from making submissions on the issues, but the omission may be grounds for an order as to costs.

(4) Submissions on a cross-appeal shall be included, under the title "Cross-Appeal", in the respondent's factum, placed after the submissions in response to the appeal or, if necessary, in a separate volume.

(5) Where a respondent files submissions on a cross-appeal, an appellant may file a reply factum within 30 days after receipt of the respondent's factum.

(6) Where an appeal is discontinued or deemed abandoned, a respondent may

(a) file a notice of election to proceed with a cross-appeal in Form 16;

(b) apply to the Court for directions.

(7) Where the respondent does not file a notice of election to proceed with a cross-appeal within 30 days after receiving notice that the appeal has been discontinued or deemed abandoned, the issues on the cross-appeal shall be deemed to be abandoned without costs, unless the Court otherwise orders.

Challenge to a
previous decision of
the Court

12. (1) Where a party intends to challenge a previous decision or legal principle stated by the Court, that party, when filing its factum, shall advise the Court and other parties in writing of that intention, and the Court may, of its own motion or upon application, give directions.

(2) Where an issue is raised under subsection (1), the Chief Justice may direct that the appeal shall be heard by a panel of 5 judges, and in that case, each party to the appeal shall file with the Court 6 copies of every document.

More than one
notice of appeal in a
proceeding

13. Where more than one party in a proceeding in the court appealed from files a notice of appeal, the registrar, on the instruction of a judge, may direct that the appeals be consolidated or heard together or that one appeal shall be treated as a cross-appeal.

**PART 3
EFFECT OF THE RULES**

Extending or
abridging time

14. The Court may extend or abridge any time prescribed by these rules before or after the expiration of that time.

Failure to comply
with a rule

15. (1) The Court may waive compliance or relieve against non-compliance with these rules and may direct the procedure to be followed.

(2) A party who fails to comply with these rules may be subject to an order for costs.

Failure to proceed
with an appeal

16. (1) An appellant shall diligently carry forward the appeal in accordance with the principle of proportionality and shall perfect the appeal within the time periods prescribed by these rules.

(2) Where an appellant fails to carry forward the appeal in accordance with subsection (1), a respondent may apply to the Court for directions and the Court may give such directions or make such orders as may be appropriate, including an order striking out the notice of appeal.

(3) Where a respondent does not make an application under subsection (2) and 6 months have passed since the notice of appeal was filed, the Court may, of its own motion, give the parties 10 days notice that the Court will hold a status hearing for the purpose of giving directions or making orders.

(4) At the status hearing, the Court may

(a) order the appeal to be perfected by a specified date;

(b) adjourn the status hearing to a fixed date;

(c) strike out the notice of appeal; or

(d) make such other order as may be just.

Deemed
abandonment of an
appeal

17. (1) Where an application or request to set a hearing date for an appeal has not been made within one year after the notice of appeal was filed, the registrar shall give the parties notice that subsections (2) and (6) shall apply.

(2) Upon receiving notice under subsection (1), the appellant may deliver a written explanation and proposed plan in Form 14 to the Court and to the other parties, and the appeal shall not be deemed abandoned.

(3) Upon application or of its own motion, the Court may make an order or give directions regarding a proposed plan.

(4) Upon application, the Court may adjourn the appeal indefinitely where the parties agree for good reason that the appeal should not be deemed abandoned but that, at the time, it is not practical to provide a proposed plan under subsection (2).

(5) Where an application or request to set a hearing date for an appeal has not been made within one year after the appeal was adjourned indefinitely, the registrar may give the parties notice under subsection (1) that subsections (2) and (6) shall apply but the date on which the notice of appeal was filed shall be replaced by the date on which the appeal was adjourned.

(6) If the appellant does not deliver an explanation and proposed plan under subsection (2) or apply for an indefinite adjournment under subsection (4) within 60 days after the notice under subsection (1) was sent, the appeal shall be deemed abandoned.

(7) When an appeal has been deemed abandoned, the respondent shall be entitled to costs unless the respondent waives the costs, in writing.

(8) When an appeal has been deemed abandoned, the registrar shall deliver notice to the parties, but inability to locate a party in order to deliver the notice shall not affect the deemed abandonment of the appeal.

(9) When an appeal has been deemed abandoned, upon application, the appeal may be reinstated upon such terms as the Court considers just.

(10) The terms under subsection (9) may include payment to a respondent of costs to date on a solicitor-and-client basis, which the Court may order to be paid personally by a named solicitor if the Court is satisfied that the solicitor is responsible for the failure of the appeal to proceed on a timely basis.

Notice an appeal is being discontinued

18. (1) An appellant may discontinue an appeal by filing a notice in Form 13 stating that the appellant has discontinued the appeal, whereupon the appeal shall be at an end.

(2) Where an appeal is discontinued, the respondent shall be entitled to costs unless the respondent waives the costs, in writing, on the notice.

PART 4 PROCEDURE

Setting a hearing date

19. (1) The registrar may, upon the request of a party in Form 6 and in consultation with the parties and the Chief Justice, set a time for the hearing of an appeal or an application for leave to appeal.

(2) Upon application in Form 7 or of its own motion, the Court may set a time for the hearing of an appeal or an application for leave to appeal.

(3) After an appellant's factum has been filed and another party has failed to file a factum within the time prescribed by these rules, any party that has filed a factum may apply to set a time for hearing of the appeal.

(4) Upon application under subsection (3), the Court may set a time for hearing of the appeal, give directions and order costs as it considers appropriate.

(5) The Court may proceed in the absence of a party where the party fails to attend a hearing after having received notice.

(6) Where a party fails to attend a hearing due to accident, mistake, insufficient notice or for other good reason, that party may apply to have an order or directions arising from the hearing varied or set aside on such terms as may be appropriate.

Prehearing conference and case management

20. (1) The Court may at any time, of its own motion or upon application, direct a prehearing conference for the purpose of

(a) simplifying or isolating issues on the appeal;

(b) canvassing the possibility of a settlement or mediation hearing; or

(c) addressing any other matter that may expedite the appeal.

(2) The Court may at any time, of its own motion or upon application, direct the case management of an appeal for the purpose of

(a) achieving the efficient use of court resources and promoting access to the Court in a timely and cost effective manner;

(b) providing information and resolving questions of procedure, including directions regarding steps to be taken to perfect the appeal;

(c) giving directions regarding documents to be filed; and

(d) setting dates for the filing of documents and hearing of the appeal.

(3) A judge conducting a prehearing conference or case management may make an order consented to by the parties, other than an order determining the appeal, and may set the time or modify the time set for the hearing of the appeal.

(4) Discussions at a prehearing conference or during case management are without prejudice and shall not be referred to at the hearing of the appeal.

(5) The judge conducting a prehearing conference or case management shall not for that reason be disqualified from hearing the appeal unless the judge was involved in settlement or mediation discussions related to the appeal.

(6) Except by consent of the parties, a judge who was involved in settlement or mediation discussions related to the appeal shall not hear the appeal or disclose to any member of the appeal panel positions taken or admissions or concessions made by the parties or their counsel at those discussions.

Appearing by
videoconference or
teleconference

21. (1) A party wishing to be heard by videoconference or teleconference on an appeal, on an application, at a prehearing conference or for case management may make a request for that purpose, and the Court may grant the request and give directions as required.

(2) For the hearing of an appeal, a party appearing by videoconference or teleconference

- (a) shall, where possible, attend for the videoconference at a courthouse;
- (b) if a courthouse is not practically available, may attend for the videoconference in a place other than a courthouse; and
- (c) if videoconferencing is not practically available, may be heard by teleconference.

