



THE NEWFOUNDLAND AND LABRADOR GAZETTE

PART I

PUBLISHED BY AUTHORITY

Vol. 91

ST. JOHN'S, FRIDAY, NOVEMBER 4, 2016

No. 44

CORPORATIONS ACT

NOTICE OF DISSOLUTION

IN THE MATTER of the *Corporations Act*, RSNL1990
cC-36 (the "Act")

AND

IN THE MATTER of REID INSURANCE LIMITED, in
voluntary dissolution.

NOTICE

TAKE NOTICE that the following receipt of a special resolution of the sole Shareholder of REID INSURANCE LIMITED (the "Corporation") passed on the 1st day of August, 2016 to such effect, the Registrar of Corporations (NL) has issued a Certificate of Intent to Dissolve the Corporation, on a voluntary basis, which Certificate is dated October 13, 2016.

AND FURTHER TAKE NOTICE that in accordance with the Act and the Resolution, all of the undertaking properties, assets and liabilities of the Corporation shall now be distributed and discharged.

ACCORDINGLY, all persons claiming to be creditors of or have any claims or demands upon or affecting the Corporation, in voluntary dissolution, and who have not otherwise been notified and satisfactory dealt with in this transaction to date are requested to send particulars of such demand to the undersigned Solicitor on or before the 25th day of November, 2016.

DATED AT Toronto, Ontario, Canada this 26th day of October, 2016.

EQUISURE FINANCIAL NETWORK INC.
Solicitors for the Corporation
PER: Richard Ungar

ADDRESS FOR SERVICE:
700 University Ave
Suite 1500-A Legal
Toronto, ON M5G 0A1

Tel: (416) 341-1464 ext. 45205
Fax: (416) 941-5284

Nov 4

MINERAL ACT

CORRECTION NOTICE(S)

In Volume 91, Number 39, pages 307-308, and Volume 91, Number 42, Pages 327-328 of *The Newfoundland and Labrador Gazette* dated September 30, 2016 and October 21, 2016 respectively, there appeared *Mineral Act* Notices regarding the cancellation of several mineral licenses.

The opening of these licenses for staking has been delayed and the notice(s) will be republished at a later date.

DEPARTMENT OF NATURAL RESOURCES
JUSTIN LAKE
Manager - Mineral Rights

File #'s: 774: 3607, 2497, 4939, 7363, 7364;
775: 2489, 2490, 3258, 3838, 3847, 3955, 3958,
5030, 5087, 5088, 5089, 5092, 5093, 5094,
2509, 2539, 2540, 2541, 2542, 2543, 3870,
3873, 3994, 5097, 5102, 5103

Nov 4

URBAN AND RURAL PLANNING ACT, 2000

**NOTICE OF REGISTRATION
CITY OF ST. JOHN'S
COMMERCIAL INDUSTRIAL (CI) ZONE**

TAKE NOTICE that an amendment adopted on the 19th day of September, 2016, has been registered by the Minister of Municipal Affairs.

In general terms, the purpose of Development Regulations Amendment Number 646, 2016, is to amend the Commercial Industrial (CI) Zone to allow Dwelling Units located on the second and/or higher storeys of a building as a Discretionary Use.

These amendments come into effect on the date that this notice is printed in *The Newfoundland and Labrador Gazette*. For further information, please contact 576-8220 or planning@stjohns.ca.

CITY OF ST. JOHN'S
Ken O'Brien, MCIP, Chief Municipal Planner

Nov 4

**NOTICE OF REGISTRATION
CITY OF MOUNT PEARL
MUNICIPAL PLAN 2010
AMENDMENT NO. 17, 2016
DEVELOPMENT REGULATIONS 2010
AMENDMENT NO. 52, 2016**

(PEARL GATE RECREATION AREA AMENDMENTS)

TAKE NOTICE that MOUNT PEARL Municipal Plan 2010 Amendment No. 17, 2016 and Development

Regulations 2010 Amendment No. 52, 2016, adopted by Council on the 12th day of July, 2016 and approved on the 20th day of September, 2016, have been registered by the Department of Municipal Affairs.

In general terms, the purpose of the amendments is to modify the limits of the Commercial - General (CG) zoning boundary to coincide with the development limits of the Pearl Gate Track and Field Facility.

MOUNT PEARL Mount Pearl Municipal Plan 2010 Amendment No 17, 2016 and Development Regulations 2010 Amendment No. 52, 2016, 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 these amendments may do so at the Mount Pearl City Hall, 3 Centennial Street, during normal working hours.