(3) For the hearing of an application, subsection (2) shall apply, except that the Court may direct, based on the nature of the application, that the application shall be heard by teleconference despite the availability of a videoconference.

(4) Under this rule, a prehearing conference or case management shall be held by teleconference unless a videoconference is directed by the Court.

(5) A party being heard by videoconference or teleconference shall ensure that the place where the videoconferencing or teleconferencing is held is free from distractions and noise.

(6) Unless otherwise ordered by the Court, costs associated with appearing by videoconference or teleconference shall be the responsibility of the party requesting it, and the costs may be recoverable as costs of the appeal or application.

Assistance of non-solicitor

22. (1) A party who is a natural person may be represented by a solicitor or by himself or herself, or by a person acting for the party as trustee or in a representative capacity.

(2) Upon application of a party, for the purpose of facilitating access to justice, the Court may, in exceptional circumstances and subject to such conditions as may be appropriate, permit a person who is not a solicitor

- (a) to make submissions on behalf of a party who, by reason of physical or mental disability or other disabling circumstance, is not able adequately to make submissions on his or her own behalf;

(b) to sit with a party in the Court for the purpose of providing assistance, advice and support during the proceeding.

(3) A person granted permission under subsection (2) shall deliver to the Court a completed Form 17, undertaking in writing

(a) not to receive directly or indirectly any compensation for the assistance provided, except reimbursement for expenses actually incurred, unless the Court otherwise permits;

(b) that his or her interests are not in conflict with the interests of the applicant under subsection (2); and

(c) to observe and be bound by the obligations that apply to an officer of the Court particularly as set out in Form 17.

Withdrawal or
change of solicitor

23. (1) A party may change his or her solicitor in proceedings in the Court by filing a notice of change of solicitor in Form 12.

(2) A solicitor who has taken any step on behalf of a party in proceedings in the Court shall be and remain the solicitor of record unless a notice of change of solicitor has been filed under subsection (1) or, upon application, the Court grants the solicitor leave to cease acting for the party in the proceedings.

(3) Where leave is granted under subsection (2), the party shall without delay notify the Court and the other parties, in writing,

(a) of a new address for service; and

(b) whether the party has or intends to engage a new solicitor or intends to act on his or her own behalf.

(4) Rule 8(5) regarding the protection of information identifying a party's addresses and phone number shall apply.

(5) At any time during the proceedings, if a party who was acting on his or her own behalf engages a solicitor, that solicitor shall without delay notify the Court and the other parties, in writing, of the address for service.

Limited purpose
retainer of solicitor

24. A party may retain a solicitor for a limited purpose and the solicitor shall file a notice in Form 11 identifying the nature and scope of the retainer.

Recording court
proceedings

25. Except as otherwise provided by law or in a practice note, a person shall not record proceedings in the Court by any visual or audio recording device, without leave of the Court.

PART 5 FORMS AND DOCUMENTS

Forms and materials

26. (1) Where applicable, the forms attached to and forming part of these rules shall be used with such changes as the circumstances require.

(2) All written material relied on in a proceeding shall be legible and printed on good quality paper.

(3) The registrar may refuse to receive for filing any material that does not substantially comply with these rules and the practice notes.

(4) Where a party files material that fails to comply substantially with these rules, the Court may make an order as to costs that it considers appropriate.

Copies provided by
the Court

27. Copies of documents provided by the Court may be provided by electronic means.

Filing and serving
documents

28. (1) Unless otherwise prescribed in these rules or directed or ordered by the Court, a party shall file with the Court 4 copies of every document and without delay shall serve one copy of the document on each party.

(2) Where a document has been prepared for purposes of an appeal, one of the 4 copies filed with the Court shall be the original.

(3) In the case of an application, unless otherwise prescribed in these rules or directed or ordered by the Court, a party shall file with the Court 2 copies of every document and without delay shall serve one copy of the document on each party.

(4) Where a document has been prepared for purposes of an application, one of the 2 copies filed with the Court shall be the original.

(5) An address for service used in the court appealed from shall be used for purposes of serving a document under subsections (1) or (3) unless a party notifies the Court and other parties of a change in the address for service.

(6) A party shall serve a document on another party by delivering a copy to the address for service.

(7) A solicitor may accept service of a document on behalf of a client.

(8) Proof that a document has been served may be established by

(a) the signature of the recipient, with the date, acknowledging acceptance of service on the document or a copy;

(b) an affidavit in Form 3 by the person who delivered the document;

(c) an "Acknowledgment of Receipt" in Form 4 where the document has been delivered by mail or courier; or

(d) a confirmation of delivery obtained from the carrier where the document was delivered by registered mail or by courier.

(9) Where a party files or serves a document by fax or email in order to meet a limitation period, the document shall be treated as filed on the day it was received, but the party shall without delay file and serve printed copies of the document.

Notice to the
Attorney General

29. (1) With or without an application by a party, the registrar, on the instructions of the Chief Justice, may direct a party to give notice of an appeal or an application to the Attorney General of the Province in Form 10, and the Attorney General shall have the right to be heard and to participate in the proceeding.

(2) The notice shall include an appropriate notice period.

**PART 6
APPLICATIONS**

Applications -
procedure

- 30.** (1) An application shall be in Form 2 and shall include
- (a) a concise statement of the relevant facts and the issues to be determined in the application;
 - (b) the directions or order the applicant is requesting from the Court;
 - (c) any affidavit necessary to support or provide the foundation for the application;
 - (d) any document relevant to hearing of the application; and
 - (e) written submissions and authorities where the nature of the application warrants.
- (2) Subject to direction of the Court,
- (a) an application shall be filed not less than 4 days prior to the time set for hearing the application; and
 - (b) a party responding to an application shall file any affidavit, document or written submissions and authorities on which that party relies not less than 2 days prior to the time set for hearing the application,
- but
- (c) where the materials in paragraphs (1)(d) or (e) cannot practically be filed with the application, they may be filed within 15 days after the application is filed; and
 - (d) in that case, the respondent may file the materials in paragraph (2)(b) within 15 days after receipt of the materials in paragraph (2)(c); and
 - (e) the application shall be heard not less than 2 days after the materials in paragraph (2)(d) have been filed.

(3) Where warranted, the materials under subsections (1) and (2) shall be indexed, tabbed and bound.

(4) Where authorized by an order or direction of the Court, a statute, or a rule, an application may be made without notice to other parties.

(5) Where an application is made without notice to other parties, the Court may vary or set aside an order or directions made in that proceeding on such terms as may be appropriate.

(6) A party, in writing, may waive notice of the application or may give consent to the order sought by the applicant.

(7) The Court shall set dates for the hearing of applications in each month, but an application may be set to be heard at another time where necessary or appropriate.

(8) Upon the request of a party, the Court may decide an application on the basis of the documents that have been filed and the written submissions, provided that the other parties indicate in writing that they agree to the request.

Applications heard
by a single judge

31. (1) An application that is incidental to but does not result in the final determination of an appeal may be heard and disposed of by a single judge.

(2) Where an application is heard and disposed of by a single judge, the matter may, with leave of the Chief Justice, be reheard by a panel of the Court.

(3) A request for a rehearing under subsection (2) shall be made within 15 days after the party receives the judgment under subsection (1).

Application for
directions or an
order

32. A party may make an application to the Court for the purpose of obtaining directions or an order.

Leave to appeal
where required by
statute

33. (1) Where a statute requires leave to appeal, the appellant shall file with the notice of appeal, an application for leave to appeal.