CITY OF MOUNT PEARL
Michele Peach, Chief Administrative Officer

Nov 4

**NOTICE OF REGISTRATION
TOWN OF CLARKE'S BEACH
DEVELOPMENT REGULATIONS
AMENDMENT NOL 4, 2016**

TAKE NOTICE that the TOWN OF CLARKE'S BEACH Development Regulations Amendment No. 4, 2016 as adopted on the 3rd day of October, 2016 has been registered by the Minister of Municipal Affairs.

The amendments to the text of the Development Regulations are designed to regulate fences, increase the minimum side yards and lot area for single dwellings and clear up some matters regarding the regulation of campgrounds, including establishing a minimum distance between a travel trailer and a residential property and adding definitions for campgrounds, single dwellings and travel trailers.

The Development Regulations Amendment No. 4, 2016 comes into effect on the day this notice is published in *The Newfoundland and Labrador Gazette*.

Anyone who wishes to inspect a copy of the CLARKE'S BEACH Development Regulations Amendment No.4, 2016 may do so at the Clarke's Beach Town Office during normal working hours.

TOWN OF CLARKE'S BEACH
Joan Wilcox, Town Clerk

Nov 4

**NOTICE OF REGISTRATION
TOWN OF GANDER
MUNICIPAL PLAN AMENDMENT NO. 13, 2016
DEVELOPMENT REGULATIONS
AMENDMENT NO. 19, 2016**

TAKE NOTICE that the TOWN OF GANDER Municipal Plan Amendment No. 13, 2016 and Development Regulations Amendment No. 19, 2016, adopted on the 15th day of June, 2016, and approved on the 17th day of August, 2016, has been registered by the Minister of Municipal Affairs.

In general terms, the purpose of Municipal Plan Amendment No. 13, 2016 and Development Regulations Amendment No. 19, 2016 is to re-zone the parcel of land at 58 McCurdy Drive from Commercial General (CG) to Industrial General (IG) to permit a General Industry development on the property.

The Municipal Plan Amendment No. 13, 2016 and Development Regulations Amendment No. 19, 2016 shall 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 these amendments may do so at the Town Office, Gander during normal working hours. (8:30 am to 4:30 pm)

TOWN OF GANDER
John Boland, Planning & Control Technician

Nov 4

**NOTICE OF REGISTRATION
TOWN OF MARYSTOWN
MUNICIPAL PLAN AMENDMENT NO. 32, 2016
AND
DEVELOPMENT REGULATIONS
AMENDMENT NO. 41, 2016**

TAKE NOTICE that the TOWN OF MARYSTOWN Municipal Plan Amendment No. 32, 2016 and Development Regulations Amendment No. 41, 2016 as adopted on the 19th day of July, 2016 and approved on the 8th day of September, 2016, have been registered by the Minister of Municipal Affairs.

In general terms the purpose of the Municipal Plan Amendment No. 32 and Development Regulations Amendment No. 41 is to allow residential development fronting on Dober's Road to be serviced by private waste disposal systems by re-designating and rezoning this area from Rural to Residential.

The Municipal Plan Amendment No. 32, 2016 and Development Regulations Amendment No. 41, 2016 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 MARYSTOWN Municipal Plan Amendment No. 32, 2016

and Development Regulations Amendment No. 41, 2016 may do so at the Marystown Town Office situated in the Municipal Centre during normal working hours.

TOWN OF MARYSTOWN

Nov 4

TRUSTEE ACT

ESTATE NOTICE

IN THE MATTER OF the Estate of JAMES B. BENOIT, Late of the Town of Port au Port East, in the Province of Newfoundland and Labrador, Deceased: October 24, 2007.

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of JAMES B. BENOIT, Late of the Town of Port au Port East, in the Province of Newfoundland and Labrador, are hereby requested to send the particulars of the same in writing, duly attested, to the undersigned Solicitor for the Executor of the Estate on or before the 5th day of December, 2016, after which date the said Executor will proceed to distribute the said Estate having regard only to the claims of which notice shall have been received.

DATED AT Stephenville, Newfoundland and Labrador, this 26th day of October, 2016.

ROXANNE PIKE LAW OFFICE
Solicitor for the Executor
PER: Roxanne Pike

ADDRESS FOR SERVICE
P.O. Box 272
43 Main Street
Stephenville, NL A2N 2Z4

Tel: (709) 643-6436
Fax: (709) 643-9343

Nov 4

ESTATE NOTICE

IN THE MATTER OF the Estate of AMELIA ROSE JUENGER, Late of Highland, Illinois, USA, Deceased: March 28, 1997.

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of AMELIA ROSE JUENGER, Late of Highland, Illinois, USA, Deceased, are hereby requested to send the particulars of the same in writing, duly attested, to the undersigned Solicitor for the Executrix of the Estate on or before the 5th day of December, 2016, after which date the said Executrix will proceed to distribute the said Estate having regard only to the claims of which notice shall have been received.