(2) An application for leave to appeal under subsection (1) shall be heard separately from the appeal unless, upon application or of its

own motion, the Court orders that leave to appeal be heard at the same time as the appeal.

(3) If the application for leave to appeal is to be heard separately from the appeal,

(a) the applicant shall, within 10 days after filing the application, file an application record, tabbed and bound, containing

(i) an index,

(ii) a copy of the application and the notice of appeal,

(iii) a copy of the order sought to be appealed and the written reasons, if any, and

(iv) any other document relevant to the application for leave, and

within 30 days after filing the application for leave to appeal, shall file written submissions and authorities in support of the application, indexed, tabbed and bound; and

(b) within 30 days after receiving the applicant's written submissions under paragraph (a), a respondent shall file written submissions and authorities indexed, tabbed and bound, in response to the application.

(4) If the application for leave to appeal and the appeal are to be heard at the same time, subsection (3) shall not apply, and the applicant and a respondent shall

(a) comply with the rules regarding an appeal book and factum and, where relevant, a transcript; and

(b) include written submissions on the leave to appeal application in the appeal factum.

Appeal of a consent
order - leave
required

34. (1) Where the order under appeal is a consent order, leave to appeal is required.

(2) An application for leave to appeal shall be filed with the notice of appeal.

Challenging an
appeal in an
uncompleted matter

35. (1) Where an appeal is commenced in an uncompleted matter, a party may apply to have the notice of appeal struck on the basis that the appeal should not proceed until the matter has been completed because

- (a) prejudice to a party may result if the appeal is heard before the matter is completed in the court appealed from;
- (b) hearing the appeal before the matter is completed in the court appealed from would result in delay, inconvenience or an inefficient use of judicial resources; or
- (c) there is good reason for delaying an appeal until the matter has been completed.

(2) Striking a notice of appeal under this rule does not prejudice the right of the appellant to include the same issues in an appeal when the matter has been completed in the court appealed from.

Striking out a notice
of appeal or
dismissing an
appeal

36. (1) A party to an appeal may apply at any time before or at the hearing of the appeal for an order

- (a) striking out the notice of appeal; or
- (b) dismissing the appeal

on the grounds that

- (c) no appeal lies to the Court;
- (d) the appeal is frivolous, vexatious or without merit;
- (e) the appellant has unduly delayed the preparation and perfection of the appeal; or
- (f) the appellant has failed to apply to have the appeal set down for hearing.

(2) An application to dismiss an appeal shall be heard and determined by a panel of not fewer than 3 judges sitting together.

(3) A notice of appeal may be struck out by a single judge, and where a notice of appeal has been struck out, the appellant may apply within 6 months to have the notice reinstated for good reason.

Additional evidence
on appeal

37. (1) Upon application, the panel hearing the appeal may permit additional evidence for purposes of the appeal.

(2) The application shall be accompanied by an affidavit setting out

- (a) the general nature of the additional evidence sought to be introduced;
- (b) the way in which the additional evidence satisfies the criteria set out in subsection (3); and
- (c) why the additional evidence was not introduced in the court appealed from.

(3) In determining the application, the Court shall consider

- (a) whether, by due diligence, the evidence could have been brought in the court appealed from;
- (b) the relevance of the evidence in the sense that it bears upon a decisive or potentially decisive issue in the appeal;
- (c) the credibility of the evidence;
- (d) whether the evidence, if believed, could reasonably have affected the result; and
- (e) any other relevant factor.

(4) The evidence shall be taken, subject to cross-examination as may be appropriate, by oral examination before the Court or by affidavit or deposition or in such manner as the Court directs.

(5) The Court may, in the presence of the parties or their solicitors, inspect or view any place, property or thing where the inspection or view may facilitate determination of the appeal.

Application to
intervene

38. (1) A person who did not participate in the court appealed from may apply to be added as an intervenor for purposes of the appeal.

(2) The application shall state the intervenor's interest in the appeal, explain the failure to apply to intervene in the court appealed from, and indicate the position the intervenor intends to take on the appeal.

(3) In addition to the factors set out in subsection (2), the Court may consider any relevant factors, including whether intervention would delay or prejudice adjudication of the rights of the parties and whether the record of the court appealed from is sufficient for purposes of the intervention.

(4) The Court may define or limit the scope of participation by an intervenor in an appeal.

Appointment as a
friend of the court

39. (1) Upon application or of its own motion, the Court may appoint a solicitor to make submissions on an appeal as a friend of the court where the Court considers that such an appointment is necessary or appropriate in the circumstances.

(2) Notice in Form 10 of a proceeding under subsection (1) shall be given to the Attorney General of the Province not less than 15 days before the proceeding is set to be heard, and the Attorney General shall have the right to be heard and to participate in that proceeding.

(3) After considering any submissions of the parties, an applicant and the Attorney General of the Province, the Court may make an order under subsection (1) on terms it considers appropriate.

Appointment of
counsel

40. (1) Where, by virtue of a legal rule or principle, appointment of counsel may be necessary or appropriate, an application may be made in Form 19 with a supporting affidavit as provided in the Form.

(2) Factors the Court may consider in an application under subsection (1) include:

(a) the complexity of the legal issues in the appeal;

(b) the potential effect of the appeal on the development of the law;

- (c) the ability of the applicant to provide written and oral submissions;
- (d) the availability of legal aid under a provincial plan providing legal aid or similar services;
- (e) whether the applicant has requested the assistance of a solicitor who would agree to provide assistance without financial compensation, including for a limited purpose as authorized under rule 24; and
- (f) financial hardship the applicant would suffer if required to pay for a solicitor to provide assistance, including for a limited purpose as authorized under rule 24.

(3) Notice in Form 10 of an application under subsection (1) shall be given to the Attorney General of the Province not less than 15 days before the application is set to be heard, and the Attorney General shall have the right to be heard and to participate in the application.

Consent judgment

41. Where the parties agree in writing that the judgment or order of the court appealed from should be reversed or varied and they agree on the order that should be made, the appellant may apply to have that order confirmed by the Court.

Staying
enforcement of an
order under appeal

42. (1) Filing a notice of appeal shall not operate to stay enforcement of the order under appeal.

(2) Upon application, the Court may stay the enforcement of an order under appeal pending disposition of the appeal, provided that an application to stay the order under appeal has not been made in the Supreme Court, Trial Division.

(3) The Court's decision granting or refusing to stay the enforcement of the order under appeal may be reviewed upon further application by a party based on a change in circumstances.

(4) An order made by a judge of the Supreme Court, Trial Division granting or refusing to stay the enforcement of an order under appeal may be appealed to the Court only with leave.

(5) The stay of an order for the payment of money shall not prevent interest from accruing.

Security for costs

43. (1) Security for costs shall not be required in an appeal unless, upon application, by reason of special circumstances, security is ordered by the Court.

(2) Unless the Court otherwise orders, an appellant who fails to give security for costs as ordered shall be deemed to have abandoned the appeal and the respondent is entitled to costs.

Exemption from the payment of fees and charges

44. (1) In this rule, "fees" and "charges" mean fees and charges under the *Supreme Court Fees Regulations*.

(2) A person whose ability to commence or proceed with an appeal, or a party whose ability to participate in the appeal, is impaired for financial reasons may apply for an exemption from or suspension of the payment of all or a portion of the fees and charges which may be payable by that person or party.

(3) The application shall be in Form 18 with a supporting affidavit as provided in the Form setting out the foundation for the application.

(4) Unless the Court otherwise orders, documents filed for purposes of this rule shall be restricted to that use.

(5) No court fees shall be payable to make an application under subsection (2), and the application may be made without notice to other parties to the appeal.

(6) Factors the Court may consider in assessing the application include

- (a) undue hardship that would result from the payment of fees and charges or a portion thereof;
- (b) whether the applicant is in receipt of social assistance;
- (c) steps taken by the applicant to arrange his or her finances, making reasonable sacrifices, to enable payment of all or a portion of the fees and charges payable for the appeal;
- (d) whether the applicant applied for and was refused legal aid under a provincial plan providing legal aid or similar services;

(e) whether the appeal is frivolous or vexatious in the sense that there is no arguable basis or sufficient merit for the appeal; and

(f) whether the appeal is brought for a public purpose and the applicant has standing to pursue the appeal.

(7) The Court may make an order exempting or suspending the payment of fees and charges based on the written documentation without a hearing.

(8) Where the circumstances warrant, the Court may order that court services be used to provide the portion of the transcript required by the rules and copies of materials, and the Court may exempt the applicant from or suspend the payment of all or a portion of the associated fees and charges.

(9) A person who is not a party to an appeal may apply for an exemption from the payment of all or a portion of the fees and charges to obtain a copy of a court document where the payment would prevent the applicant from pursuing studies or conducting research.

Contempt of court

45. Upon application or of its own motion, the Court may, by order, exercise its power to punish for contempt of court.

PART 7 APPEAL DOCUMENTS

Transcript -
obtaining and
delivering to parties

46. (1) In these rules,

(a) "transcript" means a printed transcript of the audio recording of the proceedings in the court appealed from but does not include

(i) a party's submissions to the court appealed from unless those submissions are necessary to enable an issue raised on appeal or cross-appeal to be determined; and

(ii) a decision of the court appealed from where a printed copy of that decision has been issued; and

(b) "appellant" means the first appellant where there is more than one appellant, as required by the context.

(2) Upon filing a notice of appeal, without delay, the appellant shall obtain a copy of the audio recording from the court appealed from and shall deliver a copy to each party.

(3) The appellant shall, without delay

(a) arrange for preparation of a transcript of the portion of the audio recording necessary to prepare the factum and to enable the issues on appeal to be determined; and

(b) advise each party in writing what arrangement under paragraph (a) has been made, indicate what portion of the audio recording is being requested and specify the date when the transcript is expected to be completed.

(4) If the appellant fails to comply with subsection (2) or (3), another party may make an application to the Court for directions, and the Court may give such directions and make such order as to costs as may be appropriate.

(5) If an appellant indicates under subsection (3) that a transcript of only a portion of the audio recording is being requested and another party is satisfied that the transcript of an additional portion of the audio recording is necessary, that party shall proceed in accordance with subsection (3) with the necessary changes.

(6) A party, upon receipt of a transcript that was requested by that party, shall without delay deliver one printed copy and one electronic version of the transcript to the other parties to the appeal.

(7) A party disputing the accuracy of a transcript may make an application to the Court for directions.

Transcript - filing

47. (1) An appellant shall not file the transcript in its entirety unless the whole of the transcript is necessary to enable the issues on appeal to be determined.

(2) In accordance with rule 56, together with the factum and the appeal book, the appellant shall file with the Court

(a) 4 copies of the portion of the transcript that is necessary to enable the issues on appeal to be determined; and

(b) a certificate in Form 5

(i) stating that the appellant is satisfied that the portions of the transcript being filed are necessary to enable the issues on appeal to be determined; or

(ii) if the appellant is satisfied, upon careful review, that the whole of the transcript is necessary to enable the issues on appeal to be determined, stating, with particulars, the reasons for drawing that conclusion.

(3) Where there is more than one appellant, and an appellant other than the first appellant is satisfied that a portion of the transcript has not been filed that is necessary to enable the issues on appeal to be determined, that appellant may file additional portions of the transcript, and the requirements of subsection (2) shall apply with the necessary changes.

(4) Where a respondent is satisfied that an appellant has not filed a portion of the transcript that is necessary to enable the issues on appeal or cross-appeal to be determined, the respondent may file additional portions of the transcript, and the requirements of subsection (2) shall apply with the necessary changes.

(5) Not less than 5 days before the hearing of the appeal, additional portions of the transcript may be filed where a party determines it to be necessary to enable the issues on appeal or cross-appeal to be determined, and the requirements of subsection (2) shall apply with the necessary changes.

(6) The Court may at any time, upon application or of its own motion, order the filing of all or a portion of the transcript.

(7) Where a party fails to comply with this rule, the Court may make an order as to costs that it considers appropriate.

Transcript - filing
electronic version

48. In addition to the portion of the transcript required to be filed under rule 47, the appellant shall file with the Court

(a) where a transcript of the entire proceedings has been prepared, 4 electronic versions of the transcript; or

(b) where a transcript of the entire proceedings has not been prepared,

(i) 4 electronic versions of the transcript that has been prepared, and

(ii) 4 copies of the audio recording of the proceedings in the court appealed from.

Transcript - alternatives

49. (1) A party may apply to the Court for an order and directions to permit the use of an electronic version rather than a printed copy of the transcript.

(2) Upon application, or of its own motion, the Court may at any time dispense with the preparation and filing of a transcript and order that the appeal proceed using an audio recording of the proceedings in the court appealed from, and the Court may give such directions as may be appropriate.

Transcript - form

50. (1) A transcript shall be prepared in accordance with the *Recording of Evidence Act* and the Transcript Standards Manual of the Court Reporters' Office of the Supreme Court, Trial Division.

(2) Where possible a key word index shall be included at the end of the transcript.

(3) The cover used to bind the transcript shall be grey.

(4) The transcript may be printed on double-sided pages with 4 pages of the written transcript on a single page, provided that the print is sufficiently large to be legible.

(5) Where the portion of the transcript considered to be necessary to enable the issues on appeal or cross-appeal to be determined is voluminous, a party may provide, or the Court may require, a book of excerpts where that would be convenient for presentation of submissions.

Agreed statement of facts

51. Instead, or in place of a portion, of a transcript, an agreed statement of facts may be included in the appeal book under rule 52(1)(a)(v).

Appeal book

52. (1) An appeal book shall be bound and shall consist of the following, in this order:

(a) Part I - Documents

- (i) index of the documents in the appeal book,
- (ii) the notice of appeal,
- (iii) the written decision appealed from, if any, or the transcript of an oral decision,
- (iv) the order appealed from,
- (v) any agreed statement of facts prepared for purposes of the appeal,
- (vi) the documents, including any agreed statement of facts filed in the court appealed from, that are necessary to enable the issues on appeal to be determined, but not the documents in Part II, and
- (vii) in an appeal involving a child under rule 9, any orders that have been made relating to the child;

(b) Part II - Evidence

- (i) index of witnesses,
- (ii) list of the exhibits,
- (iii) copies of exhibits that may be conveniently copied and are necessary to enable the issues on appeal to be determined, and
- (iv) copies of affidavits and written admissions and any other documents necessary to enable the issues on appeal to be determined.

(2) The items contained in the appeal book shall be separated by tabs to permit convenient reference to each document or portion thereof.

(3) The pages of the appeal book shall be numbered consecutively in the upper left corner of each page.

(4) If Part II is not lengthy it may be bound in the same volume with Part I.

(5) The cover of the appeal book shall be grey, and shall state the names of the parties, the number of the appeal, and the volume number of the appeal book where there is more than one volume.

(6) Where there is more than one volume, each volume shall repeat the index and, in addition to the information specified in subsection (5), shall show on its cover the page numbers contained in it.