DATED AT Stephenville, Newfoundland and Labrador, this 28th day of October, 2016.

ROXANNE PIKE LAW OFFICE
Solicitor for the Executrix
PER: Roxanne Pike

ADDRESS FOR SERVICE

P.O. Box 272
43 Main Street
Stephenville, NL A2N 2Z4

Tel: (709) 643-6436
Fax: (709) 643-9343

Nov 4



THE NEWFOUNDLAND AND LABRADOR GAZETTE

PART II

**SUBORDINATE LEGISLATION
FILED UNDER THE STATUTES AND SUBORDINATE LEGISLATION ACT**

Vol. 91

ST. JOHN'S, FRIDAY, NOVEMBER 4, 2016

No. 44

**NEWFOUNDLAND AND LABRADOR
REGULATION**

NLR 73/16



NEWFOUNDLAND AND LABRADOR REGULATION 73/16

Rules of Supreme Court, 1986 (Amendment)
under the
Judicature Act

(Filed November 2, 2016)

Under the authority of section 55 of the *Judicature Act*, the Rules Committee of the Trial Division makes the following Rules.

Dated at St. John's, November 1, 2016.

David B. Orsborn
Acting Chairperson, Rules Committee

REGULATIONS

Analysis

- | | | | |
|--|--|--|---|
| 1. Heading Rep. | 58.06 | How to stay a decision being appealed | |
| 2. Rule 58 R&S | 58.07 | How to raise additional issues (cross-appeals) | |
| RULE 58
CIVIL APPEALS - TRIAL
DIVISION (GENERAL) | | | |
| 58.01 | Definitions | 58.08 | Security for costs |
| 58.02 | Scope of rule | 58.09 | Decision-making authority must file record |
| 58.03 | How to start an appeal (where leave required) | 58.10 | Transcript - Obtaining and serving on parties |
| 58.04 | How to start an appeal (where no leave required) | 58.11 | Appeal brief required |
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58.13	dismissing an appeal Resolving pre/post hearing issues	58.16	appeal after one year Additional evidence on appeal
58.14	Setting a hearing date	58.17	Hearing of the appeal
58.15	Deemed abandonment of an	3.	Forms Added
		4.	Transitional
		5.	Commencement

1. The heading "Part IV Miscellaneous" immediately preceding Rule 58 of the Rules of the Supreme Court, 1986 is repealed.

2. Rule 58 of the rules is repealed and the following substituted:

**RULE 58
CIVIL APPEALS - TRIAL DIVISION
(GENERAL)**

Definitions

58.01 The following definitions apply to this rule

- (a) "appeal" means an appeal to the Trial Division and, where the context requires, includes a cross-appeal, a stated case, or a reference made to the Court under a statute;
- (b) "appellant" means a person who starts an appeal or a cross-appeal and includes a tribunal that states a case or brings a reference;
- (c) "Chief Justice" means the Chief Justice of the Trial Division;
- (d) "decision" means
 - (i) a formal order of a decision-making authority,
 - (ii) an order or decision made in an uncompleted matter, and
 - (iii) anything accepted by a decision-making authority as having the same effect as a formal order;
- (e) "decision-making authority" means any person or body, from whom an appeal lies to the Court, including any court, tribunal, board, commission, committee, minister, public of-

ficial, or other public or governmental agency or authority, including the Lieutenant-Governor in Council;

(f) "electronic version" means an electronic version in a format acceptable to the Court;

(g) "official sound recording" means a sound recording made in accordance with the *Recording of Evidence Act*;

(h) "party" means an appellant or respondent to an appeal or an application and includes an intervenor where the context requires, and a person who is authorized by the Court or by law to be a party to an appeal;

(i) "respondent" means a person named as a respondent in an appeal or an application;

(j) "transcript" means a printed transcript of the sound recording of the proceedings before the decision-making authority appealed from but does not include

(i) a party's submissions to the decision-making authority appealed from unless those submissions are necessary to enable an issue raised on appeal or cross-appeal to be determined, or

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

(k) "uncompleted matter" means a matter where the issues between the parties have not been determined by a final decision of a decision-making authority.

Scope of rule

58.02 (1) This rule governs the procedure for making an appeal in the Trial Division.

(2) Despite subrule (1), where an applicable statute provides a procedure different from that set out in this rule, the statute governs.

(3) Where an issue respecting practice or procedure arises which is not covered by this rule or by an applicable statute, any of rules 1 to

4 or the rules in Part I may be applied as required, with any necessary modifications.

(4) This rule does not apply to appeals in the Court of Appeal.

How to start an appeal (where leave required)

58.03 (1) A person must seek leave of a judge to start an appeal where any of the following circumstances apply:

- (a) the person intends to appeal a decision made in an uncompleted matter;
- (b) the person intends to appeal a decision which was made by consent;
- (c) the only portion of a decision the person intends to appeal relates to costs; or
- (d) a statute requires that the person seek leave of the Court prior to starting an appeal.

(2) Where leave to start an appeal is required, a person may request leave by filing a Notice of Appeal, completed in accordance with rules 58.04(2) to (4), with an interlocutory application for leave to appeal attached.

(3) Unless a statute specifies a different time limit, the Notice of Appeal and application for leave required under subrule (2) must be filed within

- (a) 10 days of the date the decision appealed from was made, where the matter before the decision-making authority appealed from is uncompleted; or
- (b) 30 days of the date of the decision appealed from, if the matter is completed.

(4) Subject to subrule (5), the application for leave under subrule (2) must be made in accordance with the procedure for making an interlocutory application set out in Rule 29.

(5) The intended appellant must serve the Notice of Appeal and the application for leave on each of the following persons, in the manner identified, no later than 10 business days before the hearing:

- (a) each respondent, in accordance with rule 6.02 or 6.03; and
- (b) the decision-making authority from which the appeal is made and any other person required to be served under an applicable statute, in accordance with rule 6.11.

(6) A judge may grant leave to appeal where the judge is satisfied that the interests of justice require that leave be granted.

(7) A judge may grant leave to appeal summarily without a hearing where the judge determines it is appropriate to do so.

(8) Where a judge grants leave to appeal, the judge may, either at the time of the hearing or after, decide the appeal without requiring further submissions from the parties if the merits of the appeal were argued at the time of the leave application.

(9) When leave to appeal is required, time limits that run from the filing or service of the Notice of Appeal do not begin to run until leave to appeal is granted.

How to start an appeal (where no leave required)

58.04 (1) Where no leave to appeal is required, a person may start an appeal by filing a Notice of Appeal.

- (2) The Notice of Appeal must be in Form 58.04A and must
 - (a) specify the decision and decision-making authority appealed from, the date the decision was filed or made, the file number on the decision, and the neutral citation, if any;
 - (b) describe the portion of the decision under appeal, if only a portion is being appealed;
 - (c) set out the grounds of appeal;
 - (d) state the relief, disposition, or order requested;
 - (e) provide the name, postal address, email address, and telephone number of the appellant;
 - (f) if known, provide the names, postal address, email address and telephone number of the persons being served with the Notice of Appeal, or their solicitors;

- (g) indicate whether a publication ban is in effect;
- (h) if the appellant is requesting that the appeal be expedited state the reason for the request; and
- (i) if applicable, state that the appeal involves the custody of, access to, protection of, support for, or responsibility for a child.

(3) Where the appellant is not represented by a solicitor and for reasons of risk of harm to a party or a child, the appellant does not wish to provide the contact information set out in subrule (2)(e), the appellant may

- (a) designate an alternate person to receive service on the appellant's behalf, and provide the information regarding the appellant to the Court in a separate envelope marked "Confidential"; or
- (b) make a request for directions from a judge.

(4) The Notice of Appeal must name as respondents each person who was a party to the proceeding giving rise to the decision being appealed.

(5) Unless the statute under which the appeal is made specifies a different time limit, the Notice of Appeal must be filed

- (a) within 30 days of the filing date of the order appealed from where the procedure of the decision-making authority appealed from provides for the filing of a formal order; or
- (b) if there is no formal order filed, within 30 days of the date the decision appealed from was made.

(6) The appellant must, within 10 days of filing the Notice of Appeal under subrule (5), serve a copy of it on the following persons, in the manner identified:

- (a) each respondent, in accordance with rule 6.02 or 6.03; and

- (b) the decision-making authority from which the appeal is made and any other person required to be served under an applicable statute, in accordance with rule 6.11.

Participation in the appeal

58.05 (1) A decision-making authority served under this rule is not a respondent but may participate in the appeal to provide the Court with information regarding its function and processes or to any further extent permitted by a judge.

(2) A party in a proceeding before the decision-making authority appealed from who is not named as a party in the appeal may apply to the Court to be added as a party, and a judge may give any directions or make any orders the judge considers appropriate.

How to stay a decision being appealed

58.06 (1) An appellant may, after filing a Notice of Appeal, make an application for an order staying the decision under appeal pending the disposition of the appeal.

(2) An application under subrule (1) must be made in accordance with the procedure for making an interlocutory application set out in Rule 29.

(3) An order for a stay under this rule may be granted on any terms a judge considers appropriate.

(4) The stay of a decision requiring the payment of money does not prevent interest from accruing.