Factum - contents

53. (1) A factum shall be bound and shall consist of the following, in this order:

(a) Index, including the page on which the submissions on each issue begin;

(b) Part I - Overview

A brief summary of the appeal and the positions being taken in the factum;

(c) Part II - Concise Statement of Facts

For a respondent, a statement of its position regarding the appellant's statement of facts and including any additional facts it considers relevant;

(d) Part III - List of the Issues;

(e) Part IV - Argument

A statement of the argument, not to exceed 40 pages unless otherwise authorized by the Chief Justice or a judge, setting out the points of law or fact to be argued and the basis on which the arguments are made, with specific references to the appeal book and the authorities relied upon in support of each point;

- (f) Part V - Order or Relief Sought, including any order as to costs;
- (g) Index of Appendix A (case authorities listed in alphabetical order) and Appendix B (statutory or regulatory authorities listed in alphabetical order) including citations as required under rule 54(1);
- (h) Appendix A - Copies of cases in accordance with rule 54, with appropriate tabbing; and
- (i) Appendix B - Copies of relevant portions of statutes, regulations and rules with appropriate tabbing.

(2) In Part IV, the Argument,

- (a) the authority for a principle or proposition shall be placed immediately after the paragraph or series of paragraphs to which it applies; and
- (b) the citation of the authority shall include the tab reference together with the relevant paragraphs, pages or provisions each time the authority is cited.

(3) Footnotes may be used for purposes of elaboration or explanation which would not conveniently be included in the body of the Argument, but "infra", "below", "supra", "above", "ibid" and "id" shall not be used.

(4) Except where rule 11 regarding cross-appeals applies, an appellant shall not file a reply factum without the prior approval of the Chief Justice.

(5) Approval under subsection (4) may be sought by making a request or, if convenient, at a pre-hearing conference, case management meeting, status hearing, or at the hearing of an application.

Factum - legal and
case authorities

54. (1) Where possible, the Index of cases shall include the neutral citation together with the citation from an official report, and in particular, reference to decisions of the Supreme Court of Canada or a court of this Province must include the citation from the Supreme Court Reports or the Newfoundland and P.E.I. Reports, if any.

(2) Copies of authorities in Appendix A or B from electronic sources may be filed provided that the citation in the Index of Appendix A complies with subsection (1).

(3) A copy of a case authority shall not be included in Appendix A where the Court has included that case in a list of "Frequently Cited Cases" in a practice note.

(4) When a copy of an authority is contained in documents already filed by another party, an additional copy shall not be filed, but the citation of the authority shall be included in the Index of Appendices A and B with reference to where the copy of the authority is to be found.

(5) A copy of the whole of a lengthy case need not be included in Appendix A if providing a portion would be sufficient for purposes of the appeal.

(6) Copies of authorities may be highlighted or otherwise conveniently marked to identify the portion to which the Court's attention is to be drawn.

(7) The Index of Appendices A and B shall be included after Part V in the factum and, if the copies of authorities are bound in a separate volume, the Index shall be included at the front of each volume of authorities.

Factum - form

55. (1) The Index, Parts I to V and the Index of Appendices A and B of a factum shall be bound and

- (a) shall be legible and printed in font size 12 with line spacing of one and one-half;
- (b) shall be printed on one side of the paper only, with the printed pages to the left;
- (c) paragraphs shall be numbered consecutively; and
- (d) pages shall be numbered consecutively.

(2) Copies of authorities in Appendices A and B

- (a) shall be legible;

- (b) may be printed on both sides of a page; and
- (c) shall be bound with the factum or in separate volumes where necessary.
- (3) The colours of the covers of a factum and authorities shall be
 - (a) buff or yellow for an appellant, including an appellant's reply where a reply is permitted;
 - (b) blue for a respondent's factum, including a factum as a cross-appellant; and
 - (c) green for an intervenor's factum,

but where there are multiple parties, a party may choose to use a different colour where that would assist in identifying that party's materials.

Filing transcript,
appeal book and
factum

56. (1) The appellant shall file the factum together with the appeal book and transcript within 60 days after the date of completion marked on the transcript or agreed statement of facts, or within 120 days after the notice of appeal has been filed if the appeal is proceeding without a request for or preparation of a transcript or an agreed statement of facts.

(2) Where there is more than one appellant, each appellant other than the first appellant shall file its factum and additional portions of the transcript, if any, within 20 days after receipt of the documents served under subsection (1).

(3) An appellant other than the first appellant that does not intend to file a factum shall without delay notify the other parties to the appeal.

(4) A respondent shall file its factum and additional portions of the transcript, if any, within 30 days after receipt of the documents served under subsection (1) or, if subsection (2) or (3) applies, within 30 days after receipt of those documents or notification that an appellant does not intend to file a factum.

(5) An intervenor shall file its factum in accordance with subsection (1) or (2) if it makes submissions in support of that party, or, in all other circumstances, in accordance with subsection (4).

**PART 8
ORDERS**

Formal order

57. (1) A formal order of the Court shall be in Form 8 and shall state the judgment of the Court.

(2) Where a judge files dissenting reasons, the formal order shall indicate the nature of the dissent.

(3) After the Court's judgment is filed, the successful party shall prepare a draft formal order and shall provide a copy to the other parties to the appeal.

(4) A party receiving a copy of a draft formal order shall, without delay, in writing, indicate consent to the draft or provide comments to the drafter of the order.

(5) Within 30 days after the Court's judgment is filed, the successful party shall

(a) file a draft formal order, indicating the consent of the other parties; or

(b) if consensus on the contents of the order cannot be reached within that time, file the draft formal order that it proposes together with a written summary of the points in contention.

(6) The Court shall determine and approve the final formal order, which shall be filed, with a copy provided to each party.

(7) The formal order may be filed in the Supreme Court, Trial Division and thereby becomes a judgment of that court for purposes of enforcement.

(8) This rule does not preclude a party from making a request or an application to extend the time under subsection (5), to clarify a point of contention, or to require the successful party to file the draft formal order.

Costs

58. (1) The Court may make such order as to costs as it considers appropriate, including an order for a lump sum payment or an order on a basis other than is provided in the scale of costs attached to and forming part of these rules.

(2) An order for costs may include costs in the court appealed from.

(3) If no order is made under subsection (1),

(a) the costs of any proceeding in the Court shall be included with the costs of the appeal; and

(b) the successful party on the appeal shall have its costs of the appeal in accordance with column 3 of the scale of costs.

(4) The Court may award costs in accordance with any column or combination of columns under the scale of costs, and in exercising its discretion for this purpose, the Court may consider

(a) the amounts claimed and the amounts recovered;

(b) the importance of the issues;

(c) the complexity, difficulty or novelty of the issues;

(d) the manner in which the proceeding was conducted, including any conduct that tended to shorten or unnecessarily lengthen the duration of the matter;

(e) the failure by a party to admit anything that should have been admitted;

(f) seniority of counsel at the bar;

(g) fair payment for the work of a person acting on his or her own behalf; and

(h) any other relevant matter.

(5) A taxing officer shall determine the cost of an item that is not listed in the scale of costs.

(6) The rules of the Supreme Court, Trial Division governing the manner of payment and taxation of costs shall apply to costs in the Court.

59. At any time the Court may

Correction of
clerical mistakes

- (a) correct an error in a judgment or order that arose from a clerical mistake or from an accidental slip or omission; or
- (b) amend a judgment or order to provide for any matter that should have been but was not adjudicated.

**PART 9
TRANSITIONAL, NON-APPLICATION AND
COMMENCEMENT**

Transitional

60. (1) Proceedings commenced, but not completed, prior to the coming into force of these rules shall be governed by these rules without prejudice to anything lawfully done under the former rules.