How to raise additional issues (cross-appeals)

58.07 (1) If a respondent seeks to argue on the appeal that

- (a) the decision appealed from should be varied;
- (b) the decision appealed from should be affirmed on grounds other than those given by the decision-making authority appealed from; or
- (c) the respondent is entitled to a different disposition or different relief than that given in the decision appealed from,

the respondent must, within 30 days of being served with the Notice of Appeal,

- (d) file a Notice of Cross-Appeal; and

(e) serve a copy of the Notice of Cross-Appeal on each party in accordance with rule 6.11.

(2) The Notice of Cross-Appeal must be in Form 58.07A.

(3) Failure of a respondent to file and serve a Notice of Cross-Appeal does not diminish the power of a judge to deal with any matter that arises, but it may be grounds for an adjournment of the appeal or an order as to costs.

(4) Where an appeal is discontinued or deemed abandoned under rule 58.15, a respondent may do either or both of the following:

(a) file and, in accordance with rule 6.11, serve a Notice of Election to Proceed in Form 58.07B on each party;

(b) request a case management meeting to get directions, in accordance with rule 58.13.

(5) 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 are deemed to be abandoned without costs, unless a judge orders otherwise.

(6) Where more than one party in a proceeding 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 or more appeals will be treated as a cross-appeal.

Security for costs

58.08 (1) Any party to an appeal may make an application for security for costs.

(2) An application under subrule (1) must be made in accordance with the procedure for making an interlocutory application set out in Rule 29.

(3) A judge may only order security for costs where there are special circumstances.

(4) Unless a judge orders otherwise, an appellant who fails to give security for costs as ordered is deemed to have abandoned the appeal and the respondent is entitled to costs.

Decision-making
authority must file
record

58.09 (1) The decision-making authority must, within 30 days of being served with the Notice of Appeal,

(a) file a copy of the record of the proceedings heard before the decision-making authority; and

(b) serve a copy of the record on each party to the appeal in accordance with rule 6.11.

(2) The record must include the following:

(a) the written decision or order being appealed, or, if no written record was created, a summary of the decision;

(b) reasons for the decision, if any were recorded;

(c) any exhibit filed with the decision-making authority;

(d) a copy of the official sound recording of the evidence, if any; and

(e) any other relevant documents in the decision-making authority's possession.

(3) The record may be in Form 58.09A.

(4) Despite the provisions of this rule, the parties to an appeal may agree on what constitutes the record or may file an agreed statement of facts.

Transcript - Obtain-
ing and serving on
parties

58.10 (1) Where the decision-making authority provides the appellant with an official sound recording of the evidence in accordance with rule 58.09, the appellant must, within 10 days

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

(b) advise each party in writing what arrangements have been made under subrule (1)(a), including which portion of the official sound recording is being transcribed.

(2) If an appellant indicates under subrule (1) that only a certain portion of the official sound recording is being transcribed and another party is satisfied that the transcription of an additional portion of the official sound recording is necessary, that party must, as soon as practicable,

- (a) arrange for the preparation of a transcript of the additional portion of the official sound recording and advise each party in writing what arrangements have been made, including what additional portion of the official sound recording is being transcribed; or
- (b) request a case management meeting in accordance with subrule (5).

(3) The appellant must, within 60 days of receiving the official sound recording,

- (a) file two printed copies of the transcript; and
- (b) serve one printed copy of the transcript and an electronic version on each party to the appeal.

(4) Where a party is satisfied that the 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 party may, within 10 days of receiving the transcript,

- (a) file two printed copies of any additional portions of the transcript that the respondent has prepared; and
- (b) serve one printed copy of the additional portions of the transcript and an electronic version on each party to the appeal.

(5) A party may, in accordance with rule 58.13, request a case management meeting to get directions on any issue relating to the preparation of the transcript, and the judge presiding at the meeting may do one or more of the following:

- (a) direct which party must bear the expense of producing all or some portion of the transcript;

- (b) order the filing of all or a portion of the transcript or the official sound recording of the evidence;
- (c) dispense with the preparation and filing of a written transcript and order that the appeal proceed using the official sound recording of the proceedings;
- (d) resolve disputes regarding the accuracy of a transcript;
- (e) make an order for costs.

(6) Where the parties agree or where a judge directs, a transcript may be prepared from a sound recording that is not an official sound recording of the proceedings before the decision-making authority.

(7) Where the parties agree or a judge makes an order under subrule (6), this rule applies as if the unofficial sound recording was an official sound recording.

(8) Failure to comply with this rule may subject a party to an order for costs.

Appeal brief required

58.11 (1) The appellant must file two copies of a brief,

- (a) within 30 days of the date on which the decision-making authority served the record upon the appellant, if no transcript is required under rule 58.10; or
- (b) within 30 days of the date on which the transcript is filed, if a transcript is required or otherwise prepared under rule 58.10.

(2) The Appellant must, within the time limits set out in subrule (1), serve a copy of the brief on each party in accordance with rule 6.11.

(3) The respondent must, within 30 days of receiving the appellant's brief,

- (a) file two copies of a brief; and
- (b) serve a copy on each other party, in accordance with rule 6.11.

- (4) A party's brief must be bound and include, in separate tabs:
 - (a) an index;
 - (b) Part 1 - a concise statement of the facts;
 - (c) Part 2 - a list of the issues;
 - (d) Part 3- the party's arguments, including any specific points of law, not to exceed 20 pages unless a judge has permitted otherwise;
 - (e) Part 4 - the order or relief the party is requesting;
 - (f) Appendix A - copies of cases referred to; and
 - (g) Appendix B – copies of legislative provisions referred to.

(5) Where the respondent has made a cross-appeal, the submissions on the cross-appeal must be included in the respondent's brief, placed after the submissions in response to the appeal, or if necessary, in a separate volume.

(6) Where a respondent's brief includes submissions on a cross-appeal, an appellant may, within 30 days of receiving the respondent's brief, file a reply brief and one copy and, in accordance with rule 6.11, serve a copy on each party.

(7) A brief must be in Form 58.11A.

Striking out a notice of appeal or dismissing an appeal

58.12 (1) At any time before or at the hearing of the appeal, a party to an appeal may apply for an order striking out the Notice of Appeal or dismissing the appeal on one or more of the following grounds:

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

(2) An application under subrule (1) must be made in accordance with the procedure for making an interlocutory application set out in Rule 29.

Resolving pre/post
hearing issues

58.13 (1) At any time after the commencement of an appeal, a party or a person who was served with a Notice of Appeal under this rule may request that a case management meeting be held for any one or more of the following purposes:

- (a) achieving the efficient use of Court resources and promoting access to the Court in a timely and cost-effective manner;
- (b) attempting to refine the issues on the appeal;
- (c) determining the appropriateness of ordering a settlement conference or mediation;
- (d) providing directions regarding the preparation of the appeal record;
- (e) setting deadlines;
- (f) appointing the time, date, and place for the hearing of the appeal;
- (g) providing directions to the decision-making authority regarding its right to participate in the appeal; and
- (h) providing directions with respect to any other procedural matter that arises on the appeal.

(2) A request for a case management meeting may be made by filing a request in Form 58.13A and serving a copy of it on each party in accordance with rule 6.11.

(3) A judge may direct a registry clerk to schedule a case management meeting and notify the parties of the time set for the meeting.

(4) A case management meeting scheduled under this rule will be held in Court and on the record, unless a judge orders otherwise.

(5) The judge presiding at a case management meeting may direct that a matter raised at the meeting proceed to an application where it cannot be appropriately determined at the meeting.

(6) A party may, at any time, bring an application regarding any matter arising on the appeal.

(7) Applications under subrule (5) or (6) must be made in accordance with the procedure for making an interlocutory application set out in Rule 29.

Setting a hearing date

58.14 (1) Where all of the parties have filed their appeal briefs, they may submit a joint request to set a date for the hearing of the appeal.

(2) A joint request under subrule (1) must be in Form 58.14A.

(3) Where the parties submit a request under subrule (1), the Registrar, in consultation with the Chief Justice, may set a time for the hearing of an appeal.

(4) Where a party has filed an appeal brief, that party may request a time for the hearing of the appeal at a case management meeting held in accordance with rule 58.13.

(5) At a case management meeting held under subrule (4), a judge may set a hearing time, give directions, and make any order as to costs the judge considers appropriate.

Deemed abandonment of an appeal after one year

58.15 (1) Where a 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 must give the parties notice that the appeal will be deemed abandoned if no further steps are taken within 30 days.

(2) A party may, within the 30 day notice period, request a case management meeting to seek directions with respect to the appeal.

(3) The judge presiding at the case management meeting may

(a) set deadlines for the next steps in the proceeding;

(b) adjourn the appeal indefinitely; or

(c) confirm the abandonment of the appeal.

(4) Where a judge has adjourned an appeal indefinitely and a further year elapses without the matter being set down for a hearing, subrule (1) applies.

(5) When an appeal has been deemed abandoned, the Registrar must deliver notice to the parties, but inability to locate a party in order to deliver the notice does not affect the deemed abandonment of the appeal.

(6) When an appeal has been deemed abandoned, a judge may, upon application, reinstate the appeal on any terms the judge considers appropriate.

Additional evidence
on appeal

58.16 (1) Upon application, the judge hearing the appeal may order the introduction of additional evidence on the appeal.

(2) An application under subrule (1) must be made in accordance with the procedure for making an interlocutory application set out in Rule 29.