(2) A party may make a request or an application for directions or an order if there is doubt about the application or operation of these rules to a proceeding under subsection (1) or if any difficulty, injustice or impossibility arises as a result.

(3) For the purpose of calculating time limitations, including requiring a thing to be done without delay,

- (a) where no time limit was provided under the former rules, the time limit under these rules applies, calculated from the date on which these rules come into force;
- (b) where a time limit under these rules is shorter than the time limit under the former rules, the time limit under these rules applies, calculated from the date on which these rules come into force; and
- (c) where a time limit under these rules is longer than the time limit under the former rules, the time limit under these rules applies, calculated from the time when the thing was to be done under the former rules.

Non-application

61. Rule 57 of the Rules of the Supreme Court, 1986, SNL 1986, c. 42, Schedule D, no longer applies to any civil proceedings in the Court.

Commencement

62. These rules come into force on October 17, 2016.

Appendix

Scale of Costs - Court of Appeal

(Rule 58)

General

1. A party seeking an assessment of costs shall prepare a bill of costs indicating the service provided, the column and the number of units and, where the service provided is based on days or half days, shall indicate the number of days or half days, and

(a) a "day" or "half day" includes a part thereof; and

(b) where a service is provided more than once for the same listed item the service provided for each item on each occasion may be assessed separately.

2. A bill of costs may include a list of disbursements, which shall be verified by invoice or affidavit.

3. The total value of services provided shall be calculated by multiplying the total number of units by the unit value in effect on the date of the assessment.

4. The unit value is \$100.00.

Items of Costs

Service Provided	Number of Units				
	Col 1	Col 2	Col 3	Col 4	Col 5
1. Preparation and filing of notice of appeal or cross-appeal	1.0	1.5	2.0	2.5	3.0
2. Applications					
(a) Preparation and filing of the application	1.0	1.5	2.0	2.5	3.0
(b) Preparation and filing of any affidavit or other document to support the application	1.0	1.5	2.0	2.5	3.0

Service Provided	Number of Units				
	Col 1	Col 2	Col 3	Col 4	Col 5
(c) Preparation of a memorandum of fact and law	2.0	3.0	4.0	5.0	6.0
(d) Counsel fee on uncontested application	1.0	1.5	2.0	2.5	3.0
(e) Counsel fee at hearing of contested application, per half day	2.5	5.0	8.5	11.5	15.0
3. Preparation of the appeal book	1.0	1.5	2.0	2.5	3.0
4. Preparation of the factum for the appeal	2.0	3.0	4.0	5.0	6.0
5. Preparation for and attendance at prehearing conference, case management or similar conference, per half day	1.5	2.25	3.0	3.75	4.5
6. General preparation for the appeal including any request made to, or communication with, the Court	0.5	0.75	1.0	1.25	1.5
7. Counsel fee at hearing of the appeal:					
(a) first counsel, first day	7.5	15.0	25.0	35.0	45.0
(b) first counsel, second and subsequent days	3.75	7.5	12.5	17.5	22.5
(c) additional counsel, where the Court approves, first day	5.0	10.0	17.0	23.0	30.0
(d) additional counsel, where the Court approves, second and subsequent days	2.5	5.0	8.5	11.5	15.0
8. Preparation of the formal order	0.5	0.75	1.0	1.25	1.5
9. Preparation of the bill of costs	0.5	0.75	1.0	1.25	1.5
10. Attendance on taxation, per half day	0.5	0.75	1.0	1.25	1.5

Other Costs

1. Disbursements, including costs of:
 - (a) court fees;
 - (b) service of documents, including an electronic version;
 - (c) copies at \$0.25 per printed page;
 - (d) transcription services and copies of transcript;
 - (e) electronic conferencing, including teleconference and videoconference;
 - (f) filing of an electronic version;
 - (g) reasonable travel expenses of counsel, including meals and lodging, for travel by counsel exceeding 40 kilometres one way from the counsel's ordinary place of business; and
 - (h) other reasonable disbursements.
2. Law Society levy.
3. HST as applicable.

Forms – Index

1. Notice of Appeal
2. Application to the Court with Supporting Affidavit
3. Service of Document – Affidavit
4. Service of Document – Acknowledgment of Receipt
5. Transcript Certificate
6. Hearing Date – Request to the Registrar
7. Hearing Date – Application
8. Formal Order
9. Appeal Involving a Child – Current Information
10. Notice to the Attorney General
11. Limited Purpose Retainer of Solicitor
12. Notice of Change of Solicitor
13. Notice an Appeal is Being Discontinued
14. Deemed Abandonment – Explanation for Delay and Proposed Plan
15. Cross-Appeal - Notice
16. Cross-Appeal – Election to Proceed
17. Assistance by Non-Solicitor - Undertaking
18. Exemption from Payment of Fees and Charges with Supporting Affidavit
19. Appointment of Counsel - Application with Supporting Affidavit

Form 1
Rule 8(1)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

[Insert notice of publication ban or access restriction if applicable.]

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE OF APPEAL

This is notice that the Appellant appeals the order of the Supreme Court of Newfoundland and Labrador, Trial Division.

(1) Information regarding the order under appeal:

- (a) Justice who made the order
- (b) Location where the matter was heard
- (c) Lower court file no.
- (d) Neutral citation of a written decision, if any
- (e) Date the order was filed or made

(2) Subject matter of the appeal: *(Give a brief summary of what the appeal is about and what the issues are.)*

(3) The Appellant requests *(Set out what order the Appellant is seeking from the appeal.)*

(4) The Court and parties are advised that *(include any of the following that is relevant):*

- (a) Only a portion of the order is being appealed *(specify the portion)*.
- (b) This is an appeal in an uncompleted matter. It is appropriate to proceed at this time because *(specify reasons)*.
- (c) The Appellant is asking that the appeal be expedited because *(specify reasons)*.

- (d) The constitutionality or legality of the following provision of an Act, regulation or rule will be challenged in the appeal (*specify the relevant provisions*).
- (e) The court appealed from imposed a publication ban or restriction on access (*Attach a copy of the publication ban if one is available or quote the language of the publication ban or restriction on access.*)
- (f) This appeal involves the custody of, access to, protection of, support for or responsibility for a child. (*See requirement for style of cause under rule 9(1).*)
- (g) This is a tribunal appeal to which rule 10 applies.
- (h) This appeal involves a challenge to a previous decision or legal principle stated by the Court (*describe briefly*).

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (signature)
(*name of Appellant or solicitor*)

The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)

To: (*name of Respondent or solicitor*)
The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)

Form 2
Rule 30(1)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

APPLICATION

This is notice that the Appellant applies for (*Specify the nature of the order or directions being requested from the Court.*)

Subject matter of the application: (*Give a concise statement of the relevant facts and of the issues to be determined by the application.*)

The affidavit that is necessary to support or provide the foundation for the application is attached.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (signature)
(*name of Appellant or solicitor*)

The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)
Counsel for

To: (*name of Respondent or solicitor*)

The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)
Counsel for ...

This application is set to be heard on the ____ day of _____, 20____, at 10:00 a.m.

_____ (Court Officer)

AFFIDAVIT IN SUPPORT OF THE APPLICATION

I, *(name, occupation optional)* , of *(city or town, and province)*, swear (affirm) that the following facts are true: *(Set out the facts that give the foundation or provide support for the application. Attach any exhibits referred to in the affidavit.)*

I make this affidavit in support of my application.

Sworn (affirmed) before me at ____*(city or*

town) in the province of Newfoundland and

Labrador

this ____ day of _____, 20____ (signature of deponent)

(signature of witness)

Form 3
Rule 28(8)(b)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

AFFIDAVIT OF SERVICE OF DOCUMENT

I, (*name, occupation optional*), of (*city or town, and province*), swear (affirm) that the following facts are true:

On the ____ day of _____, 20____, I delivered the (*specify document*), which is dated _____, 20____ to (*name*) by (*specify the method of delivery*).

Where the document was not delivered to a solicitor's office,

I identified the person I delivered the document to (*Specify the basis on which you identified the named person.*)

Sworn (affirmed) before me at (*city or town*)

in the province of Newfoundland and

Labrador

this ____ day of _____,

(*signature of deponent*)

20_____

(*signature of witness*)

Form 4
Rule 28(8)(c)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT

I, (*name*), acknowledge that, on the ____ day of _____, 20____, I received the
(*specify document*) which is dated _____, 20____.

I am the Respondent (*or specify other position*) in the appeal.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (signature)

Form 5
Rule 47(2)(b)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

TRANSCRIPT CERTIFICATE

I, *(name)*, *(counsel for the Appellant)*, have reviewed the order appealed from and considered the issues on appeal discussed in my factum. I am satisfied that the whole of the transcript is not required but that the portions of the transcript I am filing are necessary to enable the issues on appeal to be determined.

Or:

I, *(name)*, *(counsel for the Appellant)*, have reviewed the order appealed from and considered the issues on appeal discussed in my factum. I am satisfied that the whole of the transcript is necessary to enable the issues on appeal to be determined.

The reasons for this conclusion are: *(Provide details for concluding that the whole transcript is necessary.)*

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

_____ (signature)
(name of Appellant or solicitor)

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)
Counsel for

To: *(name of Respondent or solicitor)*
The address for service is:
(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for ...

Form 6
Rule 19(1)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

REQUEST TO THE REGISTRAR FOR HEARING DATE

The Appellant requests that the registrar set a date for the hearing of the appeal.

The Appellant confirms that:

- (a) all factums, the appeal book and transcript are filed;
- (b) the direction of the Court is not required on any matter before a date is set; and
- (c) there is no circumstance requiring a court appearance.

The Appellant has consulted with the other parties to the appeal, or their counsel, and the following dates in the next two months are mutually acceptable for the hearing of the appeal: *(insert dates)*.

Or

The following dates in the next two months are dates on which the Appellant (*parties*) will NOT be available to appear on the appeal: *(insert dates)*.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (signature)

(*name of Appellant or solicitor*)

The address for service is:

(*postal address, telephone, email*)

(*name of lawyer handling the file*)

Counsel for

To: (*name of Respondent or solicitor*)

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for ...

Form 7
Rule 19(2)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

APPLICATION FOR HEARING DATE

This is notice that the Appellant applies to set a date for hearing of the appeal.

The Appellant's factum, the appeal book and transcript were filed on *(date)*.

The Respondent's factum was filed on *(date)*.

Or

The Appellant's factum, the appeal book and transcript were filed on *(date)*.

The Appellant applies to set a date for hearing of the appeal and a date for the Respondent to file a factum because the Respondent has not done so within the time prescribed by the Rules.

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

_____ (signature)

(name of Appellant or solicitor)

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for

To: *(name of Respondent or solicitor)*

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for

This application is set to be heard on the ____ day of _____, 20____, at 10:00 a.m.

_____ (Court Officer)

Form 8
Rule 57(1)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

ORDER

Before: *(name Justices on the panel in order of seniority – see guidelines).*

Whereas:

(Set out concise basis of the appeal.)

The appeal was heard on *(date)*.

The Court heard submissions from *(name)*, counsel for the Appellant, and *(name)*, counsel for the Respondent.

The judgment of the Court was given with written reasons on *(date and neutral citation)*.

Or:

The judgment of the Court was given orally on *(date)*, with written reasons on *(date and neutral citation)*.

Accordingly, it is ordered that: *(Using the written decision, give details of what was ordered.)*

In dissenting reasons, Justice *(name)* would have *(Give nature of the dissent.)*

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

DEPUTY REGISTRAR

Form 9
Rule 9(5)

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

THIS MATTER INVOLVES A CHILD

[Insert notice of publication ban or access restriction if applicable.]

BETWEEN:

APPELLANT

AND:

RESPONDENT

APPEAL INVOLVING A CHILD - CURRENT INFORMATION

Other proceedings currently before the courts involving a child or children whose interests may be at issue in this appeal:

1. Court
2. File number
3. Nature of the order being requested in those proceedings

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (signature)
(*name of Appellant or solicitor*)

The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)
Counsel for

To: (*name of Respondent or solicitor*)
The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)
Counsel for ...

Form 10
Rules 29, 39(2) and 40(3)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE TO THE ATTORNEY GENERAL

This is notice that this proceeding concerns a matter which may be of interest to the Attorney General of Newfoundland and Labrador.

Subject matter of the appeal: *(Give a brief summary of what the appeal is about and what the issues are.)*

This notice *(is required by statute – identify the provision)* or *(was ordered or directed by the Court)* or *(other reason for giving notice)*.

The issues that may be of interest to the Attorney General are: *(State the issues briefly giving sufficient information to assist the Attorney General in assessing the notice.)*

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

_____ (signature)
(name of Appellant or solicitor)

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)

Counsel for

To: *(name of Respondent or solicitor)*
The address for service is:
 (postal address, telephone, email)
 (name of lawyer handling the file)
Counsel for ...

And to: The Attorney General of Newfoundland and Labrador
The address for service is:
The Department of Justice and Public Safety
Counsel for the Attorney General of Newfoundland and Labrador
4th Floor, East Block, Confederation Building
P.O. Box 8700
St. John's, NL
A1B 4J6
Telephone: 709-729-2869
Fax: 709-729-0469

This appeal (application) is set to be heard on the ____ day of _____, 20____, at 10:00
a.m.

_____ (Court Officer)

Form 11

Rule 24

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

LIMITED PURPOSE RETAINER OF SOLICITOR

I, *(name)*, have been retained to act as the solicitor for the Appellant for a limited purpose, the nature and scope of which is *(Briefly set out the parameters of the retainer, such as, to prepare the factum, provide research information, etc.)*

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

_____ (signature)

(name of Appellant or solicitor)

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for

To: *(name of Respondent or solicitor)*

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for ...

Form 12
Rule 23(1)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE OF CHANGE OF SOLICITOR

This is notice that I, *(name)*, have been retained to act as solicitor for the Appellant in place of *(name)*.

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

(signature)
(name of Appellant or solicitor)

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)

Counsel for

To: *(name of Respondent or solicitor)*

The address for service is:
(postal address, telephone, email)
(name of lawyer handling the file)
Counsel for ...

Form 13

Rule 18

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

NOTICE AN APPEAL IS BEING DISCONTINUED

This is notice that the Appellant discontinues this appeal and that the appeal is at an end.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (*signature*)

The Respondent waives costs.

_____ (*signature and date*)

Form 14
Rule 17(2)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

DEEMED ABANDONMENT - EXPLANATION FOR DELAY AND PROPOSED PLAN

In response to the notice from the registrar under rule 17(1), the Appellant requests that the appeal not be deemed abandoned.