(3) An application under subrule (1) must 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 subrule (4); and
 - (c) why the additional evidence was not introduced in the proceeding before the decision-making authority appealed from.
- (4) In determining the application, the judge must consider
- (a) whether, by due diligence, the evidence could have been tendered in the proceeding 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 reliability of the evidence;

(d) whether the evidence, if believed, could reasonably have affected the result; and

(e) any other relevant factor.

(5) Where the admission of additional evidence is permitted, the evidence must be introduced by affidavit or deposition or by oral examination before the Court, unless a judge orders otherwise.

(6) The judge 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 the understanding of the evidence.

Hearing of the
appeal

58.17 (1) Unless a statute provides otherwise, a judge may do any one or more of the following on the hearing of an appeal:

(a) direct the rehearing of witnesses, the retaking of evidence, or the taking of further and other evidence by the decision-making authority;

(b) require the report of all evidence taken by the decision-making authority;

(c) require the production and examination of a witness already examined or of persons who have not been already examined; and

(d) refer the proceeding back to the decision-making authority for further consideration in whole or in part.

(2) Unless a statute provides otherwise, a judge presiding over an appeal may

(a) dismiss the appeal;

(b) confirm or reverse the decision of the court or tribunal;

(c) alter, amend, or modify the decision;

(d) make an order that is just; and

(e) make an order as to costs.

(3) The powers of the judge may be exercised in respect of all or any part of the decision or proceedings appealed from, notwithstanding that the Notice of Appeal states that part only of the decision is complained of, and may be exercised in favour of all or any of the parties or other persons.

Forms

3. The rules are amended by adding Forms 58.04A, 58.07A, 58.07B, 58.09A, 58.11A, 58.13A and 58.14A.

Transitional

4. (1) Appeals in the Trial Division of the Supreme Court of Newfoundland and Labrador commenced, but not completed, prior to the coming into force of this regulation shall be governed by these rules without prejudice to anything lawfully done under the former rules.

(2) A party may request a case management meeting or make an application for directions if there is doubt about the application of this regulation 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,

(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.

Commencement

5. This rule comes into force on November 7, 2016.

**Form 58.04A
(Rule 58.04)**

File No. _____

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL DIVISION)**

(modify the title of proceedings as necessary)

BETWEEN: _____ **APPELLANT**

AND: _____ **RESPONDENT**

NOTICE OF APPEAL

THIS MATTER INVOLVES A CHILD *(check box if applicable)*

This is notice that the Appellant appeals the order of _____
(specify the decision-making authority).

(1) Information regarding the decision under appeal:

- (a) Who made the decision *(name/details of decision-making authority)*:
- (b) File number of the proceeding before the decision-making authority *(please include if applicable)*:
- (c) Neutral citation of a written decision, if any *(please include if known/ applicable)*:
- (d) Date the order was filed or made:

(2) The Court and parties are advised that *(include all that are relevant)*:

(a) Only a portion of the order is being appealed

(Specify the portion being appealed.)

(b) The appellant is asking that the appeal be expedited because:

(Specify reasons).

(c) The decision-making authority appealed from imposed a publication ban or restriction on access to the hearing or record of the proceeding:

(Attach a copy of the order if one is available or quote the language of the publication ban or restriction on access.)

(3) Subject matter of the appeal:

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

(4) The appellant requests:

(Set out what relief, disposition, or order you are seeking from the Court.)

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

Signed

*(Signature of Appellant or Solicitor
for Appellant)*

Whose address for service is:
(address for service)
(telephone, email)

To: Supreme Court of Newfoundland and Labrador
Trial Division (General Division)
Registry

(respondent or solicitor for respondent)
Whose address for service is:
(address for service)
(telephone, email)

(decision-making authority)
Whose address for service is:
(address for service)
(telephone, email)

(person required to be notified, if any)
Whose address for service is:
(address for service)
(telephone, email)

**Form 58.07A
(Rule 58.07)**

File No. _____

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL DIVISION)**

(Modify the title of proceedings as necessary.)

BETWEEN: _____ **APPELLANT /RESPONDENT ON
CROSS-APPEAL**

AND: _____ **RESPONDENT /APPELLANT ON
CROSS-APPEAL**

NOTICE OF CROSS-APPEAL

(1) Take notice that the respondent in this appeal **CROSS-APPEALS** and intends to argue that:

(a) the decision appealed from should be varied

(Provide details, if applicable.)

(b) the decision appealed from should be affirmed on grounds other than those given by the decision-making authority;

(Provide details, if applicable.)

(c) the respondent is entitled to other or different relief or disposition than that given in the decision appealed from

(Provide details, if applicable.)

(2) The respondent requests:

(Set out what relief, disposition, or order you are seeking from the Court.)