The reasons for the delay in carrying the appeal forward by filing materials or requesting that a hearing date be set are: *(Set out the reasons.)*

The Appellant states and proposes the following:

1. The transcript was requested on *(date)*.
2. The transcript *(was received)* or *(is expected to be received)* on *(date)*.
3. The transcript *(was delivered to the other parties on (date))* or *(will be delivered to the other parties without delay when it is received)*.
4. The transcript, appeal book and Appellant's factum will be filed no later than *(date)*.
5. The Appellant has consulted with the Respondent.

The Respondent

- (a) agrees with the proposed dates set by the Appellant, and
- (b) will file its factum no later than *(date)*.

The Appellant, with the agreement of the Respondent, requests that the hearing of the appeal be set for *(date)*. *(To obtain a hearing date, the Appellant should contact the registry and proceed according to rule 19.)*

Or:

The parties have not reached an agreement and the Appellant has filed an application for an order or directions from the Court.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

(signature)
(*name of Appellant or solicitor*)

The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)

Counsel for

To: (*name of Respondent or solicitor*)
The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)
Counsel for ...

Form 15
Rule 11(2)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

[Insert notice of publication ban or access restriction if applicable]

BETWEEN:

APPELLANT
RESPONDENT BY CROSS-APPEAL

AND:

RESPONDENT
APPELLANT BY CROSS-APPEAL

NOTICE OF CROSS-APPEAL

This is notice that the Respondent cross-appeals against the order under appeal.

Subject matter of the cross-appeal: *(Give a brief summary of what the cross-appeal is about and what the issues are.)*

The Respondent requests: *(Set out what order the Respondent is seeking.)*

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

_____ (signature)

(name of Appellant or solicitor)

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for

To: *(name of Respondent or solicitor)*

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for ...

Form 16
Rule 11(6)(a)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

[Insert notice of publication ban or access restriction if applicable]

BETWEEN:

APPELLANT
RESPONDENT BY CROSS-APPEAL

AND:

RESPONDENT
APPELLANT BY CROSS-APPEAL

ELECTION TO PROCEED WITH CROSS-APPEAL

The appeal having been (*discontinued*) or (*deemed abandoned*), the Respondent elects to proceed with the cross-appeal.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (signature)
(*name of Appellant or solicitor*)

The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)
Counsel for

To: (*name of Respondent or solicitor*)
The address for service is:
(*postal address, telephone, email*)
(*name of lawyer handling the file*)
Counsel for ...

Form 17
Rule 22(3)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

ASSISTANCE BY NON-SOLICITOR - UNDERTAKINGI, (*name*), undertake that:

1. I will not receive directly or indirectly any compensation for the assistance, related to this appeal, that I am providing to (*name*), except for reimbursement for expenses actually incurred, unless the Court otherwise permits;
2. My interests are not in conflict with the interests of (*name*);
3. I will observe and be bound by the obligations of an officer of the court, the chief of which are:
 - (a) To treat discussions with (*name*) as confidential;
 - (b) To behave in a manner that will not disrupt the court process;
 - (c) To be honest and forthright in all representations I make and information I provide to the Court;
 - (d) To abide strictly by and perform all undertakings I give to the Court and other parties, including their lawyers;
 - (e) To show respect for the process and officers of the Court and for other parties and their lawyers at all times; and
 - (f) To comply with the directives and customs of the court process.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

(signature of person making the undertaking)
(postal address, telephone, email)

Form 18
Rule 44(3)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

EXEMPTION FROM PAYMENT OF FEES AND CHARGES

The Appellant applies for an exemption from, or suspension of, the payment of the fees and charges payable under the Supreme Court Fees Regulations.

The reasons for the application are set out in the attached affidavit.

Dated at (*city or town, and province*), this ____ day of _____, 20____.

_____ (signature)

(*name of Appellant*)

The address for service is:

(*postal address, telephone, email*)

To: (*Name of Respondent or Solicitor*)

The address for service is:

(*postal address, telephone, email*)

(*name of lawyer handling the file*)

Counsel for ...

This application is set to be heard on the ____ day of _____, 20____, at 10:00 a.m.

_____ (Court Officer)

EXEMPTION FROM PAYMENT OF FEES AND CHARGES - AFFIDAVIT

I, *(name, occupation optional)*, of *(city or town, and province)*, swear (affirm) that the following facts are true: *(Use the following statements that apply to you and any other facts you wish to add.)*

1. I would suffer financial hardship if I was required to pay the fees and charges payable under the Supreme Court Fees Regulations because
(for example, you are unemployed or employed at minimum wage).
2. I am in receipt of social assistance *(If you are not presently in receipt of social assistance, but you have been in the past, you may state when and for how long.)*
3. I applied for legal aid and was refused. I appealed the initial refusal for legal aid to the legal aid commission and was refused.
4. I have taken the following steps in an attempt to arrange my finances so that I could pay all or a portion of the fees and charges: *(The Court will consider whether you have made reasonable financial sacrifices.)*
5. Other relevant facts are: *(List any other facts you want the Court to consider.)*

I make this affidavit in support of my application for an exemption from, or suspension of, the payment of the fees and charges payable under the Supreme Court Fees Regulations.

Sworn (affirmed) before me at *(city or town)*

in the province of Newfoundland and

Labrador

this ____ day of _____, 20____ (signature of deponent)

(signature of witness)

Form 19
Rule 40(1)

File No.

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

APPELLANT

AND:

RESPONDENT

APPLICATION FOR APPOINTMENT OF COUNSEL

The Appellant applies for the appointment of counsel.

The basis for this application is: *(State the legal rule or principle which supports the application, for example, the Canadian Charter of Rights and Freedoms.)*

The reasons for the application are set out in the attached affidavit.

Dated at *(city or town, and province)*, this ____ day of _____, 20____.

_____ (signature)

(name of Appellant)

The address for service is:
(postal address, telephone, email)

To: *(Name of Respondent or Solicitor)*

The address for service is:

(postal address, telephone, email)

(name of lawyer handling the file)

Counsel for ...

This application is set to be heard on the ____ day of _____, 20____, at 10:00 a.m.

_____ (Court Officer)

APPOINTMENT OF COUNSEL - AFFIDAVIT

I, *(name, occupation optional)*, of *(city or town, and province)*, swear (affirm) that the following facts are true: *(Use the following statements that apply to you and any other facts you wish to add.)*

1. At the appeal I will be arguing the following points *(Give a brief overview of what your appeal is about.)*
2. I need a lawyer to argue my case because I do not have the necessary skills to organize the facts, research the law, and present the case myself. *(The Court will consider your familiarity with the Court's process and your general education.)*
3. I would suffer financial hardship if I was required to pay for a lawyer for all or part of my appeal because
(For example: you are unemployed or employed at minimum wage, or are receiving social assistance. If you are not presently in receipt of social assistance, but you have been in the past, you may state when and for how long.)
4. I have taken the following steps to try to obtain a lawyer who, without being paid, will help me with my appeal but I have not been successful *(List steps you have taken such as contacting the Law Society or particular lawyers.)*
5. I applied for legal aid and was refused. I appealed the initial refusal for legal aid to the legal aid commission and was refused.
6. I have taken the following steps in an attempt to arrange my finances so that I could pay a lawyer for all or part of my appeal: *(describe).*
7. Other relevant facts are: *(List any other facts you want the Court to consider.)*

I make this affidavit in support of my application for the appointment of counsel for my appeal.

Sworn (affirmed) before me at *(city or town)*

in the province of Newfoundland and

Labrador

this ____ day of _____,

(signature of deponent)

20_____

(signature of witness)

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Judicature Act			
Court of Appeal Rules (In force October 17, 2016)	NLR 38/16	New	Jul 29/16 p. 253

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The Newfoundland and Labrador Gazette

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