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

Signed

(*Signature of Respondent or Solicitor
for Respondent*)

Whose address for service is:
(*address for service*)
(*telephone, email*)

To: Supreme Court of Newfoundland and Labrador
Trial Division (General Division)
Registry

(*appellant or solicitor for appellant*)

**Form 58.07B
(Rule 58.07)**

File No. _____

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL DIVISION)**

(modify the title of proceedings as necessary)

BETWEEN: _____ **APPELLANT /RESPONDENT ON
CROSS-APPEAL**

AND: _____ **RESPONDENT /APPELLANT ON
CROSS-APPEAL**

NOTICE OF ELECTION TO PROCEED WITH CROSS-APPEAL

TAKE NOTICE that _____, the Respondent in this appeal, elects to proceed with the cross-appeal.

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

Signed

*(Signature of Respondent or Solicitor
for Respondent)*

Whose address for service is:
(address for service)
(telephone, email)

To: Supreme Court of Newfoundland and Labrador
Trial Division (General Division)
Registry

(appellant or solicitor for appellant)

**Form 58.09A
(Rule 58.09)**

File No. _____

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL DIVISION)**

(modify the title of proceedings as necessary)

BETWEEN: _____

APPELLANT

AND: _____

RESPONDENT

RECORD

Index of Documents

(List all documents included in this record, and list the corresponding numbered or lettered tab you have assigned to each document.)

Part 1 - The decision under appeal

(Provide the written decision or order being appealed, or if no written record was created, a summary of the decision.)

(Tab all documents included here.)

Part 2- Written reasons

(Provide the decision-making authority's written reasons, if any were recorded; or if the reasons were given orally and none were recorded, provide a summary.)

(Tab all documents included here.)

Part 3- Evidence

(Provide the evidence, including any exhibit filed with the decision-making authority and a copy of the official sound recording of the evidence, if any.)

(Tab all documents included here.)

Part 4- Other relevant documents

(Provide any other relevant documents in the decision-maker's possession.)

(Tab all documents included here.)

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

Signed

*(Signature of decision-making
authority, representative of the
decision-making authority or
solicitor)*

To: Supreme Court of Newfoundland and Labrador
Trial Division (General Division)
Registry

(appellant or solicitor for appellant)

(respondent or solicitor for respondent)

**Form 58.11A
(Rule 58.11)**

File No. _____

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL DIVISION)**

(modify the title of proceedings as necessary)

BETWEEN: _____ **APPELLANT**

AND: _____ **RESPONDENT**

(APPELLANT’S/RESPONDENT’S) BRIEF

Part 1 - Facts

(Provide a concise statement of the facts.)

Part 2- Issues

(List the issues to be determined on appeal.)

Part 3- Argument

(List your argument, including any specific points of law on which you intend to rely, such as legislation and case law. This section is not to exceed 20 pages, unless a judge expressly permits otherwise.)

Part 4- Relief

(Identify the relief sought from the Court.)

Appendix A- Caselaw

(Attach copies of all cases referred to in Part 3.)

Appendix B- Legislation

(Attach copies of all legislation referred to in Part 3.)

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

Signed

*(Signature of filing party or
solicitor)*

To: Supreme Court of Newfoundland and Labrador
Trial Division (General Division)
Registry

(appellant or respondent, as applicable, or their solicitor)

**Form 58.13A
(Rule 58.13)**

File No. _____

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL DIVISION)**

(modify the title of proceedings as necessary)

BETWEEN: _____ **APPELLANT**

AND: _____ **RESPONDENT**

REQUEST FOR CASE MANAGEMENT MEETING

Filed by _____

The _____ (*appellant/respondent/decision-making authority/other*), requests a case management meeting to discuss the following issue(s):

(Please summarize why the case management meeting is requested. If you are requesting a date for the hearing of the appeal, please provide suggested, available dates.)

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

Signed

(Signature of filing party or solicitor)

To: Supreme Court of Newfoundland and Labrador
Trial Division (General Division)
Registry

*(appellant or appellant's solicitor, as applicable)
(respondent or respondent's solicitor, as applicable)*

**Form 58.14A
(Rule 58.14)**

File No. _____

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL DIVISION)**

(modify the title of proceedings as necessary)

BETWEEN: _____ **APPELLANT**

AND: _____ **RESPONDENT**

JOINT REQUEST FOR APPEAL HEARING DATE

The parties jointly apply for a date for the hearing of the appeal.

All of the parties are available on the following dates:

(Please list all of the dates on which all of the parties are available.)

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

Signed

(Signature of appellant or solicitor)

Signed

(Signature of respondent or solicitor)

To: Supreme Court of Newfoundland and Labrador
Trial Division (General Division)
Registry

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Judicature Act			
Rules of Supreme Court, 1986 (Amdt.)	NLR 73/16	Heading Repl. Rule 58 R&S	Nov. 4/16 p.719

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